

WSR 24-16-002
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed July 24, 2024, 1:32 p.m., effective August 24, 2024]

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

Purpose: The department of social and health services (department) is adopting new rules to implement provisions of E2SSB 5440 (chapter 453, Laws of 2023). The department is adding new sections in chapter 388-106 WAC to support the new civil transitions program created because of E2SSB 5440. These sections include WAC 388-106-2000 through 388-106-2050. The adopted rules describe eligibility for the civil transitions program, and the package of services provided for individuals who are referred by behavioral health administration who have been found incompetent to stand trial due to dementia, traumatic brain injury, or intellectual or developmental disability, and not functionally or financially eligible for long-term services and supports. The rules describe services and duration.

Citation of Rules Affected by this Order: New WAC 388-106-2000, 388-106-2005, 388-106-2010, 388-106-2015, 388-106-2020, 388-106-2025, 388-106-2030, 388-106-2035, 388-106-2040, 388-106-2045, and 388-106-2050.

Statutory Authority for Adoption: RCW 10.77.202, 74.08.090, and 74.09.520.

Adopted under notice filed as WSR 24-11-137 on May 21, 2024.

A final cost-benefit analysis is available by contacting Phyllis Moffatte-Clark, P.O. Box 45850, Olympia, WA 98504, phone 360-764-0481, email Phyllis.Moffatte-Clark@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 11, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 11, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 11, Amended 0, Repealed 0.

Date Adopted: July 24, 2024.

Lisa N. H. Yanagida
Chief of Staff

SHS-5009.6

NEW SECTION

WAC 388-106-2000 What definitions apply to the civil transitions program? "Aging and long-term support administration (AL TSA)" is an

administration within the department of social and health services that promotes choice, independence, and safety through innovative services and partnerships with tribes, advocates, providers, and caregivers to support seniors, and people with disabilities so they can live with good health, independence, dignity, and control over decisions that affect their lives.

"Behavioral health administration (BHA)" is an administration within the department of social and health services that supports sustainable recovery, independence, and wellness. This is done by funding and supporting effective prevention and intervention services for youth and family, and treatment and recovery support for youth and adults with addiction and mental health conditions (also known as behavioral health). BHA operates three state psychiatric hospitals and the office of forensic mental health services that deliver high quality services to adults and children with complex needs.

"Civil transitions program" is a program implemented according to Engrossed Second Substitute Senate Bill 5440 to provide support services to individuals recently subject to criminal charges and found incompetent to stand trial due to an intellectual or developmental disability, traumatic brain injury, or dementia.

"Competency evaluation" is an assessment of the ability of a defendant to understand and rationally participate in a court process under the United States criminal justice system.

"Conditional services" is a term that describes the services available under the civil transitions program for an individual who does not meet functional eligibility criteria under medicaid personal care level of care under WAC 388-106-0210 or nursing facility level of care under WAC 388-106-0355 or is not financially eligible for Washington apple health, or is not functionally or financially eligible.

"Dementia" is a general term for loss of memory, language, problem-solving, and other thinking abilities that are severe enough to interfere with daily life. The term "dementia" is no longer used to refer to the etiological subgroups for which it is standard, but it is instead included under the newly titled term significant neurocognitive disease. For consistency, the term "dementia" is still used in the DSM-5 and can be applied in situations where patients and doctors are familiar with it. The phrase neurocognitive disorder is commonly used, while dementia is the standard word for illnesses such as the degenerative dementias that typically impact older persons (DSM-5-TR).

Neurocognitive disorder is characterized by the progressive and persistent deterioration of cognitive function. Cognitive deficits are sufficient to interfere with independence, do not occur exclusively in the context of a delirium, and are not attributable to another mental disorder (e.g. major depressive disorder, schizophrenia).

Specific major neurocognitive diagnosis, primary diagnosis:

- (a) Major neurocognitive disorder due to Alzheimer's disease;
- (b) Major frontotemporal neurocognitive disorder (Pick's);
- (c) Major neurocognitive disorder with Lewy bodies;
- (d) Major vascular neurocognitive disorder (Vascular);
- (e) Major neurocognitive disorder due to traumatic brain injury;
- (f) Substance or medication-induced major neurocognitive disorder (alcohol-related);
- (g) Major neurocognitive disorder due to HIV infection;
- (h) Major neurocognitive disorder due to Prion disease;
- (i) Major neurocognitive disorder due to Parkinson's disease;
- (j) Major neurocognitive disorder due to Huntington's disease.

"Not Competent" means a legal determination has been made by a court that a defendant is unable to stand trial based on being diagnosed with a mental disease or defect which prevents them from understanding court proceedings or being able to rationally assist in their own defense per chapter 10.77 RCW.

"Not Restorable" means a court has found that a person lacks the capacity to have competency restored via inpatient or outpatient treatment.

"Office of forensic mental health services (OFMHS)" is a division of the department of social and health services' behavioral health administration that oversees the state's adult forensic mental health system.

"Washington apple health" means the public health insurance programs for eligible Washington residents defined in WAC 182-500-0120. Washington apple health or apple health is the name used in Washington state for medicaid, the children's health insurance program (CHIP), and state-only funded health care programs.

NEW SECTION

WAC 388-106-2005 Who is eligible to apply to receive services under the civil transitions program? You are eligible to apply for services under the civil transitions program if you:

- (1) Are referred to ALTSA from the BHA starting December 1, 2023;
 - (2) Have been determined by a court as not competent to stand trial due to a diagnosis of dementia, a traumatic brain injury, or an intellectual or developmental disability, and your competency is not restorable;
 - (3) Complete an assessment of your functional eligibility using the comprehensive assessment reporting evaluation (CARE) tool under WAC 388-106-0050 to determine if you are functionally eligible for:
 - (a) Nursing facility level of care under WAC 388-106-0355; or
 - (b) Medicaid personal care level of care under WAC 388-106-0210;
- and
- (4) File an application for Washington apple health so the department can determine if you are financially eligible for medicaid-funded long-term services and supports. The application process is described in WAC 182-503-0005.

NEW SECTION

WAC 388-106-2010 What services may I receive under the civil transitions program if I am not functionally and financially eligible for long-term services and supports? (1) If you meet the criteria in WAC 388-106-2005 but are not functionally eligible for medicaid personal care level of care under WAC 388-106-0210 or nursing facility level of care under WAC 388-106-0355, or you are not financially eligible for Washington apple health, you may receive conditional services, subject to available funds, under the civil transitions program.

(2) If you meet the criteria in WAC 388-106-2005 but have yet to complete a CARE assessment and are, or at risk of becoming a "homeless person" as defined in RCW 43.185C.010, you may receive supportive

housing services under the civil transitions program, as funding allows.

(3) Conditional services are described in WAC 388-106-2020.

NEW SECTION

WAC 388-106-2015 What services may I receive under the civil transitions program if I am functionally and financially eligible for long-term services and supports? If you are referred to AL TSA for services under the civil transitions program and you are both functionally eligible for long-term services and supports under chapter 388-106 WAC and financially eligible for medicaid-funded long-term services and supports, you are eligible for any service offered by AL TSA based on your assessment and identified in your plan of care. Financial eligibility criteria for long-term services and supports is determined under chapters 182-513 and 182-515 WAC.

NEW SECTION

WAC 388-106-2020 What conditional services may I receive under the civil transitions program? The legislature has appropriated specific funding for the civil transitions program for the provision of conditional services. If you meet the criteria in WAC 388-106-2005 you are eligible for conditional services as described below, subject to available funding.

(1) If you do not meet medicaid personal care level of care under WAC 388-106-0210 or nursing facility level of care under WAC 388-106-0355, and you are not financially eligible for Washington apple health, you can receive the following conditional services:

- (a) Community transition or sustainability services; and
- (b) Supportive housing as defined in WAC 388-106-1705.

(2) If you are determined functionally eligible for medicaid personal care level of care under WAC 388-106-0210, but you are not financially eligible for Washington apple health, you may receive the following conditional services if they are included in your plan of care:

- (a) Personal care services as defined in WAC 388-106-0010;
- (b) Community transition or sustainability services; and
- (c) Supportive housing as defined in WAC 388-106-1705.

(3) If you are determined functionally eligible for nursing facility level of care under WAC 388-106-0355 but you are not financially eligible for Washington apple health, you may receive the following conditional services if they are included in your plan of care:

- (a) Personal care services as defined in WAC 388-106-0010;
- (b) Nurse delegation as defined in WAC 388-106-0270;
- (c) Personal emergency response system (PERS) as defined in WAC 388-106-0270;

- (d) Assistive technology as defined in WAC 388-106-0270;
- (e) Supportive housing as defined in WAC 388-106-1705;
- (f) Community transition services as defined in WAC 388-106-0270;

and

- (g) Community transition or sustainability services.

NEW SECTION

WAC 388-106-2025 Who can provide long-term services and supports when I am eligible for the civil transitions program conditional services? The following types of providers can provide conditional services under the civil transitions program:

(1) Individual providers (IPs) who provide services to clients in their own home as defined in WAC 388-106-0040 and 388-106-0010.

(2) Home care agencies that provide services to clients in their own home. Home care agencies must be licensed under chapter 70.127 RCW and chapter 246-335 WAC and be contracted with the department of social and health services.

(3) Providers who are contracted with the department to provide goods and services.

(4) Durable medical equipment vendors that have a core provider agreement with the health care authority.

(5) Supportive housing providers as defined in WAC 388-106-1715 or 182-559-200.

NEW SECTION

WAC 388-106-2030 Where can I receive civil transitions program conditional services? You can receive conditional services under the civil transitions program:

(1) In your own home as defined in WAC 388-106-0030, or an interim setting while you secure permanent housing; and

(2) While you are out of your home accessing the community or working while:

(a) within the state of Washington; or

(b) in a recognized out of state bordering city as defined in WAC 182-501-0175.

NEW SECTION

WAC 388-106-2035 When will the department authorize my civil transitions program conditional services? Within available funds, the department will authorize conditional services under the civil transitions program when you have:

(1) Completed an assessment of your functional eligibility using the comprehensive assessment reporting evaluation (CARE) tool under WAC 388-106-0050;

(2) Applied for Washington apple health;

(3) Been found eligible for conditional services under WAC 388-106-2010 and 388-106-2020;

(4) Given consent for services and approved your care plan; and

(5) Chosen a DSHS qualified provider per WAC 388-71-0510.

NEW SECTION

WAC 388-106-2040 When will my civil transitions program conditional services end? (1) If, at the time of your initial assessment

you were found ineligible for medicaid-funded long-term services and supports, your civil transitions program conditional services, except supportive housing, will end the earlier of:

(a) The date you are found both functionally and financially eligible for medicaid-funded long-term services and supports;

(b) Six months from the start date of your services; or

(c) When the department has exhausted available funds.

(2) For conditional supportive housing services, your eligibility will be reviewed in six-month increments based upon available funding, up to a maximum of 24 months.

NEW SECTION

WAC 388-106-2045 Do I have a right to an administrative hearing on civil transitions program conditional services? You have a right to an administrative hearing if you disagree with a decision made by the department about your eligibility for services under the civil transitions program. The department will notify you in writing of the right to contest a decision and provide you with information on how to request a hearing.

NEW SECTION

WAC 388-106-2050 Can an exception to rule (ETR) be granted for civil transitions program conditional services? If you receive conditional services under the civil transitions program, an exception to rule under WAC 388-440-0001 will not be granted.

WSR 24-16-010
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Developmental Disabilities Administration)
 [Filed July 25, 2024, 11:26 a.m., effective August 25, 2024]

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

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

Citation of Rules Affected by this Order: Amending WAC 388-850-020, 388-850-025, 388-850-035, and 388-850-045.

Statutory Authority for Adoption: RCW 71A.12.030.

Other Authority: RCW 71A.12.120 and 71A.14.050.

Adopted under notice filed as WSR 24-09-034 on April 11, 2024.

Changes Other than Editing from Proposed to Adopted Version: The rule text contains only editorial changes to correct a typo in 388-850-045 - "though" to "through."

A final cost-benefit analysis is available by contacting Chantelle Diaz, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-790-4732, fax 360-407-0955, TTY 1-800-833-6388, email Chantelle.Diaz@dshs.wa.gov.

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

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Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: July 24, 2024.

Lisa N. H. Yanagida
 Chief of Staff

SHS-5014.2

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) **Funding.**

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

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

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

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

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

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

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

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

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

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

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

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

(d) Specific authority for the assistant secretary to make periodic inspection of (~~((the subcontractor's program or))~~) premises in the community where services are provided in order to evaluate performance under the contract between the department and the county; and

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

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

(a) Client demographic data;

(b) Diagnosis or problem statement;

(c) Treatment or service plan; and

(d) Treatment or services provided including medications prescribed.

(8) **Liability.**

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

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

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

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

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

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

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

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

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

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

(b) Supported employment services;

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

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

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

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

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

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

(e) Residential Services.

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

(a) Community information and education;

(b) Training and other activities;

(c) County planning and administration; and

(d) Program evaluation.

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

WAC 388-850-045 What is the formula for distribution of funding to the counties? (1) For the ~~((purposes))~~ purpose of this section, "county" ~~((shall mean))~~ means the legal subdivision of the state, re-

ardless of any agreement with another county to provide developmental disabilities services jointly.

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

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

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

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

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

WSR 24-16-019
PERMANENT RULES
SECRETARY OF STATE

[Filed July 25, 2024, 3:45 p.m., effective August 25, 2024]

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

Purpose: These proposed rules create the processes to enact the opt-out automatic voter registration system established in E2SSB 5112 (2023) in a manner that ensures consistency in counties throughout the state, provide clarification on disclosure timelines related to primary-only voters in SB 5153 (2023), and create a new voter registration application form in accordance with SB 5112 (2023) and the March 15, 2024, Consent Decree entered in *Washington State Alliance for Retired Americans v. Hobbs, et al.*, W.D.WA. Case No. 3:23-CV-06014-TMC.

Citation of Rules Affected by this Order: New WAC 434-324-104; and amending WAC 434-232-040, 434-250-120, 434-324-005, and 434-324-026.

Statutory Authority for Adoption: RCW 29A.04.611.

Adopted under notice filed as WSR 24-11-136 on May 21, 2024.

Changes Other than Editing from Proposed to Adopted Version: WAC 434-324-005 (OTS-5442.2) strikes the definition for "prospective registration applicant" that was proposed in OTS-5442.1.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 4, Repealed 0.

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

Date Adopted: July 25, 2024.

Amanda Doyle
Chief of Staff

OTS-5434.1

AMENDATORY SECTION (Amending WSR 24-03-053, filed 1/10/24, effective 2/10/24)

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, or until 90 days prior to the next presidential primary, primary, or election the ((person)) voter 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 90 days prior to the next presidential primary, primary, or election the ((person)) future voter is eligible to participate in ((the next presidential primary, primary, or election)).

OTS-5435.1

AMENDATORY SECTION (Amending WSR 24-07-018, filed 3/8/24, effective 5/4/24)

WAC 434-250-120 Verification of the signature and return date.

(1) A ballot shall be counted if:

(a) The voter has not already cast a ballot that has been accepted in the election;

(b) The voter signed the ballot declaration with a valid signature, as determined by WAC 434-261-051 through 434-261-053, or the voter has provided identification at a voting center; and

(c) The envelope is returned in one of the following methods:

(i) The envelope is postmarked not later than the day of the election and received not later than close of business the day before certification of the election. A postmark is any official mark, imprint, or application that verifies when a ballot entered the U.S. postal system. The mailing date of a ballot sent through a commercial mailing service, such as FedEx or UPS, may be considered a postmark. The postmark on the envelope is the official date of mailing. If there are multiple postmarks, the earliest postmark is the date of mailing. A hand cancellation by an agent of the U.S. Postal Service is a postmark.

If the postmark is illegible or missing, the date of the voter's signature is the date of mailing as per RCW 29A.40.110. If the postmark is illegible or missing and the voter did not include a date with their signature, county auditors may use available U.S. Postal Service tools to verify the date of mailing;

(ii) The ballot is deposited in a ballot drop box no later than 8:00 p.m. on election day; or

(iii) For service and overseas voters, the ballot is received by fax or email no later than 8:00 p.m. on election day. Only service and overseas voters can submit ballots by fax or email.

(2) Postage that includes a date, such as meter postage or a dated stamp, does not qualify as a postmark. If an envelope lacks a postmark or if the postmark is unreadable, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW 29A.40.110. If a ballot is from a service or overseas voter, the date to which the voter has attested on the ballot declaration determines the validity of the ballot, per RCW ((29A.40.100)) 29A.40.110.

(3) Consistent with WAC 434-250-080, the voter's current ballot and signed declaration shall be accepted for initial processing; ballots previously or subsequently received for the same voter are not counted nor rejected by the county canvassing board. Such ballots are invalid and categorized as informational only.

(a) If the first ballot received is identical to the voter's current ballot because the voter submitted a replacement ballot, the replacement ballot shall be referred to signature verification for initial processing.

(b) If the first ballot received is suspended because of a voter registration update, the suspended ballot shall be held by the county of current registration. The county of registration may choose to manually check the suspended ballot for signature issues and send a signature update form, while allowing time for the current ballot to be received and accepted.

(4) A ballot may not be rejected merely because the ballot envelope is not dated, unless the date is necessary to validate the timeliness of the ballot. The signature on a ballot declaration may not be rejected merely because the name in the signature is a variation of the name on the voter registration record.

(5) Only service and overseas voters are eligible to return a ballot by fax or email. For ballots returned by fax or email from service or overseas voters, the county auditor must apply procedures to protect the secrecy of the ballot.

(a) If returned by email, the county auditor must print the email and attachments; the printed email and signed declaration page must be processed and retained like other ballot declarations, and the printed ballot must be processed and retained like other ballots. The electronic versions of the email, ballot declaration, and ballot are exempt from public disclosure in order to maintain secrecy of the ballot. Voted service and overseas ballots returned by email may be returned with multiple attachments or in multiple emails.

(b) Service and overseas ballots returned by fax or email with a missing or mismatched signature are processed as established in RCW 29A.60.165 and WAC 434-261-050.

(6) For faxed or emailed ballots received from voters who are not service or overseas voters the county auditor must:

(a) Contact the voter immediately if a faxed or emailed ballot is received to notify the voter that they must return their ballot by mail or ballot drop box.

(b) Count only the ballot received by mail or ballot drop box if the voter returns both a faxed or emailed ballot and a ballot by mail or ballot drop box.

(c) Send the faxed or emailed ballot to the canvassing board for rejection if the voter did not return a ballot by mail or ballot drop box.

(7) The signature verification process shall be open to the public, subject to reasonable procedures adopted and promulgated by the canvassing board to ensure that order is maintained and to safeguard the integrity of the process.

OTS-5442.2

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

WAC 434-324-005 Definitions. As used in this chapter:

(1) "Accepted" means the voter's ballot has been signature verified and is ready for initial processing.

(2) "Active status" means a designation assigned to voters with complete voter registration records signifying that the voter is eligible to vote.

(3) "Applicant" means a person who has applied, or is applying, to become a registered voter in the state of Washington.

(4) "Auditor" or "county auditor" means the county auditor in a noncharter county or the officer in a charter county, irrespective of title, having the overall responsibility to maintain voter registration to conduct state and local elections.

(5) "Automatic voter registration" means the process in which applicants for government services are automatically registered to vote upon completing a transaction that requires proof of United States citizenship.

(6) "Conditional registration" means an in-person voter registration application submitted when the voter registration system is unable to process applications. Conditionally registered voters are issued a current ballot for their precinct whenever possible; they are not issued a provisional ballot.

~~((6))~~ (7) "Current ballot" means the ballot which matches the precinct, precinct portion or split in which the voter is currently registered to vote. This is the most recently issued ballot type or style.

~~((7))~~ (8) "Electronic registration" means the electronic submission of voter registration applications.

~~((8))~~ (9) "Extraction," as used in this chapter, means the creation of an electronic list of specific information from the entire official statewide voter registration database.

~~((9))~~ (10) "Future voter" means a participant in the future voter program established under RCW 29A.08.170.

(11) "New county" means a county in Washington state that a registered voter is moving to from another county within Washington state.

~~((10))~~ ~~"Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.~~

~~((11))~~ (12) "Pending status" means a voter registration record is not yet complete, and the applicant is not yet a registered voter or the registration is a potential felon, potential duplicate match, prospective registration applicant, or a future voter.

~~((12))~~ (13) "Previous county" means a county in Washington state that a registered voter lived in prior to moving to a new county.

(14) "Qualified tribal identification" means tribal identification from an issuer of tribal identification that has agreed to make digitized signature information available for the purpose of voter registration.

~~((13))~~ (15) "Received" means the voter's ballot has been returned to the county and entered into the election management system, but not yet accepted.

~~((14))~~ (16) "Registered voter" means any elector who has completed the statutory registration procedures established by Title 29A RCW.

~~((15))~~ (17) "Registration number" means a unique identifier assigned to each registered voter, pursuant to RCW 29A.08.125.

~~((16))~~ (18) "Reissued ballot" means a new ballot issued to a voter due to an address update within the state that changes the voter's ballot type or style. A reissued ballot becomes the current ballot and all other ballots are suspended.

~~((17))~~ (19) "Replacement ballot" means a ballot that is the same type or style as the most recently issued. The request for a replacement ballot does not update the voter's current ballot type or style.

~~((18))~~ (20) "Secretary" means secretary of state or any other person authorized by the secretary of state to act on the secretary's behalf.

~~((19))~~ (21) "Suspended ballot" means any ballot that is not the current ballot. The suspended ballot may be accepted when the current ballot is not received or accepted.

OTS-5448.1

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

WAC 434-324-026 Voter registration form.

Fold and seal, or use an envelope

Instructions

Use this form to register to vote or update your current registration.

Print all information clearly using black or blue pen. Your signature will be used to verify your ballot. Mail this completed form to your county elections office (address on back).

Deadline

This registration will be in effect for the next election if received by the elections office no later than eight days before election day.

Voting

You will receive your ballot in the mail. Contact your county elections office for accessible voting options.

Future Voters

If you are at least 16 years old, use this form to sign up. You'll be automatically registered to vote when you qualify.

Public Information

Your registration name, address, gender, and date of birth will be public information when you become eligible to vote.

Notice

You must be a United States citizen in order to register to vote. You may register to vote if you are at least sixteen years old. You may vote if you will be at least eighteen years old by the next general election, or are at least eighteen years old for special elections.

Knowingly providing false information about yourself or your qualifications for voter registration is a class C felony punishable by imprisonment for up to five years, a fine of up to \$10,000, or both.

Public Benefits Offices

If you received this form from a public benefits office, where you received the form will remain confidential.

Registering or declining to register will not affect the assistance provided to you by that agency.

If you believe someone interfered with your right to register, or your right to privacy in deciding whether to register, you may file a complaint with the Washington State Elections Division.

Contact Information

If you would like help with this form, contact the Washington State Elections Division.

web www.votewa.gov

call 1 (800) 448-4881

email elections@sos.wa.gov

mail PO Box 40229 Olympia, WA 98504-0229

For official use.

1/2022

Washington State Voter Registration Form

Register online at www.votewa.gov.

1 Personal Information

last first middle suffix

date of birth (mm/dd/yyyy) gender

residential address in Washington state apt#

city ZIP

mailing address, if different

city state and ZIP

phone number (optional) email address (optional)

2 Qualifications

If you answer no, do not complete this form.

I am a citizen of the United States of America.

I am at least sixteen years old and will not vote in a special or general election until I turn eighteen.

3 Military / Overseas Status

I am currently serving in the military. Includes National Guard and Reserves, and spouses or dependents away from home due to service.

I live outside the United States.

4 Identification - Washington Driver License, Permit, or ID

Grid for identification numbers

If you do not have a Washington driver license, permit, or ID, you may use the last four digits of your Social Security number to register.

5 Change of Name or Address

This information will be used to update your registration, if applicable.

previous last name first middle

previous residential address city state and ZIP

6 Declaration

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I will have lived at this address in Washington for at least thirty days immediately before the next election at which I vote, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

sign here

date here

Fold and seal, or use an envelope

Instructions

Use this form to register to vote or update your current registration.

Print all information clearly using a black or blue pen. Your signature will be used to verify your ballot. Mail this completed form to your county elections office (address on back).

Deadline

This registration will be in effect for the next election if received by the elections office at least eight days before election day. If it is within seven days of an election, register in person at a voting center. Locations are listed at www.sos.wa.gov/elections/auditors

Notice

You must be a United States citizen in order to register to vote.

If you knowingly provide false information on this voter registration form or knowingly make a false declaration about your qualifications for voter registration you will have committed a class C felony that is punishable by imprisonment for up to five years, a fine of up to ten thousand dollars, or both.

Future Voters

If you are at least 16 years old, use this form to sign up as a Future Voter. You'll be automatically registered to vote when you qualify. You may vote if you will be at least 18 years old by the next general election, or are at least 18 years old for special elections.

Public Information

Your registration name, address, gender, and year of birth will be public information when you become eligible to vote.

Voting

You will receive your ballot in the mail. Contact your county elections office for accessible voting options.

Public Benefits Offices

If you received this form from a public benefits office, where you received the form will remain confidential. Registering or declining to register will not affect the assistance provided to you by that agency.

If you believe someone interfered with your right to register, or your right to privacy in deciding whether to register, you may file a complaint with the Washington State Elections Division.

Contact Information

If you would like help with this form, contact the Washington State Elections Division.

- web www.sos.wa.gov/elections
call 1 (800) 448-4881
email elections@sos.wa.gov
mail PO Box 40229 Olympia, WA 98504-0229

fold in half

Washington State Voter Registration Form

Register online at www.VoteWA.gov.

1 Personal Information

last name first middle suffix (Sr., Jr., etc.)
date of birth (mm/dd/yyyy) gender (optional)
residential address in Washington state (cannot be a PO Box or PMB) apt/unit #
city ZIP
mailing address, if different from above apt/unit #
city state and ZIP
phone number (optional) email address (optional)

2 Citizenship

I am a citizen of the United States.
yes no If you answered no, do not complete this form.

3 Military or Overseas Status

I am actively serving in the military.
Includes National Guard or Reserves, and spouses or dependents away from home due to service.
yes no
I currently live outside the country.
yes no

4 Identification - Washington Driver License, Permit, or ID; or SSN

Grid for driver license, permit, ID, or SSN information.

5 Previous Name or Address

This information will be used to update your registration, if applicable.
previous last name first middle
previous residential address city state and ZIP

6 Declaration and Signature

I declare that the facts on this voter registration form are true. I am a citizen of the United States, I am a Washington state resident, and I am at least sixteen years old. I am not disqualified from voting due to a court order, and I am not currently serving a sentence of total confinement under the jurisdiction of the department of corrections for a Washington felony conviction, and I am not currently incarcerated for a federal or out-of-state felony conviction.

For official use:
7/2024

sign here date here

OTS-5443.1

NEW SECTION

WAC 434-324-104 Automatic voter registration acknowledgment notice packages. (1) Upon receipt of a complete automatic voter registration application, the county auditor must send the automatic voter registration applicant an acknowledgment notice package as defined in RCW 29A.08.030 within five business days. The voter registration transaction can include initial registration, name change, residential address change, mailing address change, or reactivation of an inactive voter registration. The notice package must be sent by nonforwardable, address correction requested mail, and include:

(a) A postage prepaid, preaddressed return automatic voter registration opt-out form as prescribed by the office of the secretary of state or in substantially the same format;

(b) An acknowledgment notice as defined in RCW 29A.08.030 and WAC 434-324-085; and

(c) Other information deemed necessary by the secretary.

(2) If the automatic voter registration application does not contain the minimum information required in RCW 29A.08.010, the county auditor shall mail a verification notice and automatic voter registration opt-out form simultaneously to the prospective registration applicant, following procedure as set forth in RCW 29A.08.110 and WAC 434-324-103.

(3) The county auditor shall mail an automatic voter registration acknowledgment notice package to a primary-only voter, as defined in WAC 434-232-010, no earlier than 90 days before the primary that they are eligible to participate in.

(4) The county auditor shall not mail an automatic voter registration acknowledgment notice package to a participant in the future voter program established under RCW 29A.08.170 until the participant becomes a registered voter.

(5) In addition to mailing the automatic voter registration acknowledgment package, the county auditor may provide notification to the registration applicant by:

(a) Telephone, leaving a voicemail if the automatic voter registration applicant does not answer and voicemail is available (if the automatic voter registration applicant has provided a phone number);

(b) Text message (if the automatic voter registration applicant has opted into text message notifications); or

(c) Email, enclosing a copy of the automatic voter registration acknowledgment notice package (if the automatic voter registration applicant has provided an email address).

(6) If the automatic voter registration information provided by the government agency where the voter applied to government services is for a currently registered voter and does not contain a change to the voter's name or address(es), the county auditor may choose whether to send the voter an automatic voter registration acknowledgment notice package.

(7) Prior to removal from the statewide voter registration database of a new voter registration record upon receipt of the automatic voter registration opt-out form, the county auditor must ensure that the signature on the automatic voter registration opt-out form matches the signature in the voter registration record by utilizing criteria outlined in WAC 434-261-052.

(a) If the signature on the automatic voter registration opt-out form matches the signature on the voter registration record, the registration is removed from the statewide voter registration database,

and the prospective registration applicant is deemed to have never registered to vote.

(b) If the signature on the automatic voter registration opt-out form does not match the signature on the voter registration record, the county auditor must attempt to contact the prospective registration applicant consistent with subsection (5) of this section. To be deemed as never having registered to vote, the prospective registration applicant must either:

(i) Appear in person and sign an automatic voter registration opt-out form no later than close of business 15 days following the date the package was mailed by the county auditor; or

(ii) Sign an automatic voter registration opt-out form and return it to the county auditor no later than close of business 15 days following the date the package was mailed by the county auditor.

(8) Upon receipt of an automatic voter registration opt-out form from a currently registered voter, the county auditor must ensure that the signature on the form matches the signature in the voter registration record by utilizing criteria outlined in WAC 434-261-052.

(a) If the signature on the automatic voter registration opt-out form matches the signature on the voter registration record, the automatic voter registration application changes are nullified, and the voter registration record will revert to the data in the record prior to the application being processed.

(b) If the signature on the automatic voter registration opt-out form does not match the signature on the voter registration record, the county auditor must attempt to contact the voter consistent with subsection (5) of this section. To nullify the voter registration record changes, the voter must either:

(i) Appear in person and sign an automatic voter registration opt-out form no later than close of business 15 days following the date the package was mailed by the county auditor; or

(ii) Sign an automatic voter registration opt-out form and return it to the county auditor no later than close of business 15 days following the date the package was mailed by the county auditor.

(9) The date of registration is the date an election official receives the information to register the person to vote. If an automatic voter registration application is received in the eight days prior to election day, the date of registration is the day after the election, and the county auditor must mail the automatic voter registration acknowledgment package within five business days following election day.

(10) The county auditor must keep a record of the voter opt-out forms sent and received. The record must contain the date on which the notice package was mailed, the date on which the voter was contacted in other means if applicable, as well as the date on which the voter subsequently submitted an automatic voter registration opt-out form to cancel the pending automatic voter registration record.

WSR 24-16-022

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed July 26, 2024, 10:42 a.m., effective August 26, 2024]

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

Purpose: The health care authority is amending WAC 182-50-030 to permit members of the pharmacy and therapeutics committee to serve for up to three consecutive three-year terms.

Citation of Rules Affected by this Order: Amending WAC 182-50-030.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 24-13-041 on June 10, 2024.

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

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

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

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

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

Date Adopted: July 26, 2024.

Wendy Barcus
Rules Coordinator

OTS-5421.1

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

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

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

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

(4) Members of the committee are compensated for participation in the work of the committee in accordance with a personal services con-

tract executed after appointment and prior to commencement of activities related to the work of the committee.

WSR 24-16-023

PERMANENT RULES

HEALTH CARE AUTHORITY

[Filed July 26, 2024, 10:46 a.m., effective August 26, 2024]

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

Purpose: The health care authority is amending WAC 182-507-0125 to include state-funded long-term care services provided in an intermediate care facility for individuals with intellectual disabilities authorized by the Washington state department of social and health services, developmental disabilities administration.

Citation of Rules Affected by this Order: Amending WAC 182-507-0125.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Adopted under notice filed as WSR 24-13-044 on June 11, 2024.

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

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

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

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

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

Date Adopted: July 26, 2024.

Wendy Barcus
Rules Coordinator

OTS-5450.1

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Be age 19 or older;

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

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

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

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

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

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

(4) **General limitations.**

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

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

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

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

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

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

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

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

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

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

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

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

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

(7) Current resource, income, PNA, and room and board standards are found at www.hca.wa.gov/free-or-low-cost-health-care/i-help-others-apply-and-access-apple-health/program-standard-income-and-resources.

WSR 24-16-032

PERMANENT RULES

WASHINGTON STATE PATROL

[Filed July 29, 2024, 6:05 a.m., effective August 29, 2024]

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

Purpose: Changes to WAC 204-21-130, 204-21-230, 204-36-050, and 204-91A-170 are needed to coincide with legislative changes to RCW 46.37.196 that permit rear-facing blue lights on emergency tow trucks, which became effective July 23, 2023.

Citation of Rules Affected by this Order: Amending WAC 204-21-130, 204-21-230, 204-36-050, and 204-91A-170.

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

Adopted under notice filed as WSR 24-13-051 on June 13, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 4, Repealed 0.

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

Date Adopted: July 29, 2024.

John R. Batiste
Chief

OTS-5478.1

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

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

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

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

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

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

- (a) Have a circuit that alternately flashes only the high beams from the headlamps at a rate of 60 to 120 flashes per minute per side.
 - (b) Be so designated that any failure to flash the lamps will not result in failure of the headlamp system to operate normally.
 - (c) Incorporate an override feature which must stop the flashing and provide full illumination from both high beam headlamps when the dimmer switch is in the high-beam mode.
 - (d) Have an indicator lamp included in the circuit to give a visible and unmistakable indication to the driver that the system is turned on.
- (3) The following table outlines the color of emergency lamps to be used for each type of vehicle.

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

- (4) Green lamps for volunteer firefighter and firefighter private vehicles must:
- (a) Meet the requirements of SAE J595 except that the color of the lamp must be green as the color described in SAE J578.
 - (b) Be visible for a distance of 200 feet under normal atmospheric conditions.
 - (c) Not have a maximum light projected in any one direction exceeding 300 candle power.
 - (d) Be mounted no less than 24 inches above the level surface upon which the vehicle stands, or may be placed on the forward portion of the top above the windshield.
 - (e) Be mounted anywhere from the center of the vehicle to the left side thereof.
 - (f) Be used only for the purpose of identification and the operator of a vehicle so equipped must not be entitled to any of the privileges provided in RCW 46.61.035 for the operators of authorized emergency vehicles.
- (5) Amber lamps must:
- (a) Be mounted and be of sufficient intensity so as to be clearly visible to approaching traffic for at least 500 feet in normal sunlight.
 - (b) Be mounted as outlined in WAC 204-21-020 and as follows:

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

(ii) May be mounted at any height.

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

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

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

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

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

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

(i) Display aftermarket neon lighting devices.

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

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

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

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

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

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

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

(ii) Not be lit.

(iii) Not have continual motion.

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

(a) Clear aftermarket headlamp covers.

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

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

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

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

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

OTS-5479.1

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

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

(a) Conventional passenger cars, vans, pickups, or similar vehicles;

(b) Conventionally painted; and

(c) Legally equipped in conformance with RCW 46.37.190(1) with at least one lamp capable of displaying a red light visible from at least 500 feet in normal sunlight and a siren capable of giving an audible signal. Such equipment must not be installed prior to obtaining approval.

val of the application and issuance of a temporary certificate of approval for the vehicle(s) by the patrol. To be considered approved equipment for use under the provisions of this section, all devices must meet the criteria established in RCW 46.37.320. In descending order of preference, these are:

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

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

(2) Authorized emergency vehicles must not:

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

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

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

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

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

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

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

(c) Flashing or strobing headlamps;

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

OTS-5480.1

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

WAC 204-91A-170 Minimum tow truck equipment standards. (1) All tow/recovery trucks used by a registered tow truck operator for public or private impounds or in response to patrol requests must meet the minimum standards listed in this section. Classes "A," "B," "B-2," "C," "D" only if factory equipped with a boom or retractable boom, "E" only if factory equipped with a side recovery system, and "S-1" are considered recovery trucks for patrol requests and must be used by the registered tow truck operator in response to these requests unless the operator requests and patrol accepts nonrecovery trucks or other equipment. The patrol will provide information concerning the general description of the type and condition of the vehicle and its type of load if applicable at the time of request for an initial tow if reasonably available.

(2) **Minimum standards:**

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

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

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

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

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

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

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

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

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

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

(iii) Evidence of rope deterioration from corrosion.

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

(v) Any evidence of heat damage.

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

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

(viii) Core protrusion along the entire length.

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

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

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

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

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

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

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

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

(g) All winching equipment, booms, snatch blocks, etc., must have permanently affixed durable factory identification, stating the work-

ing load limit. If this identification has been removed or is no longer readable, it is criteria for placing the item out-of-service. Equipment may be reinspected by a recognized recertification company. If the equipment is acceptable, it may be reidentified with a working load limit and a recertification company identifier. It will be deemed acceptable if the operator maintains a copy of the certification of winching equipment provided the serial number on the equipment corresponds with the certification provided by the manufacturer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) Be used in a lawful manner.

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

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

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

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

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

(b) Dual tires on the rear axle.

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

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

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

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

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

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

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

(j) Permanently affixed safety chains.

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

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

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

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

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

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

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

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

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

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

(j) Permanently affixed safety chains.

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

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

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

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

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

(e) Permanently affixed safety chains.

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

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

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

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

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

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

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

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

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

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

(i) Permanently affixed safety chains.

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

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

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

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

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

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

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

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

(e) One snatch block rated at 3.5 tons.

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

(g) Permanently affixed safety chains.

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

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

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

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

(ii) One snatch block rated at 4.0 tons.

(iii) Dual tires on the rear axle.

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

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

(vi) Four-ton winch rating.

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

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

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

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

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

(i) If equipped with a towing system:

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

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

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

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

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

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

(i) Why the truck is needed;

(ii) What the truck will be used for;

(iii) The vehicle size;

(iv) Purchased tonnage if required;

(v) Capability; and

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

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

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

(10) **Class "S-1 rotator" trucks:** Trucks that are capable of recovery, towing, or both of large trucks, trailers, buses, motor homes, or similar vehicles. Class "S-1 rotator" trucks must meet the requirements of subsection (2)(a) through ~~((w))~~ (x) of this section, and in addition must have:

(a) A ~~((fifty-two thousand))~~ 52,000 pound manufacturer's GVWR.

(b) Tandem or triple rear axle truck chassis with at least two drive axles.

(c) A minimum of ~~((forty))~~ 40 ton rotating boom rating with a single boom.

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

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

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

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

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

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

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

(k) A minimum of two snatch blocks rated at eight tons each.

(l) Permanently affixed safety chains.

(11) Tow trucks rated as class "A," "B," "B-2," "C," or "E" that are currently in-service with operators holding a current letter of appointment issued by the patrol, not meeting the criteria for classification listed in this section will be allowed to remain on the rotation with those companies.

(12) This section shall be effective on March 1, 2011.

WSR 24-16-041

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed July 30, 2024, 9:40 a.m., effective August 30, 2024]

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

Purpose: The passage of 2SHB 1390 in 2023 (chapter 291, Laws of 2023) added new requirements for the decarbonization of campus district energy systems to statute (RCW 19.27A.210). These statutory changes require the department of commerce (commerce) to clarify its rules for the clean building performance standard (chapter 194-50 WAC) in order to add additional requirements and maintain consistency. Commerce is proposing to maintain consistency between administrative rules and statute by updating the existing chapter 194-50 WAC to include the new requirements that were added to RCW 19.27A.210 upon passage of 2SHB 1390. Requirements will relate to alternate compliance pathways, management plan implementation, and compliance with state energy efficiency requirements for state campus district energy systems and owners.

Citation of Rules Affected by this Order: New WAC 194-50-170; and amending WAC 194-50-001, 194-50-010, 194-50-020, 194-50-030, 194-50-040, 194-50-050, 194-50-060, 194-50-070, 194-50-080, 194-50-090, 194-50-140, 194-50-150, and 194-50-160.

Statutory Authority for Adoption: RCW 19.27A.210.

Adopted under notice filed as WSR 24-10-108 on May 1, 2024.

Changes Other than Editing from Proposed to Adopted Version: Commerce has made the following changes to the adopted rules:

1. Amendments to the definition of simple payback in Section 3.1 (WAC 194-50-030): To clarify the initial and annual costs used are the incremental costs. Also, to clarify Equation 6-13 in Section 6.4.4 of the NIST Handbook 135 is required for the simple payback calculation.

2. Added an exception to Section 7.2.3 (WAC 194-50-070): Exception #5 Nontarget buildings was included to the list of exceptions to 7.2.3.

3. Amendments to Section 7.2.4 (WAC 194-50-070): Commerce added language to further clarify vacant space energy target requirements. Section 7.2.4.2 was amended from 30 percent to 50 percent of the gross floor area for unconditioned spaces exclusion. Section 7.2.4.3 was amended to clarify the gross floor area calculations.

4. Amendments to Section X1.1 (WAC 194-50-140): Commerce included clarifying language about the costs used in both the energy audit and the life cycle cost analysis for the base case and alternative case.

5. Amendments to Section X2.3.1 (WAC 194-50-140): Commerce included a clarifying note defining the simple payback calculation.

6. Footnotes added to Table 7-1 (WAC 194-50-150): Commerce added footnotes #8 and #9 for consistency with Table 7-2a and Table 7-4.

7. Footnote added to Table 7.3 (WAC 194-50-150): Commerce added footnote #10 to clarify how to apply shift normalization factors to campus-level grouped buildings.

8. Revised stadium (open and closed) definitions in Table 7-4 (WAC 194-50-150): Commerce revised the definition for open and closed stadiums, including race tracks, to include the playing fields for consistency with Energy Star Portfolio Manager definitions.

9. Editorial corrections: This includes changes such as updating the publish date from June 2024 to July 2024, grammatical corrections, changing "department of commerce" to "AHJ," unitalicizing "net energy" in the term "net energy concept," editing column headings in Table

5-2, and changing "space types" to "building activity types" in Table 7-4, Line 51.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 13, Repealed 0.

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

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

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

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

Date Adopted: July 30, 2024.

Amanda Hathaway
Rules Coordinator

OTS-5399.2

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-001 Foreword. *ANSI/ASHRAE/IES Standard 100-2018 Energy Efficiency in Existing Buildings* is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code (WAC) updated February 7, 2024, to include Tier 2 covered buildings pursuant to RCW 19.27A.250, updated July 2024 to include district energy systems decarbonization pursuant to RCW 19.27A.260. In the event of a conflict between the standard and rules in this chapter, the provisions of this chapter apply.

ANSI/ASHRAE/IES Standard 100-2018 Energy Efficiency in Existing Buildings is adopted by the Washington state department of commerce pursuant to RCW 19.27A.200, 19.27A.210, and 19.27A.220. This standard has been adopted by reference and modified to implement the requirements for *covered buildings* as directed by the Washington state legislature. The legislature delegated the responsibility of adoption and amendment of this standard to the Washington state department of commerce.

Complying with this rule requires the user to comply with *ANSI/ASHRAE/IES Standard 100-2018* as amended by this rule. When this rule amends a section of *Standard 100*, the entire section is published in the rule. The user will need to have both documents in hand, but detailed comparison within any one section is not necessary. Simply apply the entire section as published in the rule. All other sections in *Standard 100* apply.

The Washington state administrative requirements for this standard are included in Normative Annex Z for Tier 1 covered buildings, Normative Annex Y for Tier 2 covered buildings, and Normative Annex W for district energy system decarbonization plans. For building owners that must comply with this standard, reading Normative Annex Z, Norma-

tive Annex Y, or Normative Annex W first allows the owner to put the rest of the standard in context. Multiple compliance options are available and should be reviewed prior to beginning implementation of this standard.

AMENDATORY SECTION (Amending WSR 20-22-059, filed 10/30/20, effective 11/30/20)

WAC 194-50-010 ASHRAE Standard 100, 2018—Section 1—Purpose.

1.1 This standard provides criteria that will result in reduced energy consumption through improved energy efficiency and performance in existing *buildings*. In adopting this standard by rule, Washington state department of commerce shall seek to maximize reductions of greenhouse gas emissions from the *building* sector.

1.2 This standard is directed toward providing procedures and programs essential to energy efficient operation, maintenance, management, and monitoring; increasing the energy efficiency of the energy-using systems and components; upgrading the thermal performance of the building envelope; and promoting the use of district energy system decarbonization plans aligning with district energy policy in coordination with statewide building performance standards policies to reduce commercial and large state-owned building emissions.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-020 ASHRAE Standard 100, 2018—Section 2—Scope. This standard is mandatory for all covered buildings and state campus district energy systems located in the state of Washington. *Multifamily residential buildings* exceeding 50,000 square feet of *gross floor area*, excluding the parking garage areas, may seek early adopter incentives by voluntarily complying with the applicable *energy use intensity target* consistent with RCW 19.27A.220.

This standard applies to existing buildings, portions of buildings, and building complexes, including the envelope and all systems in the building, state campus district energy systems, and campus district energy systems. Owners of a state campus district energy system must develop a decarbonization plan that provides a strategy for up to 15 years for the decarbonization of the district energy system. Owners of a campus district energy system may opt-in to compliance with the standard through the alternative decarbonization plan compliance pathway. Participating campuses must comply with all of the decarbonization plan requirements in accordance with Normative Annex W. This standard excludes industrial and agricultural processes in buildings for which the energy targets do not include those processes.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-030 ASHRAE Standard 100, 2018—Section 3—Definitions.

3.1 General

Agricultural structure: A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products, and is not a place used by the public or a place of human habitation or employment where agricultural products are processed, treated, or packaged.

Applicable building codes: The Washington state building codes as adopted by the Washington state building code council, and as modified by local government amendments.

Authority having jurisdiction (AHJ): Washington state department of commerce.

Benchmarking: The practice of comparing the measured performance of a device, process, facility, or organization to itself, its peers, or established norms, with the goal of informing and motivating performance improvement. When applied to *building* energy use, *benchmarking* serves as a mechanism to measure energy performance over time, relative to other similar *buildings*.

Building owner: An individual or entity possessing title to a *building*. In the event of a land lease, the *building owner* is the entity possessing title to the *building* on leased land. Where condominium structures are subject to the standard, "*building owner*" means the owners' association.

Building tenant: A person or entity occupying or holding possession of a *building* or premises pursuant to a rental agreement.

Campus: A (~~campus is a~~) collection of *buildings* served by a (~~campus~~) district heating, cooling, water reuse (~~and~~) or power system (~~owned by the same building owner.~~

~~***Campus district heating and/or cooling system:***~~ A ~~district heating and/or cooling system that serves a campus and is owned by the building owner.~~)

Campus district energy system: A district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to three or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all buildings connected to the system are owned by:

(a) A single entity;

(b) A public-private partnership in which a private entity owns the systems providing heating, cooling, or heating and cooling to buildings owned by one public entity; or

(c) Two private entities in which one private entity owns the buildings connected to the system and another private entity owns the system providing heating, cooling, or heating and cooling to the buildings.

Certified commissioning professional: A person who is certified by an ANSI/ISO/IEC 17024:2012 accredited organization to lead, plan, coordi-

nate, and manage commissioning teams and implement the commissioning process and with experience commissioning at least two projects of similar size and of similar equipment to the current project, and at least one in the last three years. This experience includes the writing and execution of verification checks and functional test plans.

Complex: A group of *buildings* interconnected by *conditioned spaces* on *contiguous property*.

Conditional compliance: A temporary compliance method:

(a) For *Tier 1 covered buildings* used by *building owners* that demonstrates the owner has implemented energy use reduction strategies required by the standard, but has not demonstrated full compliance with the *energy use intensity target*.

(b) For *Tier 2 covered buildings* used by *building owners* that demonstrates the owner has benchmarked the *building energy use* in accordance with the standard, and provides an additional 180 days for *building owner* to demonstrate full compliance with the energy management plan (*EMP*) and operations and maintenance (*O&M*) program documentation.

Conditioned space: An area, room or space that is enclosed within the *building's* thermal envelope and is directly heated or cooled or is indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with *conditioned spaces*, where they are separated from *conditioned spaces* by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling. (also see, *semi-heated space*).

Connected buildings: A collection of *buildings* with shared energy meter(s) on *contiguous property*.

Contiguous property: Adjoining property under sole ownership.

Covered building: Includes *Tier 1 covered buildings* and *Tier 2 covered buildings*.

Decarbonization plan: A plan to comply with clean building performance standard in accordance with Normative Annex W.

Director: The *director* of the department of commerce or the *director's* designee.

Discounted payback: The time when the accumulated savings achieved by an investment, discounted by the appropriate discount rate, equals the initial cost of the investment.

~~((**District heating and/or cooling system:** A system that provides heating or cooling to multiple *buildings* through a distributed system providing steam, hot water, or cool water to *buildings*.)~~)

District energy system: A system that provides heating, cooling, or heating and cooling to a *campus* through a distributed system providing steam, hot water, or cool water to *buildings*.

District energy system, campus: See *campus district energy system*.

District energy system, state campus: See *state campus district energy system*.

Energy target (EUI_t): Not adopted. See *energy use intensity target (EUI_t)*.

Energy use intensity (EUI): A measurement that normalizes a *building's* site energy use relative to its size. A *building's* energy use intensity is calculated by dividing the total net energy consumed in one year by the gross floor area of the *building*, excluding the parking garage. "Energy use intensity" is reported as a value of a thousand British thermal units per square foot per year.

Energy use intensity target (EUI_t): The target for net energy use intensity of a covered building.

Gross floor area: The total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a *building*, including all supporting functions such as offices, lobbies, restrooms, equipment, storage areas, mechanical rooms, break rooms, and elevator shafts. Gross floor area does not include outside bays or docks.

~~((Gross floor area for residential buildings: Not adopted.))~~

Gross floor area for nonresidential buildings: Not adopted.

Gross floor area for residential buildings: Not adopted.

Grouped buildings: Buildings that comply at the campus-level as noted in Tables 7-2a and 7-4, Footnote #9, campuses, and connected buildings.

Lighting schedule: A list that provides a count of all *luminaires* in the *building*, lighting controls, fixture types, and product information.

More recently built buildings: *Buildings* or additions greater than 50,000 square feet in conditioned floor area permitted for construction based on the application permit date of July 1, 2016, or later. For example, *buildings* permitted to the 2015 edition of the Washington State Building Code, chapter 51-50 WAC.

Multifamily residential building: A covered multifamily *building* containing sleeping units or more than five dwelling units where occupants are primarily permanent in nature.

Net energy use: The sum of the metered and bulk fuel energy entering the *building*, minus the sum of metered energy leaving the *building* or campus. Renewable energy produced on a campus that is not attached to a covered building may be included. The same applies to portions of *buildings* with submetering. Bulk fuels are included using the equation in Section 5.2.2.1.

Nontarget buildings: Buildings with building activity type(s) without an energy target or not listed in Table 7-1 in more than 50 percent of the gross floor area.

Nontarget space: Space within a building with a building activity type without an energy target or not listed in Table 7-1.

Participating campus: A campus pursuing compliance through a decarbonization plan in accordance with Normative Annex W.

Physical occupancy: Space that is used by an owner or tenant regardless of occupant density and frequency of use. A *building* does not have *physical occupancy* and is considered unoccupied when 50 percent or more of the conditioned floor area is not leased or is otherwise vacant.

Qualified commissioning authority: Not adopted.

Qualified energy auditor: A person acting as the auditor of record having training, expertise and three years professional experience in *building* energy auditing and any one of the following:

- (a) A licensed professional architect or engineer;
- (b) A building energy assessment professional (BEAP) certified by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE);
- (c) A certified energy auditor (CEA) certified by the Association of Energy Engineers (AEE).
- (d) A certified energy manager (CEM) in current standing, certified by the Association of Energy Engineers (AEE).
- (e) An energy management professional (EMP) certified by the Energy Management Association (EMA).

The AHJ may prescribe additional certifications and training to meet the minimum qualifications of a *qualified energy auditor*. When the AHJ prescribes such additional qualifications, it will provide notice of the determination on the agency website and will periodically update these rules to reflect additional qualifications of *qualified energy auditors*.

Qualified energy manager (QEM): An individual designated by the *building owner* who:

- (a) Has two years of experience, including educational and/or professional experience, with commercial *building* operations and/or *building* energy management in addition to successful completion of clean buildings tier 2 training program as specified by the AHJ; or
- (b) Meets the definition of a *qualified person*.

Qualified person: A person having training, expertise and three years professional experience in *building* energy use analysis and any of the following:

- (a) A licensed professional architect or engineer in the state of Washington;
- (b) A person with Building Operator Certification (BOC) Level II by ~~((the Northwest Energy Efficiency Council (NEEC))~~) Building Potential;
- (c) A building commissioning professional certified by an ANSI/ISO/IEC 17024:2012 accredited organization;
- (d) A *qualified energy auditor*;
- (e) A certified energy manager (CEM) in current standing, certified by the Association of Energy Engineers (AEE);
- (f) An energy management professional (EMP) certified by the Energy Management Association (EMA);
- (g) A person with South Seattle College Sustainable Building Science Technology Bachelor of Applied Science degree, or as approved as equivalent by the AHJ.

The AHJ may prescribe additional certifications and training to meet the minimum qualifications of a *qualified person*. When the AHJ prescribes such additional qualifications, it will provide notice of the determination on the agency website and will periodically update these rules to reflect additional qualifications of *qualified persons*.

Recommissioning: An application of the commission process requirements to a project that has been delivered using the commissioning process.

Renewable natural gas: A gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in

landfills, wastewater treatment facilities, or anaerobic digesters and that is fully interchangeable with conventional natural gas.

Residential building: Not adopted.

Savings-to-investment ratio: The ratio of the total present value savings to the total present value costs of a bundle of an energy or water conservation measure estimated over the projected *useful life* of each measure. The numerator of the ratio is the present value of net savings in energy or water and nonfuel or nonwater operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

Semi-heated space: An enclosed space within a *building*, including adjacent connected spaces separated by an uninsulated component (e.g., basements, utility rooms, garages, corridors) which:

(a) Is heated but not cooled, and has an installed heating system output capacity greater than or equal to 3.4 Btu/(h-ft²) but not greater than 8 Btu/(h-ft²);

(b) Is not a walk-in cooler, walk-in freezer, refrigerated warehouse cooler or refrigerated warehouse freezer space.

Service life: See *useful life*.

Simple payback (years): The estimated incremental initial cost of an *EEM* divided by the estimated incremental annual cost savings of the measure expressed in years. The cost savings may include *energy cost* savings and incremental routine operations and maintenance costs or savings. The simple payback calculation shall be in accordance with NIST Handbook 135, Section 6.4.4, Equation 6-13.

State campus district energy system: A district energy system that provides heating, cooling, or heating and cooling to a campus through a distributed system providing steam, hot water, or cool water to five or more buildings with more than 100,000 square feet of combined conditioned space, where the system and all buildings connected to the system are owned by:

(a) The state of Washington; or

(b) A public-private partnership including one public buildings owner and one private entity.

State equipment standards: Appliance and equipment standards listed in chapter 19.260 RCW, Energy efficiency.

Tier 1 covered building: A *building* where the sum of nonresidential, hotel, motel, and dormitory floor areas exceeds 50,000 gross square feet, excluding the parking garage area.

Tier 2 covered building: A *building* where the sum of multifamily residential, nonresidential, hotel, motel, and dormitory floor areas exceeds 20,000 gross square feet, but does not exceed 50,000 gross square feet, excluding the parking garage area. *Tier 2 covered buildings* also include *multifamily residential buildings* where floor areas are equal to or exceed 50,000 gross square feet, excluding the parking garage area.

Useful life: (~~Useful life is~~) The expected (~~remaining~~) *service life* of *building* systems or equipment as published by the AHJ. For

EEMs not included, the qualified energy auditor will be responsible for determining useful life. Used interchangeably with *service life*.

Weather normalized: A method for modifying the measured *building* energy use in a specific weather year to energy use under normal weather conditions.

Weather normalized energy use intensity (WNEUI): Measurement that normalizes a *building's site energy use* relative to its size based on the *buildings weather normalized site energy use*. A *building's energy use intensity* is calculated by dividing the total net weather normalized energy consumed in one year by the *gross floor area of the building*, excluding the parking garage. *Weather normalized energy use intensity* is reported as a value of 1,000 British thermal units per square foot per year.

3.2 Common abbreviations and acronyms

AEE Association of Energy Engineers.

AHJ authority having jurisdiction.

DDC direct digital control.

EEM energy efficiency measure.

EM energy manager.

EMP energy management plan.

EUI energy use intensity.

IRR internal rate of return.

LCCA life cycle cost analysis.

O&M operations and maintenance.

WSEC Washington State Energy Code.

WNEUI Weather normalized energy use intensity.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-040 ASHRAE Standard 100, 2018—Section 4—Compliance requirements.

4.1.1.1 A *building or complex of buildings* whose majority of *gross floor area* has activities in Table 7-1 shall comply with the requirements of Sections 4.2 and 4.3.

4.1.1.2 ((*) For Tier 1 covered buildings, the *qualified person* determining compliance shall:

1. Determine whether or not the *building* seeking compliance has an *energy use intensity target (EUI_t)* according to Section 7;
2. Establish the *energy use intensity target (EUI_t)* according to Section 7; and
3. Submit forms as specified in Normative Annex Z to the *AHJ*.

4.1.1.3 For Tier 2 covered buildings, the *qualified energy manager* submitting compliance documents shall:

1. Determine whether or not the *building* seeking compliance has an *energy use intensity target (EUI_t)* according to Section 7;
2. Establish the *energy use intensity target (EUI_t)* according to Section 7; and
3. Submit forms as specified in Normative Annex Y to the *AHJ*.

4.1.2 Residential building.

4.1.2.1 A multifamily residential building or complex of multifamily residential buildings shall comply with the requirements of Sections 4.2 and 4.3.

4.1.2.2 For Tier 2 covered buildings, the qualified energy manager submitting compliance documents shall:

1. Determine whether or not the building seeking compliance has an energy use intensity target (EUI_t) according to Section 7;
2. Establish the energy use intensity target (EUI_t) according to Section 7; and
3. Submit forms as specified in Normative Annex Y to the AHJ.

4.1.3 Buildings with residential and nonresidential activities - Not adopted.

4.1.4 District energy systems decarbonization.

4.1.4.1 Participating campuses shall comply with the requirements of Sections 4.2 and 4.3.

4.1.4.2 For participating campuses, the qualified person determining compliance shall:

1. Determine whether or not the campus seeking compliance has an energy use intensity target (EUI_t) according to Section 7;

2. Establish the energy use intensity target (EUI_t) according to Section 7;

3. Submit forms in accordance with Normative Annex W to the AHJ;
and

4. Submit decarbonization plan as specified in Normative Annex W to the AHJ.

4.2.1 Operations and maintenance. The building manager shall comply with the operations and maintenance (O&M) requirements of Section 6.

~~((For Tier 1 covered buildings the qualified person determining compliance shall state in writing on Form A that the operating and maintenance requirements of Section 6 have been met according to the following subsections.~~

~~• For Tier 2 covered buildings the qualified energy manager submitting compliance documents shall state in writing on Form A that the operating and maintenance requirements of Section 6 have been met according to the following subsections.~~

~~**4.2.1.1 For first-time applicants.**~~

- ~~- Tier 1 covered buildings, for the previous year.
 - Tier 2 covered buildings, by the compliance date.)~~

4.2.1.1 For Tier 1 covered buildings, the qualified person determining compliance shall state in writing on Form A that the operating and maintenance requirements of Section 6 have been met:

1. For first-time Tier 1 covered buildings applicants, for the previous year.

2. For previously compliant buildings, since the previous validation of compliance.

4.2.1.2 For Tier 2 covered buildings, the qualified energy manager submitting compliance documents shall state in writing on Form A that the operating and maintenance requirements of Section 6 have been met:

1. For first-time Tier 2 covered buildings applicants, by the compliance date.

2. For previously compliant buildings, since the previous validation of compliance.

4.2.1.3 For grouped buildings, the qualified person determining compliance shall state in writing on Form J, that the operating and maintenance requirements of Section 6 have been met:

1. For first-time grouped buildings applicants, follow the compliance schedules in:

a. Section Z3.2 for Tier 1 covered buildings;

b. Section Y3.2 for Tier 2 covered buildings; and

c. For participating campuses only by July 1, 2030, for buildings not covered, connected to the district energy system.

2. For previously compliant grouped buildings, since the previous validation of compliance.

4.2.1.4 For grouped buildings, the qualified person determining compliance may submit a single O&M program. The O&M program implemented for participating campuses through a decarbonization plan shall include all campus buildings. The O&M program implemented at a connected building or campus-level shall include all covered buildings.

4.2.2 Energy management plan. The building manager shall comply with the energy management plan (EMP) requirements of Section 5.

~~((For Tier 1 covered buildings the qualified person determining compliance shall state in writing on Form A that the energy management program described in Section 5 has been developed and is being maintained as of the date on Form A.~~

~~• For Tier 2 covered buildings the qualified energy manager submitting compliance documents shall state in writing on Form A that the energy management program described in Section 5 has been developed and is being maintained as of the date on Form A.)~~

4.2.2.1 For Tier 1 covered buildings, the qualified person determining compliance shall state in writing on Form A that the EMP described in Section 5 has been developed and is being maintained as of the date on Form A.

4.2.2.2 For Tier 2 covered buildings, the qualified energy manager submitting compliance documents shall state in writing on Form A that the EMP described in Section 5 has been developed and is being maintained as of the date on Form A.

4.2.2.3 For grouped buildings, the qualified person determining compliance shall state in writing on Form J, that the EMP described in Section 5 has been developed and is being maintained as of the date on Form J.

4.2.2.4 For grouped buildings, the qualified person determining compliance may submit a single EMP. The EMP implemented for participating campuses through a decarbonization plan shall include all campus buildings. The EMP implemented at a connected building or campus-level shall include all covered buildings.

4.3 Building energy use.

4.3.1 Measured EUI.

~~((For Tier 1 covered buildings the qualified person shall calculate the building's measured energy use intensity (EUI) by completing Form C according to Section 5.2.~~

~~• For Tier 2 covered buildings the qualified energy manager submitting compliance documents shall calculate the building's measured energy use intensity (EUI) by completing Form C according to Section 5.2.)~~

4.3.1.1 For Tier 1 covered buildings, the qualified person shall calculate the building's measured energy use intensity (EUI) by completing Form C according to Section 5.2.

4.3.1.2 For Tier 2 covered buildings, the qualified energy manager submitting compliance documents shall calculate the building's measured energy use intensity (EUI) by completing Form C according to Section 5.2.

4.3.1.3 For grouped buildings, the qualified person submitting compliance documents shall calculate the grouped buildings' measured energy use intensity (EUI) by completing Form C according to Section 5.2.

4.3.2 Buildings with energy targets. Covered buildings with energy targets must meet all the criteria for developing an energy target in Section 7.2 Determining energy use intensity target (EUI_t) and provide energy use data as specified by Section 5.2 Building energy monitoring. All other buildings shall comply with Section 4.3.3, Buildings without energy targets. Tier 2 covered buildings are not required to meet the target as they are exempt from Sections 4.3.2.1 through 4.3.2.3.

4.3.2.1 Building meets the energy target (EUI_t). If the Tier 1 covered building's measured weather normalized energy use intensity (WNEUI) is less than or equal to its energy target (EUI_t), the building complies.

4.3.2.2 Tier 1 covered building does not meet the energy use intensity target (EUI_t). A qualified energy auditor shall complete an energy audit according to Section 8, and EEMs that will reduce energy use to meet the energy target shall be implemented according to Section 9. Upon completion of the implementation of all required EEMs, a building shall be granted conditional compliance.

Exceptions to 4.3.2.2:

1. *More recently built buildings:* For buildings that exceed the target developed in accordance with Section 7.2.1.1, but do not exceed the target developed in accordance with Section 7.2.1, the owner may demonstrate compliance by recommissioning the building using the existing-building commissioning process. The commissioning process consists of the following:

a. A certified commissioning professional shall implement the building commissioning process specified by the most recent edition of the Washington state energy code. The energy code commissioning process shall be modified by the certified commissioning professional for recommissioning purposes as described in ASHRAE Guideline 0.2-2015 Commissioning Process for Existing Systems and Assemblies and ASHRAE Guideline 1.2-2019 Technical Requirements for the Commissioning Process for Existing HVAC&R Systems and Assemblies.

b. Washington state energy code (WSEC) exceptions based on mechanical system or service water heating capacity shall not be applied when developing the scope for commissioning. For example, the 2018 WSEC, Section C408.1 General, the exceptions do not apply.

c. All deficiencies found during the commissioning process shall be resolved including corrections and retesting prior to submitting documentation for compliance or *conditional compliance*.

d. *Building owners* may omit capital expenditures identified by the commissioning process that are not cost-effective, as documented using the procedures in Normative Annex X.

2. No individual requirement need be met that would compromise the historical integrity of a *building* or part of a *building* designated by a government body for long-term preservation in its existing state, such as historical monuments. *EEMs* that can be implemented without modifying historical parts of the *building* shall be implemented as required by this standard. Documentation of historic significance must be provided to the *AHJ* by submitting Form G in accordance with Normative Annex Z.

4.3.2.3 Verification of compliance. Within 15 months after the completion of Section 4.3.2.2, the *weather normalized energy use intensity (WNEUI)* shall be recalculated by the *energy manager (EM)* from 12 consecutive months of measured energy use, and Form A shall be resubmitted to the *AHJ*. If the *building's* post-implementation measured *EUI* is less than or equal to the energy target (EUI_t), the *building* complies with the standard. If the *building's* post-implementation measured *EUI* is greater than the energy target (EUI_t), the *building* does not comply with the standard and the *conditional compliance* is suspended until either:

a. Additional *EEMs* have been implemented that reduce the subsequently measured *EUI* to below the energy target (EUI_t) and a new Form A is submitted to the *AHJ*; or

b. The *AHJ* revokes *conditional compliance*.

4.3.3 Buildings without energy targets.

Exception to 4.3.3: *Tier 2 covered buildings.*

4.3.3.2 Implement EEMs. The entire *optimized bundle* of *EEMs* identified shall be implemented. Upon completion of the implementation of the *optimized bundle* of *EEMs* and the energy management plan, including the operations and maintenance program, is in place as directed by Section 24.5, a *building* shall be granted *conditional compliance* in accordance with Section 9.1.1.2.

Exception to 4.3.3.2: No individual requirement need be met that would compromise the historical integrity of a *building* or part of a *building* designated by a government body for long-term preservation in its existing state, such as historical monuments. Documentation of historic significance must be provided to the *AHJ* by submitting Form G in accordance with Normative Annex Z.

4.3.3.3 Verification of compliance for buildings with building energy monitoring in compliance with Section 5.2. If the *building* complies with Section 4.2, then within 15 months following the completion of implementation of the *optimized bundle of EEMs*, *building owners* with *conditional compliance* or the *qualified person* representing the *building owner* shall submit verification that measured post-implementation energy savings meet or exceed 75 percent of the energy savings projected in the energy audit report to the *AHJ*. Energy savings shall be compared at the whole-*building* consumption level in common units for electricity, fossil fuels, and other sources. If the measured post-implementation energy savings of the package of *EEMs* do not meet or ex-

ceed 75 percent of the energy savings projected in the energy audit, the *conditional compliance* is suspended until one of the following:

a. Additional cost-effective *EEMs* are implemented that reduce the subsequently measured energy savings of the package of *EEMs* so that it meets or exceeds 75 percent of the energy savings projected in the energy audit; or

b. Verification of energy savings using the methods of the *International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I*, options A through D. If the measurement and verification protocol identified any outstanding performance issues, they shall be corrected and the verification protocol shall be repeated to ensure optimal performance; or

c. The *AHJ* revokes *conditional compliance*.

4.3.3.4 Verification of compliance for buildings without building energy monitoring in compliance with Section 5.2. Verification of energy savings using the methods of the *International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I* options A through D. If the measurement and verification protocol identified any outstanding performance issues, they shall be corrected and the verification protocol shall be repeated to assure savings estimated in the original audit are realized.

4.4.1 Administrative requirements. *Building owners* shall demonstrate compliance with the standard by following the administrative requirements in Normative Annex Z for *Tier 1 covered buildings* or Normative Annex Y for *Tier 2 covered buildings*, including:

- **Z2/Y2** "*Building owner response to notifications.*"
- **Z3/Y3** "*Washington state reporting requirements for building owners.*"
- **Z4/Y4** "*Documentation of compliance with the standard.*"
- **Z5/Y5** "*Violations, assessment of administrative penalties, mitigation and review of penalty decisions.*"
- **Z6/Y6** "*Compliance forms.*"
- **Z7/Y7** "*Section 7 tables as modified by Washington state.*"

4.4.2 Alternative energy targets (EUI_t) - Not adopted.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-050 ASHRAE Standard 100, 2018—Section 5—Energy management plan.

Exception to 5.1.1 - Not adopted.

5.1.2.1 Energy accounting in accordance with Section 5.2.

5.1.2.2 In the initial year of compliance, the *building's weather normalized energy use intensity (WNEUI)* and *energy use intensity (EUI)*.

5.1.2.3 Annual updates of the *net energy use, WNEUI* and *EUI*.

5.1.2.4 Annual comparison of the net *WNEUI* and *EUI* to the energy target.

5.1.2.5 Documentation of original, current, and changes in number of occupants, weekly operating hours, or time of day scheduled for occu-

pancy, production rates, and energy using equipment that would have caused change in the measured *WNEUI* and *EUI*.

Exceptions to 5.1.2.12:

1. *Buildings and grouped buildings* that meet the EUI_t .
2. *Buildings* that have implemented a utility program lighting upgrade covering 75 percent of the *building's* GFA, within the previous five years, can use the *lighting schedule* provided by the utility program.
3. *Tier 2 covered buildings*.
4. *Buildings not meeting the definition of covered building.*

5.1.2.13 The current lighting satisfaction survey and lighting checklist as described in Appendix D of *Performance Measurement Protocols for Commercial Buildings*¹ or as approved by the AHJ.

Exceptions to 5.1.2.13:

1. *Buildings and grouped buildings* that meet the EUI_t .
2. *Buildings* that have implemented a utility program lighting upgrade covering 75 percent of the *building's* GFA through a utility program within the previous five years.
3. *Tier 2 covered buildings*.
4. *Buildings not meeting the definition of covered building.*

5.1.2.14 Operations and Maintenance Plan including:

1. An operations and maintenance (O&M) program as defined in Section 6.
2. An O&M implementation plan as specified in Normative Annex L.
3. Implementation documentation as specified in L2.2.5 Documentation.

5.1.3 The *EM* shall provide access to the energy management plan to the *building* occupants annually.

5.2.1 Provide measured *net energy* (~~(consumption)~~) use data for each *covered building*, including all forms of imported and exported energy from at least 12 consecutive months of data monitored in a period not to exceed two years prior to the efficiency audit. The net energy concept is illustrated in Figure 5-1 (~~(and)~~), Table 5-1, Table 5-2 and is calculated in accordance with Section 5.2.4 as follows:

$$\text{Building net energy use} = (1a + 1b + 1c + 1d) - (3a + 3b + 3c + 3d + 3e)$$

Where 1a, 1b, 1c, and 1d are metered energy supplies that are used in the *building* (this includes bulk energy sources), and 3a, 3b, 3c, 3d, and 3e are metered energy excesses that are supplied to another *building* or grid as useful energy.

Table 5-2 Campus Energy Flow Definitions

<u>Energy Input in to District Energy System(s)</u>	<u>Energy Delivered to Buildings (other than from District Energy System(s))</u>	<u>Campus Renewable Energy Production</u>	<u>Energy Exported from Campus for Beneficial Use</u>
<u>1a. Electrical</u>	<u>2a. Electrical</u>	<u>3a. Electrical</u>	<u>4a. Excess solar thermal</u>
<u>1b. Gas</u>	<u>2b. Gas</u>	<u>3b. Thermal</u>	<u>4b. Excess solar or wind electrical</u>
<u>1c. Bulk fuel</u>	<u>2c. Bulk fuel (coal/biomass/propane/oil)</u>	<u>3c. Waste heat</u>	<u>4c. Excess or recovered thermal energy</u>
			<u>4d. Excess co-gen electrical</u>
			<u>4e. Excess co-gen thermal</u>

5.2.1.1 ((Connected buildings. Where energy consumption is not monitored at the covered building level:

1. ~~Tier 1 covered buildings: Net energy consumption data may be provided at the connected building level.~~
2. ~~Tier 2 covered buildings: Net energy consumption data shall be provided at the connected building level.~~

5.2.1.2)) End use deductions. Where submetered from a building's meter, the following end use energy consumption may be deducted from the building's measured net energy use:

1. Electric vehicle charging equipment that transfers electricity to batteries or other energy storage devices in electric vehicles.
2. Electric loads related to broadcast antennas, on-site cell phone towers or other communications equipment that is unrelated to the primary purpose of the building.
3. The AHJ may add additional end use deductions based on technological advancements.

5.2.1.2 Connected buildings. Where energy use is not monitored at the covered building level:

1. Tier 1 covered buildings: Net energy use data may be provided at the connected building level.
2. Tier 2 covered buildings: Net energy use data shall be provided at the connected building level.

5.2.1.3 Campuses. Campuses with district energy systems use the campus net energy use outlined in Table 5-2. Provide measured net energy use data for the campus including all forms of imported and exported energy from at least 12 consecutive months of data monitored in a period not to exceed two years prior to the efficiency audit. Provide measured energy on the input side of the district energy system and include net energy use data for each covered building. Campus net energy use is calculated as follows:

$$\text{Campus net energy use} = (1a + 1b + 1c + 2a + 2b + 2c) - (4a + 4b + 4c + 4d + 4e)$$

5.2.1.4 Decarbonization plan. Participating campuses' net energy use data shall include all buildings on the campus. Thermal energy for the campus shall be measured at the input side of the district energy system.

5.2.2 Energy use data for each type of energy imported into and exported from the building shall be collected from utility or energy delivery bills (that must include the quantity of energy or fuel delivered) or by monitoring local energy meters (either utility or owner-provided meters). Owner-provided energy meters shall meet the metering accuracy, tolerances and testing requirements of Title 480 WAC or WAC 51-11C-40904 (Section C409.4 of the WSEC).

5.2.3 Energy conversion factors. The site energy content of different forms of purchased energy shall be converted from the purchased unit to the standard site energy unit using the conversion factors incorporated in Energy Star portfolio manager.

5.2.4 The energy accounting system shall be Energy Star Portfolio Manager as specified in Normative Annex Z.

5.2.4.1 - Not adopted.

5.2.4.2 - Not adopted.

5.2.4.3 - Not adopted.

Table 5-2a Site Energy Conversion Factors - Table not adopted.

Table 5-2b Primary Energy Conversion Factors - Table not adopted.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-060 ASHRAE Standard 100, 2018—Section 6—Operations and maintenance requirements.

6.3 Operation and maintenance (O&M) Implementation. The O&M program shall be implemented in accordance with Normative Annex L.

Exception to 6.3: O&M programs developed and implemented by the *building's* serving utility or local government and approved as equivalent or more stringent by the AHJ may be used as an alternative to the requirement in Section 6.3. Where local government programs are more stringent than applicable utility programs, local government programs shall be selected over utility programs.

6.6.1 When HVAC, domestic hot-water heating, or refrigeration equipment or appliances are replaced, the replacement equipment shall meet all applicable energy efficiency requirements in the federal equipment standards, *state equipment standards*, and the (~~applicable building code~~) applicable building code.

Exception to 6.6.1 - Not adopted.

6.6.2.1 When lighting equipment is replaced, the replacement equipment shall meet all applicable energy efficiency requirements in the federal equipment standards, *state equipment standards* and in the (~~applicable building code~~) applicable building code. Implementation of more efficient equipment shall be evaluated and included as specified for the *capital management plan*, Section 5.1.2.10.

Exception to 6.6.2.2: The existing installed lighting power may proportionally increase when the current light levels are below those recommended in the IES *Lighting Handbook 4* or latest version of the Washington State Energy Code.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-070 ASHRAE Standard 100, 2018—Section 7—Energy use analysis and target requirements.

7.1 Building activity type and energy targets.

7.1.1 Building activity type. *Buildings* are divided into activity types as shown in Table 7-1 Normative Annex Z. Building activity types are defined by the AHJ in Table 7-4.

7.1.2 Energy targets. Energy targets for each building activity type are listed in Table 7.2a, Normative Annex Z.

7.1.3 Building operating shifts normalization factors. *Building operating shifts normalization factors for each building activity type are listed in Table 7-3, Normative Annex Z.*

7.2.1 For *Tier 1 covered buildings* the *qualified person* or for *Tier 2 covered building* the *qualified energy manager* shall determine the *energy use intensity target (EUI_t)* according to Section 7.2.2 for *single-type/activity buildings* and Section 7.2.3 for *mixed-use buildings*, and shall complete Form B.

Note: *((Covered buildings)) Buildings in participating campuses pursuing compliance through Normative Annex W, or at the connected building or campus-level shall determine the EUI_t ((at the connected building level)) as an area weighted aggregate of building-level EUI_t. Development of the EUI_t shall not include nontarget buildings.*

Exceptions to 7.2.1:

1. *Tier 2 covered buildings* unable to develop *EUI_t* in accordance with Section 7.2.2 or 7.2.3 of this standard shall report Energy Star portfolio manager median site *EUI*.

2. *EUI_t* programs developed and implemented by the *building's* local government and approved as equivalent or more stringent by the *AHJ* may be used as an alternative to the requirement in Section 7.2.1.

7.2.1.1 Additional target for more recently built buildings: In addition to the requirements of section 7.2.1, *more recently built buildings* shall create a second *EUI_t* that is 15 percent less than the target developed for compliance with section 7.2.1. This shall be the *building EUI_t* and shall be included on Form B.

7.2.2 Energy targets for *buildings* with a single activity shall be calculated as follows:

$$(EUI_t) = S \times (EUI_{t1})$$

where (EUI_{t1}) is the *building activity energy target value* in Table 7-2a for the appropriate *building activities/types* and climate, and *S* is the *building operating shifts normalization factor* in Table 7-3.

7.2.3 Energy targets for *buildings* with multiple activities shall be determined using weighted averages of *building activity energy target* for each area with a single activity, per the following equation, and reported on Normative Annex C Form B:

$$EUI_t = (A \times S \times EUI_{t1})_1 + (A \times S \times EUI_{t1})_2 + \dots + (A \times S \times EUI_{t1})_i + \dots + (A \times S \times EUI_{t1})_n$$

Where:

- $(A)_i$ = percentage of the *gross floor area* with single *building activity i*
- $(EUI_{t1})_i$ = *building activity target* from Table 7-2a for space *i*
- $(S)_i$ = operating shifts normalization factor from Table 7-3 for space *i*
- $(A \times S \times EUI_{t1})_i$ = the weighted space *EUI target* for space *i*

Exceptions to 7.2.3: The *energy use intensity target (EUI_t)* of a *building* may be modified using the following exceptions. These exceptions shall not be applied at the grouped building level. To develop the EUI_t for grouped buildings, apply the exceptions at the building-level, then calculate the weighted average EUI_t for the grouped buildings. None of these exceptions may be used to change the total *gross*

floor area as it applies to Normative Annex Z, Section Z3.1 Compliance schedule.

1. **Majority of building is single-use:** Spaces where more than 75 percent of the *gross floor area* has a single building activity type listed in Table 7-1 shall be reported as a single-use *building* or as a multiuse *building* in accordance with either Section 7.2.2 or Section 7.2.3.

2. **Similar building activity types:** Spaces less than 10 percent of the *gross floor area* with building activity type listed in Table 7-1 can combine their floor area with the floor area within the *building* that has a similar building activity type and similar EUI_t as determined by the *qualified person*.

3. **Nontarget spaces 10 percent:** Nontarget spaces in buildings with multiple activities (~~that are not listed in Table 7-1 and have~~ a) can be excluded from building energy target calculations if the nontarget spaces total combined area $\Sigma A_{nontarget}$ (~~comprising~~) comprise less than 10 percent of the *building gross floor area* A_{gross} (~~can be excluded from building energy target calculations if the energy~~) and both:

a. Energy use of such space is metered separately (~~and the nontarget~~).

b. Nontarget spaces comply with Sections 4.1 and 4.2.

The energy target for the remaining part of the *building* shall be calculated after deducting the (~~unlisted building type~~) floor area of the nontarget spaces from the *building gross floor area* ($A_{gross} - \Sigma A_{nontarget}$). Nontarget spaces shall be limited to the floor area occupied by the nontarget activity and shall not include supporting spaces such as corridors, common areas or other (~~space~~) building activity types listed in Table 7-1.

4. **Nontarget spaces 50 percent:** Nontarget spaces in buildings with multiple activities (~~that are not listed in Table 7-1 and have~~ a) can be excluded from building energy target calculations if the nontarget spaces total combined area $\Sigma A_{nontarget}$ (~~comprising~~) comprise less than 50 percent of the *building gross floor area* A_{gross} (~~can be excluded from building energy target calculations if the energy~~) and both:

a. Energy use of such space is metered separately (~~and the nontarget~~).

b. Nontarget spaces comply with Sections 4.1, 4.2, 4.3.1, and 4.3.3.

The energy target for the remaining part of the *building* shall be calculated after deducting the (~~unlisted building type~~) floor area of the nontarget spaces from the *building gross floor area* ($A_{gross} - \Sigma A_{nontarget}$). Nontarget spaces shall be limited to the floor area occupied by the nontarget activity and shall not include supporting spaces such as corridors, common areas or other building activity types listed in Table 7-1.

5. **Nontarget buildings in grouped buildings:** Nontarget buildings within grouped buildings shall:

a. Be metered separately and not included in the EUI_t development.

b. Nontarget buildings shall comply with Sections 4.1, 4.2, 4.3.1, and 4.3.3.

The energy target for the remaining grouped buildings shall be calculated after deducting the floor area of the nontarget buildings from the grouped building gross floor area ($A_{gross} - \Sigma A_{nontarget}$).

7.2.4 Energy targets for vacant and partially vacant buildings.

Exception to 7.2.4 Vacant and partially vacant buildings: If the *building* did not have *physical occupancy* by owner or tenant for at least 50 percent of the conditioned floor area throughout the consecutive 12-month period prior to the *building* compliance date, the *building* owner may apply for an exemption as specified in Normative Annex Z.

7.2.4.1 Vacant space – use unchanged: The energy target for vacant spaces shall be based on its prevacancy activity if the intended use of the *building* will be unchanged.

7.2.4.2 Vacant space – unconditioned: If the total floor area of a nonheated, noncooled, and nonilluminated vacant part of a *building* is smaller than ((30)) 50 percent of the *gross floor area*, then it shall be excluded from the *gross floor area*, and the energy target shall be determined based on the remainder of the *building* as described in Section 7.2.3. This allowance may not be used to change the total *gross floor area* as it applies to Normative Annex Z, Z3.1 Compliance schedule.

7.2.4.3 Vacant space – conditioned: If the vacant part of a *building* is heated and/or cooled, and the *building* energy use data for ((12)) a consecutive 12-month period when the *building* was occupied within two years prior to the compliance date is not available, ((compliance for this part of the *building* will be determined after it becomes occupied and energy use data for 12 consecutive months becomes available)) the vacant space shall be included in the *gross floor area*, and the energy target for the vacant space shall be determined based on Section 7.2.4.1.

Table 7-1 Building Activity Types/Activities

Table 7-1 adopted as modified and published in Section Z7

Table 7-2a Building Activity Site Energy Targets (EUI_{t1}) (I-P

Units)

Table 7-2a adopted as modified and published in Section Z7

Table 7-2a Building Activity Site Energy Targets (EUI_{t1}) (SI

Units) - Not adopted

Table 7-2b Building Activity Source Energy Targets (EUI_{t1}) (I-P

Units) - Not adopted

Table 7-2b Building Activity Source Energy Targets (EUI_{t1}) (SI

Units) - Not adopted

Table 7-2c Building Activity Electricity Site Energy Use Targets ($ELUI_{t1}$) (I-P Units) - Not adopted

Table 7-2c Building Activity Electricity Site Energy Use Targets ($ELUI_{t1}$) (SI Units) - Not adopted

Table 7-2d Building Activity Fossil Fuel Site Energy Use Targets ($FEUI_{t1}$) (I-P Units) - Not adopted

Table 7-2d Building Activity Fossil Fuel Site Energy Use Targets ($FEUI_{t1}$) (SI Units) - Not adopted

Table 7-3 Building Operating Shifts Normalization Factor

Table 7-3 adopted as modified in Section Z7

Table 7-4 Building Activity Type Definitions Table

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-080 ASHRAE Standard 100, 2018—Section 8—Energy Audit Requirements.

8.1 The *qualified energy auditor* shall complete Form D and submit to the *authority having jurisdiction (AHJ)*. If an energy audit is required within this section, a copy of the audit summary results shall be included in the compliance documentation in a format specified in Normative Annex Z. Compliance with this standard shall be achieved by adopting *energy efficiency measures (EEMs)* that collectively will reduce annual *building* energy use.

Exception to 8.1: For Level 1 audit, no Form D is required unless complying through conditional compliance or the decarbonization plan exception to Section W3.1.1(1).

8.2 Energy audit requirements for buildings without energy targets.

8.2.1 Overall process. A Level 2 energy audit (as defined in Section 8.4.2) shall be conducted for all *Tier 1 covered buildings* not having an energy target. The energy audit and the associated energy audit report shall be completed by a *qualified energy auditor* practicing within their field of competency.

Exception to 8.2.1: *Buildings* may use energy audits completed within five years prior to the *building's* compliance date, provided that the scope of the energy audit meets the requirements of this section and that there have been minimal changes to the systems within the audit scope. The energy audit must be evaluated consistent with the investment criteria in Normative Annex X.

8.2.2 The scope of the energy audit shall include the following required end uses as applicable to the *building*:

- Envelope;
- Lighting;
- Cooling;
- Heating;
- Ventilation and exhaust systems;
- Air distribution systems;
- Heating, chilled, condenser, and domestic water systems;
- Refrigeration except for food processing refrigeration;
- Power generation equipment;
- Uninterruptible power supplies and power distribution units;
- People-moving systems;
- The scope of the energy audit may include *campus district heating and/or cooling systems* when the *campus district heating and/or cooling system* serves the *building* being audited.

8.3.2 Buildings that do not meet their energy targets overall process. An energy audit shall be conducted, and an associated energy audit report shall be provided, for all *buildings* that do not meet their energy target. The energy audit shall be completed by a *qualified energy auditor* practicing within their field of competency. The energy audit shall be at an audit level specified by the *qualified energy auditor* to be sufficient to identify and evaluate the *EEMs* that, if implemented, would result in the *building* meeting its energy target. The *qualified energy auditor* may refer to the list of potential *EEMs* in Informative Annex E.

After the completion of the audit and the selection of *EEMs* to be implemented, the applicant must calculate an adjusted energy use intensity (*EUI*) for the *building* based on the estimated energy savings from the selected *EEMs* and the historical energy use of the *building*. This adjusted *EUI* is then compared to the energy target for the *building*. If the adjusted *EUI* is less than the energy target, the applicant shall proceed with implementation as specified in Section 9. If the adjusted *EUI* is greater than the energy target, a more rigorous energy audit investigation is required to identify additional *EEMs*. This process is repeated until the *building's* adjusted *EUI* is less than its energy target.

Calculation of the adjusted *EUI* is shown in the following equation:

$$EUI_{adj} = (\text{Energy}_{hist} - \text{Energy}_{saved}) / \text{GFA}$$

Where:

Energy_{hist} = Historical annual energy use, kBtu

Energy_{saved} = Estimated annual energy savings, kBtu

GFA = Gross floor area, ft²

Following the completion of an energy audit that has identified *EEMs* sufficient to meet the *building's* energy target, the applicant shall implement those *EEMs* per the requirements of Section 9.

Exception to 8.3.2: *Buildings* may use energy audits completed within five years prior to the *building's* compliance date, provided that the scope of the energy audit meets the requirements of this section and there have been minimal changes to the systems within the audit scope. In this case, the same comparison of adjusted *EUI* to energy target shall be made by the applicant. If the *EEMs* identified in the audit are still applicable, have not been implemented, and if implemented would result in the *building* meeting its energy target, these measures shall be implemented by the facility, and the project shall follow the procedures in Section 9. If the identified *EEMs* do not result in an adjusted *EUI* less than the energy target, a new energy audit shall be conducted as described in Section 8.3.2.

8.4.1 Level 1 Audit. *Buildings* shall perform a Level 1 audit (walk-through analysis) as defined in ANSI/ASHRAE/ACCA Standard 211-2018 Standard for Commercial Building Energy Audits, Section 5.3¹².

8.4.2 Level 2 Audit. *Buildings* shall perform a Level 2 Audit (energy survey and engineering analysis) as defined in ANSI/ASHRAE/ACCA Standard 211-2018 Standard for Commercial Building Energy Audits, Section 5.4¹².

8.5.1 Audit results. The energy audit report shall define the actions necessary for the *building owner* to achieve the energy and cost savings that are recommended in the report.

Energy audit results shall be presented in a summary table that includes, at a minimum, an estimate of each of the following:

- A list of recommended *EEMs* that, if implemented, will either meet the energy target for the *building* if it has a target or, if it does not have an energy target, will meet the economic criteria set by the standard in Section 9.

- The estimated energy savings and peak demand savings associated with each recommended *EEM*, expressed in the cost units used on the *building owner's* energy bills, and the units used for comparison with the energy target.

- The estimated (modeled) *energy cost* savings associated with each recommended *EEM*.

- The estimated cost of implementation for each recommended *EEM*. The costs of implementation shall include the required monitoring of energy savings per the requirements of Section 9.

The economic evaluation of measures are required by Normative Annex X.

8.5.2 Interactive effects. Energy savings analysis shall include *interactive effects* of all selected *EEMs*. When considering multiple *EEMs* with *interactive effects*, the order of analysis shall start with load reduction measures and proceed through distribution systems and associated equipment efficiencies and then plant and heat-rejection systems. Any *interactive effects* on equipment sizing and part load performance of equipment shall be accounted for due to reduced loads on subsequent systems.

8.5.4.1 Nonfederal facilities. The minimum financial criteria required for reporting is specified in Normative Annex X.

8.5.4.2 U.S. Federal Facilities - Not adopted.

8.5.5 End-use analysis. The energy audit shall include an end-use analysis that compares the estimated energy use of the facility after implementation of all selected *EEMs* to historical utility consumption. The intent of this requirement is to ensure that estimates of the base-case end-use energy estimates and potential energy-savings estimates in the energy audit report are reasonable.

Informative Note: For example, if the audit identifies lighting retrofit opportunities, the *qualified energy auditor* shall compare the identified energy savings for those opportunities with the base-case energy use of the facility and demonstrate that they make up a reasonable fraction of the historical electricity consumption at the site.

8.5.5.2 Requirements for Level 2 Audits. The *qualified energy auditor* is required to estimate the energy use of all end uses that individually comprise more than five percent of total historical *building* energy use. The energy estimates for these end uses shall be summed and compared to historical energy consumption for the facility. The sum of the base-case end-use energy estimates must be between 90 percent and 100 percent of the historical energy use at the site.

This comparison shall be conducted separately for each fuel type, such as electricity, natural gas, or fuel oil, for which *EEMs* are identified. On-site energy sources such as solar, photovoltaic, geothermal, and wind shall be included.

Correction for historical weather for the base year versus average weather used in *baseline* estimates may be used.

The same energy use estimates that comprise the end-use analysis shall also be used as the basis for energy savings calculations. The *qualified energy auditor* shall verify that each *EEM* savings estimate is reasonable in comparison to the historical energy consumption of that end use based on energy consumption survey data or experience with similar sites.

The *qualified energy auditor* shall verify that the combined savings from multiple *EEMs* shall take into account *interactive effects* among measures.

Miscellaneous plug loads may be estimated on average equipment power density and *building area*. (See Form D in Normative Annex Z.)

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-090 ASHRAE Standard 100, 2018—Section 9—Implementation and verification requirements.

9.1.1 Requirements. *Buildings* that have an energy target shall comply with the requirements of Section 9.1.1.1. *Buildings* that do not have an energy target shall comply with the requirements of Section 9.1.1.2. All *buildings* shall implement an energy management plan as described in Section 5. The energy management plan shall be integrated into the *building's capital management plan* as described in Section 5. The energy management plan shall include the elements listed in Section 5.

9.1.1.1 Buildings with energy targets. For *buildings* having energy targets, *energy efficiency measures (EEMs)* identified from the energy audit shall be implemented in order to meet the *building's energy target*. Develop a written plan for maintaining the *building's energy use intensity (EUI)* at or below the energy target.

Exceptions to Section 9.1.1.1:

1. **Investment criteria EEMs:** *Buildings* may demonstrate compliance by implementing all of the *EEMs* that achieve the investment criteria in Normative Annex X.

2. **District energy system EEMs:** Implementation of *EEMs* to ~~((campus)) district ((heating and/or cooling))~~ energy system(s) in lieu of or in combination with *EEMs* implemented directly to *campus buildings* is acceptable, provided the energy audit demonstrates the energy savings from the ~~((campus)) district ((heating and/or cooling))~~ energy system EEMs will be equal to or greater than the energy saved from the EEMs identified for the *buildings*. Energy savings shall be measured as a reduction in Btu per year.

3. **Grouped buildings EEMs:** Implementation of *EEMs* to non-Tier 1 covered *buildings* complying at the ~~((campus-level or connected building))~~ grouped buildings level is acceptable, provided the energy audit demonstrates the energy savings from the *EEMs* implemented at the ~~((campus-level or connected building level will be))~~ grouped buildings level will result in a WNEUI at or below the energy target of ~~((campus-level or connected building level))~~ the grouped buildings.

4. **Tier 2 covered buildings:** *Tier 2 covered buildings*.

9.1.1.2 Buildings without energy targets. *Buildings* that do not have an energy target shall implement all of the *EEMs* that achieve the investment criteria in Normative Annex X.

Exceptions to 9.1.1.2:

1. **District energy system EEMs:** Implementation of *EEMs* to ~~((campus)) district ((heating and/or cooling))~~ energy system(s) in lieu of or in combination with *EEMs* implemented directly to *campus buildings* is acceptable, provided the energy audit demonstrates the energy sav-

ings from the (~~campus~~) district (~~heating and/or cooling~~) energy system EEMs will be equal to or greater than the energy saved from the EEMs identified for the *buildings*. Energy savings shall be measured as a reduction in Btu per year.

2. **Tier 2 covered buildings:** *Tier 2 covered buildings.*

9.1.1.2.1 - Not adopted.

9.1.1.2.2 - Not adopted.

9.1.2.1 Training of Building Staff. An ongoing written training plan shall be implemented. *Building* occupants and staff shall be trained, at a minimum, as established by the operations and maintenance (O&M) program defined in Section 6.

9.1.2.2 Multiple buildings. A multiple-*building* plan shall be implemented to coordinate *EEM* implementation and measurement of the *EUI* among *buildings* when complying at the *campus*, campus-level or *connected building* level.

9.1.2.3 Implementation and commissioning of EEMs. *EEMs* shall be implemented and commissioned in accordance with the Washington State Energy Code. Washington state energy code (*WSEC*) exceptions based on mechanical system or service water heating capacity shall not be applied when developing the scope for commissioning. For example, the 2018 *WSEC*, Section C408.1 General, the exceptions do not apply. The *qualified energy auditor* or *qualified person* shall review the commissioning report and certify that the *EEMs* are functioning as intended.

Informative Note: For guidance on commissioning protocols, refer to ASHRAE Guideline 0.2-2015 Commissioning Process for Existing Systems and Assemblies and ASHRAE Guideline 1.2-2019 Technical Requirements for the Commissioning Process for Existing HVAC&R Systems and Assemblies.

9.1.2.4 Energy efficiency sequencing. Implementation of *EEMs* shall be prioritized to take advantage of the life cycle of *building* systems and to minimize the disruption of *building* occupants. Delayed implementation shall be evaluated using the methodology included in Normative Appendix X and reported in the energy management plan.

9.2.2 Verification of implemented EEMs for Buildings without Energy Targets. Upon implementation of *EEMs*, the affected end-use systems shall be monitored for one year to verify *EEM* energy savings. The *qualified energy auditor* or *qualified person* shall review the results of the *EEM* energy monitoring and certify that the energy savings of the package of *EEMs* meets or exceeds 75 percent of the energy savings projected in the energy audit as required. For *buildings* unable to meet the requirements of Section 5.2 Building energy monitoring, the *qualified energy auditor* or *qualified person* shall provide verification using the methods of the *International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I*¹¹ options A through D.

9.3 Compliance. The *qualified person* shall complete the compliance documentation as required in Normative Annex Z.

ASHRAE Standard 100, 2018—Section 10 - Not adopted.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-140 Normative Annex X—Investment criteria—This is a normative annex and is part of the Tier 1 covered building requirements of this standard.

X1 Demonstrating compliance with the investment criteria. *Buildings* seeking compliance using the exception to Section 9.1.1.1 or 9.1.1.2 shall demonstrate compliance with the financial investment criteria of this annex. The investment criteria shall be documented using a level 2 energy audit and by performing the life cycle cost analysis (LCCA) as per X2.2.

X1.1 General guidance on cost and benefits for the base case and alternative case.

The life cycle cost analysis is a process which compares the base case of the existing *building* to the alternative case that implements *EEMs* proposed by the energy audit. Total life cycle cost of each case are produced by the analysis, but the resulting cost and benefits of interest are the incremental life cycle cost difference between each case. Measures and bundles of measures demonstrating positive life cycle cost compared to the base case are to be implemented in accordance with chapter 9.

The base case in the energy audit and LCCA will include all costs for energy, operations and maintenance and other related cost scheduled in the analysis period. This may include replacement of existing equipment upon failure with code compliant equipment, in the analysis period of measure life of the alternative. All these costs are captured in the base case.

The alternate case captures all cost and benefits associated with implementing additional efficiency features beyond in-kind or code minimum replacement. All costs and all benefits of implementing *EEMs* required by Section 9 should be captured by the analysis. All documented costs may be considered.

Extended implementation periods are allowed by this standard. This allows more *EEMs* to be considered at time of failure resulting in much of the cost of implementation being attributed to the base case. This requires including the implementation timing of the measure in the extended compliance period. Ultimately, this reduces the cost of the alternative case and will likely make *EEMs* that are not cost-effective as an early replacement be cost-effective as replacement upgrades.

X2 Energy audits and investment criteria pathway.

X2.1 *Buildings* qualifying under the investment criteria must complete a LCCA and implement an *optimized bundle of energy efficiency measures* that provide maximum energy savings without resulting in a *savings-to-investment ratio* of less than one.

Exception: *Building owners* may demonstrate compliance with this section by completing the Level 2 energy audit and implementing all *EEMs* determined to have a *simple payback* that is less than the *EEMs* expected *useful life*.

X2.2 The procedures for developing the investment criteria shall be based on ANSI/ASHRAE/ACCA Standard 211 Section 5.5.2 and Section 5.5.3 Life-Cycle Cost Analysis (LCCA) as modified by section X2. The LCCA shall also follow, and consider the findings of, the Level 2 Audit as defined by ANSI/ASHRAE/ACCA Standard 211 Section 5.4.

X2.3 Investment criteria chronological process.

X2.3.1 Level 2 audit. Evaluate a comprehensive list of individual *EEMs* using *simple payback* as a screening criteria. Individual *EEMs* determined to have a *simple payback* that is greater than the *EEMs useful life* may be excluded from further consideration.

Note: The simple payback calculation shall be in accordance with NIST Handbook 135, Section 6.4.4, Equation 6-13.

X2.3.2 Life cycle cost assessment. Identify an *optimized bundle* of *EEMs* that provides maximum energy savings without resulting in a *savings-to-investment ratio* of less than one. The *optimized bundle* of measures shall be implemented based on the schedule established within the energy management plan.

X2.3.2.1 Life cycle cost assessment on individual measures. Individual measures that do not meet the life cycle cost test may be excluded from the implementation plan if they are not integral to the implementation of other cost-effective measures in the bundle.

X2.3.2.2 Phased implementation. The *LCCA* and energy management plan may include phased implementation such that the *building owner* is not required to replace a system or equipment before the end of the system's or equipment's *useful life*.

X3 Included LCCA costs and savings.

X3.1 The costs and savings to be included within the life cycle cost analysis shall be based on ANSI/ASHRAE/ACCA Standard 211 Sections 5.4.8.1, 5.5.2 and 5.5.3 as modified by the following:

X3.1.1 Cost for implementation of EEM, as required by Section 9.

1. Estimate EEM Costs (based on Standard 211 Sections 5.4.8).

2. Estimate the total expected cost of implementation for each practical measure. Cost estimates shall include the following factors, as applicable:

- ~~(1-)~~ a. Material costs;
- ~~(2-)~~ b. Labor costs, contracted or executed by employees;
- ~~(3-)~~ c. Design fees;
- ~~(4-)~~ d. Construction management, contracted or executed by employees;
- ~~(5-)~~ e. Site-specific installation factors;
- ~~(6-)~~ f. Permits;
- ~~(7-)~~ g. Temporary services;
- ~~(8-)~~ h. Testing, adjusting, and balancing;
- ~~(9-)~~ i. Utility service upgrades;
- ~~(10-)~~ j. Verification, as required in Section 9.2.2 only;
- ~~(11-)~~ k. Commissioning;
- ~~(12-)~~ l. Taxes;
- ~~(13-)~~ m. Profit;
- ~~(14-)~~ n. Any additional adjustments that significantly impact the cost estimate of the *EEM*.

Informative Note: Multiple measures affecting the same *building systems* or end uses may be combined and their costs estimated as a group. Combining costs may improve the cost-effectiveness of combined measures.

3. Hazardous material abatement (based on standard 211, 5.4.8.2). Estimation of hazardous material abatement costs is not required. If the possible presence of hazardous materials is apparent at the site, either through observation or as reported by others, the possible

presence of the hazardous material shall be included in the report (see Standard 211 Section 6.2.5) as potentially affecting health and safety and installation costs.

4. Cost and cost savings of recommended EEMs (based on standard 211 Section 5.5.2).

Estimate the initial and recurring costs, energy cost savings, and nonenergy cost savings of each measure and each integrated group of measures. Cost estimates shall either be:

- (1.) a. Obtained from a vendor at the quoted price; or
- (2.) b. Based on quotations of similar projects within the last year; or
- (3.) c. Based on labor cost estimates for employee labor.

5. Life-cycle cost analysis (LCCA) (based on standard 211 section 5.5.2). LCCA 7,8,9,10 of each recommended EEM shall be conducted for a time frame that spans, at a minimum, the life of the measure with the longest service useful life and shall include the following:

- (1.) a. Initial costs (per Standard 211 Section 5.4.8.1);
- (2.) b. Financing costs;
- (3.) c. Annual energy costs;
- (4.) d. Escalation rates as published by the AHJ citing the source within the energy audit report;
- (5.) e. Discount rates as published by the AHJ citing the source within the energy audit report;
- (6.) f. Tax credits and deductions;
- (7.) g. Cash incentives, grants, and rebates;
- (8.) h. Expected periodic replacements;
- (9.) i. Estimated recurring nonenergy costs (maintenance, etc.), of each measure or set of measures. Such costs include annual maintenance and service labor costs, routine replacement of worn parts, or annual warranty fees from manufacturers;
- (10.) j. Contingency funds not to exceed 5 percent of estimated EEM implementation cost; and
- (11.) k. Water & sewer savings from EEM. EEMs that provide water and/or wastewater savings shall include the operations and maintenance savings resulting from implementation of the EEM.

X4 Life cycle cost analysis methodology, form and key variables.

X4.1 Life-cycle cost analysis completed for buildings qualifying under the investment criteria shall follow the *National Institute of Standards and Technology (NIST) Handbook 135, Life-Cycle Costing Manual* (~~(Handbook 135)~~) for the Federal Energy Management Program except as specified in this standard in Table ((X4)) X-1.

Table ((X4)) X-1 Life Cycle Cost Analysis Variables Independent Of NIST Handbook - 135 Methodology.

Public owner discount rate	A fixed annual rate based on the cost of borrowing through the Washington state treasurer, certificate of participation programs, the local program and the state lease-purchase program.
Private owner discount rate	Shall be the published <i>Wall Street Journal Prime Rate</i> for based on the average of the previous twelve months.
Financing	Applicants with documented costs of borrowing assuming one hundred percent of the EEM implementation costs are financed at an actual cost of borrowing and stated terms when the property being improved is listed as loan collateral.
Rate of inflation	A fixed annual rate, as published annually by the Washington state office of financial management.
Fuel escalation rate	Based on the most recent edition of <i>NIST Handbook - 135 Annual Supplement - Fuel Escalation Rates</i> .

Study period	Equal to the <i>useful life</i> of the longest-lived <i>EEM</i> within an <i>optimized bundle</i> . (STD 211, 5.5.3)
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X4.2 Publication of analysis variables. The *AHJ* shall on an annual basis publish the public owner discount rate, private owner discount rate, rate of inflation and fuel escalation rates on the agency website.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-150 Normative Annex Z—Washington state Tier 1 covered buildings reporting requirements—This is a normative annex and is part of the Tier 1 covered building requirements of this standard.

Z1 Building owner notifications by the AHJ.

Z1.1 Notification to building owners of covered buildings by the AHJ. Based on records obtained from each county assessor and other available information sources, the *AHJ* must create a database of *covered buildings* and *building owners* required to comply with the standard established in accordance with this section. The database may include *buildings* and *building complexes* presumed to meet the definition of *covered building* and *multifamily buildings* greater than 50,000 square feet in floor area.

Z1.1.1 The database will contain information about *buildings* that may be subject to compliance, their owners, and information about *multi-family residential buildings* eligible for incentives. The database will also contain information to assist tracking and reporting on *building owner* compliance, and incentive application and distribution. Commerce will create a method for tracking *building owner* notification responses. Each *building* or *building complex* will be assigned a unique *building* identifier.

Z1.2 By July 1, 2021, the *AHJ* must provide the owners of *covered buildings* with notification of compliance requirements. Notifications will be mailed to the mailing addresses county assessors have on file.

Z1.3 Failure by the *AHJ* to provide the notification in Z1.2 does not release the *building owner* of the legal obligation to comply with this law. When a *covered building* undergoes a change of ownership, it is the buyer's responsibility to contact the *AHJ* and update the *covered building's* profile.

Z1.4 By July 1, 2021, the *AHJ* must provide notifications to the *building owners* of *multifamily residential building* where the floor area exceeds 50,000 gross square feet, excluding the parking garage area.

Z2 Building owner response to notifications.

Z2.1 Correction of errors. *Building owners* are responsible for reviewing the property and *building* information provided by the *AHJ* through notification including, but not limited to, *building* or *building complex* ownership details, *gross floor area*, and other information as identified by the *building owner*.

Z2.1.1 Correction of errors documentation form. *Building owners* who are notified in error may submit a correction form to the *AHJ*. The

correction form will be used to document *gross floor area* (conditioned and unconditioned) and/or *building type*. *Building owners* that submit the correction form must also submit the documentation required to demonstrate an exception as required in Section Z4.1 prior to the compliance date if applicable.

Z3 Washington state reporting requirements for building owners.

Z3.1 General compliance. The *building owner* of a *covered building* must report compliance with the standard to the *AHJ* in accordance with the compliance schedule established under Section Z3.1 and every five years thereafter. For each reporting date, the *building owner* must submit documentation to demonstrate that:

1. The *weather normalized energy use intensity* of the *covered building* measured in a period not to exceed two years prior to the compliance deadline specified in Normative Annex Z3.1 is less than or equal to the *energy use intensity target* (*buildings* that meet their energy targets); or
2. The *covered building* has met the measurement and verification requirements of Section 4.3.3.3 or Section 4.3.3.4 of the investment criteria; or
3. The *covered building* has received *conditional compliance* from the *AHJ* based on energy efficiency actions prescribed by the standard; or
4. The *covered building* is exempt from the standard by demonstrating that the *building* meets one of the criteria for an exemption.

Z3.2 Compliance schedule. The *building owner* of a *covered building* must report the *building owner's* compliance with the standard to the *AHJ* in accordance with the appropriate initial compliance date as follows and every five years thereafter. (~~Covered buildings complying at a campus level or connected building level shall use the compliance schedule representing the largest covered building or the compliance schedule can be graduated through conditional compliance based upon individual covered building compliance schedules. Notify the AHJ to update the covered building profile(s) and your compliance deadline.~~)

1. For a *building* with more than 220,000 gross square feet, June 1, 2026;
2. For a *building* with more than 90,000 gross square feet but less than 220,001 gross square feet, June 1, 2027; and
3. For a *building* with more than 50,000 gross square feet but less than 90,001 gross square feet, June 1, 2028.
4. Covered buildings complying at a grouped building level shall use the compliance schedule representing the largest covered building or the compliance schedule can be graduated through conditional compliance provisions of the standard in accordance with individual covered building compliance schedules of Sections Z3.2, Y3.2, and W3.2. Notify the AHJ a minimum of 180 days prior to the largest covered building's compliance date when complying at a grouped building level to update the covered building profile(s) and when applicable, to apply for conditional compliance in accordance with Section Z4.4 or Z4.5.

Z3.2.1 Early compliance option. *Building owners* may submit for compliance to the *AHJ* beginning July 1, 2023. Energy use data for developing the net energy consumption of the *covered building* shall be measured in a period not to exceed two years prior to the submission of compliance documentation. This section expires June 1, 2028.

Z3.2.2 Application for conditional compliance. Applications for *conditional compliance* must be submitted to the *AHJ* no later than 180 days prior to the compliance date to receive *conditional compliance* approval prior to the compliance date.

Z3.2.3 Application for exemption. *Building owners* submitting an application for exemption as specified in Section Z4.1 must submit to the *AHJ* no sooner than three years prior and no later than 180 days prior to the compliance date to receive exemption approval prior to the compliance date.

Z4 Documentation of compliance with the standard. Documentation of compliance shall be submitted to the *AHJ* demonstrating the *building owner* has complied with the standard through submission of documentation in accordance with Section Z4.1, Z4.2, Z4.3, Z4.4 or Z4.5. Additional requirements for continued reporting may be required as specified in Z4.6.

Z4.1 Documentation of compliance through exemption. *Building owners* seeking approval of exemption shall submit to the *AHJ* the Z6.7 Form H, "Application for exemption certificate," documenting the following:

1. **Exemption conditions.** The *building* qualifies for one of the exemptions listed in Z4.1(2), and:

a. **Exemption verification.** Compliance with the exemption must be verified by the owner based on the *building* as it is to be occupied and operating on the compliance date;

b. **Exemption application time frame.** Applications for exemptions may be submitted no sooner than three years prior to the compliance date and submitted to the *AHJ* no later than 180 days prior to the compliance date;

c. **Exemption certificate validity.** Exemptions certificates are only valid for the current compliance review cycle.

d. **Exemption recertification.** Within six months before the compliance date, *building owners* who have received exemption approval must certify that the *building* still meets the eligibility qualifications for the exemption and that there have been no material changes to qualifying conditions. A template for acceptable declarations will be made available by the *AHJ* on the agency website.

2. **Exemptions.** *Covered buildings* are not eligible for exemption from the standards unless they meet at least one of the following criteria:

a. **Certificate of occupancy.** The *building* did not have a certificate of occupancy or temporary certificate of occupancy for a consecutive 12-month period within two years prior to the compliance date;

b. **Physical occupancy.** The *building* did not have *physical occupancy* by owner or tenant for at least 50 percent of the *conditioned floor area* throughout the consecutive 12-month period prior to the *building* compliance date. *Buildings* approved for this exemption that have a *gross floor area* with greater than 20,000 square feet of occupied floor area shall comply with *Tier 2 covered building* requirements for the occupied floor area;

c. **Unconditioned and semi-heated space.** The sum of the *building's gross floor area* minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, is less than 50,000 square feet. *Buildings* approved for this exemption with *gross floor area* minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, greater than 20,000 square feet shall comply with *Tier 2 covered building* requirements of this standard;

d. **Manufacturing or industrial.** More than 50 percent of the *gross floor area* of the *building* is used for manufacturing or other industrial purposes, as defined under the following use designations of the Washington state edition of the *International Building Code*:

- i. Factory group F; or
- ii. High hazard group H.

Aggregate *gross floor area* of spaces with nonexempt occupancy classification greater than 20,000 square feet shall comply with *Tier 2 covered building* requirements.

e. **Agricultural.** The *building* is an *agricultural structure*;

f. **Demolition.** The *building* is pending demolition; or

g. **Financial hardship.** The *building* meets at least one of the following conditions of financial hardship:

- i. The *building* had arrears of property taxes or water or wastewater charges that resulted in the *building's* inclusion, within the prior two years, on a city's or county's annual tax lien sale list;
- ii. The *building* has a court appointed receiver in control of the asset due to financial distress;
- iii. The *building* is owned by a financial institution through default by a borrower;
- iv. The *building* has been acquired by a deed in lieu of foreclosure within the previous 24 months;
- v. The *building* has a senior mortgage subject to a notice of default;
- vi. The *building owner* has an immediate and heavy financial need which cannot be satisfied from other reasonable available resources and which are caused by events that are beyond their control.

3. **Notification of exemption approved or denied.** After documents have been submitted and reviewed, the *AHJ* will send notification of approval or denial.

a. If the exemption is approved the *AHJ* shall notify the applicant stating the application has been approved and update the *AHJ* records for the *building*.

b. If the exemption is denied the *AHJ* shall notify the applicant stating the application has been denied and update the *AHJ* records for the *building*.

4. **Compliance required when exemption denied.** When an application for exemption is denied the *building owner* must proceed with the process to demonstrate compliance with one of the compliance options in Washington state reporting requirements for *building owners*, Z4.2-Z4.5.

Z4.2 Buildings that meet the EUI_t . *Building owners* must provide the following documentation to verify that the *building weather normalized EUI* is less than the *building EUI_t* and that the energy management plan (*EMP*) must be completed and the operations and maintenance program (*O&M*) must be implemented.

- Form A;
- Form B;
- Form C.

Z4.3 Buildings that will meet the building investment criteria prior to the compliance date. *Building owners* must provide the following documentation to verify that the *building* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The energy management plan (*EMP*) must be completed and the operations and

maintenance program (*O&M*) must be implemented and all *EEMs* must be installed and commissioned prior to the compliance date.

- Form A;
- Form B;
- Form C, except *buildings* unable to meet Section 5.2, Building energy monitoring;
- Form D;
- Form F, except *buildings* using the exception to Section X2.1.

Z4.4 Buildings that will meet the EUI_t through conditional compliance.

Building owners must provide the following documentation to verify that the *building weather normalized EUI* is projected to be less than the *building EUI_t* at the end of the measurement and verification period and that the energy management plan (*EMP*) must be completed and the operations and maintenance program (*O&M*) must be implemented. *EEMs* required to meet the *EUI_t* must be installed and commissioned prior to the compliance date. Verification and completion shall be documented as required in Section Z4.6.

- Form A;
- Form B;
- Form C;
- Form D.
- Continued reporting until completion as specified in Section Z4.6.

Z4.5 Buildings that will meet the building investment criteria through conditional compliance.

Building owners must provide the following documentation to verify that the *building* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The energy management plan (*EMP*) must be completed and the operations and maintenance program (*O&M*) must be implemented and all *EEMs* must be installed and commissioned prior to the compliance date. Verification and completion shall be documented as required in Section Z4.6.

- Form A;
- Form B;
- Form C, except *buildings* unable to meet Section 5.2 Building Energy Monitoring;
- Form D;
- Form F, except *buildings* using the exception to Section X2.1.
- Continued reporting until completion as specified in Section Z4.6.

Z4.5.1 Phased implementation for investment criteria through conditional compliance.

The *building owner* may include phased implementation of *EEMs* such that the *building owner* is not required to replace a system or equipment before the end of the system or equipment's *useful life*. System or equipment fitting this description shall be included in the energy audit and Normative Annex X - Investment criteria submission with a schedule for replacement. Phased implementation shall be documented in the energy management plan (*EMP*) and *capital management plan* required in Section 5.

Z4.6 Continued reporting until completion. Continued reporting is required as specified in Sections Z4.6.1 and Z4.6.2 until completion when: a) measurement and verification extends one year or more beyond

the compliance date, or b) implementation is extended phased implementation.

24.6.1 Annual reporting. The following up to date reports shall be submitted to the AHJ annually, (date specific).

- Form A;
- Form B;
- Form C, except *buildings* unable to meet Section 5.2, Building energy.

24.6.2 Completion Reporting. The following up to date reports shall be submitted to the AHJ when all conditions of compliance have been verified and documented:

- Form A;
- Form B;
- Form C, except *buildings* unable to meet Section 5.2, Building energy monitoring. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2.2 in the *building* energy management plan.

25 Violations, assessment of administrative penalties, mitigation and review of penalty decisions.

25.1 Authorization. The AHJ is authorized to impose administrative penalties upon *building owners* for failing to submit documentation demonstrating compliance with the requirements of this standard.

Failure to submit documentation demonstrating compliance by the scheduled reporting date will result in progressive penalties by legal notice.

25.2 Notice of violation and opportunity to correct (NOVC) (first notice).

25.2.1 Notifying owner of failure to demonstrate compliance. The AHJ may issue a NOVC when a *building owner* has failed to submit documentation that demonstrates compliance with this standard by the scheduled reporting date.

25.2.2 Issuing NOVC. A NOVC may be issued for any of the following reasons:

1. Failure to submit a compliance report in the form and manner prescribed by the AHJ;
2. Failure to meet an *energy use intensity target* or failure to receive *conditional compliance* approval;
3. Failure to provide accurate reporting consistent with the requirements of the standard; and
4. Failure to provide a valid exemption certificate.

25.2.3 Identifying failure to demonstrate compliance. The AHJ will identify in the NOVC which section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance.

25.2.4 Specifying time frame to remedy. The NOVC will specify the time by which the *building owner* must cure the violation by submitting documentation that demonstrates compliance with the identified section(s) of law, code, or the standard. The AHJ will give the *building owner* at least seven calendar days to submit such documentation.

25.2.5 Missing NOVC response deadline. If sufficient documentation is not submitted by the date specified in the NOVC, the AHJ will issue a notice of violation and intent to assess administrative penalties

(NOVI) and the *building owner* will be subject to administrative penalties.

25.3 Notice of violation and intent to assess administrative penalties (NOVI) (second notice).

25.3.1 Issuing NOVI. If a *building owner* fails to respond to a NOVC by submitting documentation demonstrating compliance by the date specified in the NOVC, the *AHJ* will issue a NOVI.

25.3.2 Identifying failure to demonstrate compliance and assessing penalties. The *AHJ* will identify in the NOVI which section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance. The NOVI will also include a description of how the penalties the *AHJ* intends to assess will be calculated.

25.3.3 Responding to NOVI. *Building owners* must respond to a NOVI within 30 days by either:

1. Submitting an application for exemption in accordance with Section Z4.1 if applicable;
2. Submitting a noncompliance mitigation plan in accordance with Z5.7;
3. Submitting its intent to pay the penalties by using the form provided by the *AHJ*; or
4. Submitting a request for an administrative proceeding to challenge or mitigate the penalty.

25.3.4 Missing NOVI response deadline. If the *building owner* does not timely request a hearing or submit an application for exemption, the *building owner* waives its right to a hearing and the *director* or their designee may issue a final order assessing the penalties described in the NOVI. If the *building owner* has submitted a mitigation plan, the final order will only assess penalties from the scheduled compliance date until the date of an approval of compliance or *conditional compliance*.

25.3.5 Requesting hearing for denied exemption. *Building owners* who submit an application for exemption that is denied may request a hearing by submitting a request for a hearing within 30 days of issuance of the decision denying its application for exemption. If the *building owner* does not request a hearing within 30 days, the *building owner* waives its right to a hearing and the *director* or their designee may issue a final order assessing the penalties described in the NOVI.

25.4 Assessment of administrative penalties.

25.4.1 Penalties for building owners. Failure to submit documentation demonstrating compliance with the standard by the date specified in a NOVC will result in the issuance of a NOVI and the assessment of administrative penalties at an amount not to exceed \$5,000 plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to one dollar per square foot of *gross floor area* per year.

- a. Penalties are assessed for each compliance period.
- b. The *AHJ* may by rule increase the penalty rates to adjust for the effects of inflation.

25.4.1.1 Submit a noncompliance mitigation plan. For *building owners* subject to a NOVI who respond within 30 days by submitting a noncompliance mitigation plan (Z5.7), fines shall be assessed on an annual

basis or when the *building owner* achieves compliance or *conditional compliance*.

a. **With completion documentation.** For applicants that submit a noncompliance mitigation plan and who submit documentation demonstrating completion, daily penalties will be assessed from the scheduled compliance date to the date of approval of compliance or *conditional compliance*. The penalty will be assessed at an amount not to exceed 30 percent of \$5,000 plus a daily amount equal to 20 cents per square foot of *gross floor area* per year.

b. **Without completion documentation.** For applicants that submit a noncompliance mitigation plan but have not submitted documentation demonstrating completion, if the *building* does not comply with the standard by the next compliance date, the *building owner* will be assessed the maximum penalty of \$5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year not to exceed a value greater than 18 months of accrued penalty.

Z5.4.1.2 Choose to pay the fine rather than pursuing compliance.

Building owners may choose to respond to the NOVI by paying the maximum penalty. The *building owner* will be assessed the maximum penalty of \$5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year not to exceed a value greater than 18 months of accrued penalty.

Z5.4.2 Late fees. When assessed penalties are not paid within 180 days of the date of a final order assessing penalties, the *AHJ* may assess further penalties. Total penalties assessed for *Tier 1 covered buildings* will not exceed \$5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year.

Z5.4.3 Interest. Interest will accrue on civil penalties pursuant to RCW 43.17.240 if and when the debt becomes past due.

Z5.5 Due date and collection of penalties.

Z5.5.1 Penalties due. Penalties shall become due and payable on the later of:

1. Thirty days after receipt of the final order imposing the penalty; or
2. The date specified in the final order imposing the penalty.

Z5.5.2 Debt collection. If a penalty has not been paid by the due date, the *AHJ* may assign the debt to a collection agency as authorized by RCW 19.16.500 or take other action to pursue collection as authorized by law. If referred to a collection agency, the *AHJ* may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee.

Z5.5.3 Accumulated daily fine. For *building owners* that are implementing a noncompliance mitigation plan but have not yet complied, the *AHJ* may assess the accumulated daily fine on June 1st of each year or shortly thereafter.

Z5.6 Payment of administrative penalties.

A check or money order payable in U.S. funds to the Washington state department of commerce can be mailed to:

Washington State Department of Commerce
Re: Clean Buildings Initiative, Energy Division
P.O. Box 42525
Olympia, WA 98504-2525

Z5.7 Noncompliance mitigation plan. Owners of *covered buildings* that are out of compliance by the scheduled compliance date and have not corrected the violation by the date noted in a NOVC may reduce possible penalties by demonstrating that they are taking action to achieve compliance with the standard. To begin the process of mitigating non-compliance, a *building owner* must submit to the *AHJ* the noncompliance mitigation plan form selecting one of the following actions within 30 days of the date of a NOVI to avoid immediate issuance of penalty in accordance with Z5.4.1.

1. Compliance with the standard in accordance with Z4.2.
2. *Conditional compliance* with the standard in accordance with Z4.4.
3. *Conditional compliance* with the standard in accordance with Z4.5.

Z5.7.1 Mitigation completion. To demonstrate completion, the *building owner* shall complete all of the requirements of this standard and submit documentation as required by Section Z4.2, Z4.4 or Z4.5. After the *building owner* has demonstrated completion, the *AHJ* shall issue a final order assessing the reduced penalty as specified by Z5.4.1.1(a).

Z5.8 Administrative hearings.

Z5.8.1 Requesting a hearing. A *building owner* may request an administrative hearing after receiving an NOVI or after the denial of its application for an exemption by submitting a request within 30 days of the date of a NOVI or the denial of a timely application for exemption. All requests must be made in writing and filed at the address specified on the NOVI. For convenience, the *AHJ* will attach a form titled request for hearing to the NOVI that may be used to request an administrative hearing.

Requests for hearing must be accompanied by the following:

1. Washington state building ID;
2. Submit Annex Z Forms A, B, and C.

Z5.8.2 Hearing process. The *AHJ* may refer matters to the office of administrative hearings (OAH). Administrative hearings will be conducted in accordance with chapter 34.05 WAC, Administrative Procedure Act, chapter 10-08 WAC, Model rules of procedure, and the procedural rules adopted in this chapter. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this section, the procedural rules adopted in this section take precedence.

Z5.8.3 Initial orders to become final orders. Initial orders issued by the presiding officer will become final without further agency action unless, within 20 days:

1. The *director* determines that the initial order should be reviewed; or
2. A party to the proceeding files a petition for administrative review of the initial order. Upon occurrence of either event, notice shall be given to all parties to the proceeding.

Z5.8.4. Judicial review. A final order entered pursuant to this section is subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.

Z5.8.5 Collected penalties. Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030.

Z6 Compliance forms. The following section replace Normative Annex C Forms in Standard 100 and provide additional forms specified by rule *Building owners* are required to submit the applicable forms and the required supporting information to demonstrate compliance with the standard. These forms replace all referenced forms in this standard. The *AHJ* will make these forms available in an electronic format for submission to the *AHJ*.

Z6.1 Compliance with Standard 100 (Form A)

Note: For grouped buildings, use Grouped Buildings Compliance with Standard 100 (Form J), instead of Form A.

1. *Building* identification:
 - a. ((WA)) Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State; and
 - k. Postal code.
2. Contact information:
 - a. *Building owner* name(s);
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State/Province;
 - g. Country;
 - h. Postal code;
 - i. Telephone number;
 - j. Email address.
3. *Qualified person*:
 - a. *Qualified person* name;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State;
 - f. Postal code;
 - g. Telephone number;
 - h. Email address;
 - i. Licensed, certified (select all that apply):
 - i. Licensure; or
 - ii. Certifying authority.
4. *Energy manager* (if different than the *qualified person*):
 - a. *Energy manager* name;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State/Province;
 - f. Postal code;
 - g. Country;
 - h. Telephone number;
 - i. Email address.
5. This compliance report is for:

- a. *Building* that meets the EUI_t ;
- b. *Building* that meets the *building* investment criteria prior to the compliance date;
- c. *Building* that will meet the EUI_t through *conditional compliance*;
- d. *Building* that will meet the *building* investment criteria through *conditional compliance*;
- e. Annual reporting;
- f. Completion reporting.

6. Summary data:
 a. *Energy use intensity target* (EUI_t) (kBtu/ft²/yr) based on completed Z6.2 Form B;

Note: *Baseline WNEUI* for *buildings* that will meet investment criteria through *conditional compliance*.

- b. Measured site *EUI* (kBtu/ft²) for the compliance year for this *building* based on Z6.3 Form C;
- c. *Building* without an energy target;

Note: Predicted site *EUI* for *buildings* that will meet the EUI_t or investment criteria through *conditional compliance*.

Note: *Buildings* unable to develop *EUI*, in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.

- d. Measured *weather normalized* site *EUI* (kBtu/ft²) for the compliance year based on Z6.3 Form C;
- e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *building* from Z6.3 Form C;
- f. *Buildings* applying for *conditional compliance* through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:

- *Baseline EUI*;
- *Projected EUI*;

g. *Buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:

- *Baseline* total kBtu;
- *Projected* total kBtu;
- *Projected* savings total kBtu;

h. *Buildings* unable to comply with Section 5.2, Building energy monitoring and complete Z6.3 Form C shall provide a reason statement.

7. Have the energy management requirements of Section 5 been met?
 Yes No

- Upload energy management plan as specified by the AHJ.

8. Have the operation and maintenance requirements of Section 6 been met? Yes No

• Upload operation and maintenance implementation documentation as specified by the AHJ.

9. Date the audit and economic evaluation was completed (N/A if none required).

- Upload audit reports as specified by Z6.4 Form D.

10. Have all *EEMs* required by Section 8 been implemented? Yes No

11. Have the requirements of Section 9 been completed? Yes No

12. We state that this *building* complies with ANSI/ASHRAE/IES Standard 100 as amended by the AHJ to conform with RCW 19.27A.210:

a. Signature of *building owner*:

• Date:

b. Signature of *qualified person*:

• Date:

- c. Signature of *energy manager*:
 - Date:
- d. Signature of *authority having jurisdiction*:
 - Conditional or final compliance:
 - Date:

Z6.2 Building activity and energy use intensity target (EUI_t) (Form B). - Complete form provided by the AHJ with the following information:

1. *Building* identification:
 - a. Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State; and
 - k. Postal code.
2. List the *building* location climate zone, 4C or 5B. Determine the climate zone using ASHRAE climate zone as found on the map in Informative Annex G.
 - a. *Buildings* located in Climate Zone 5C shall use Climate Zone 4C.
 - b. *Buildings* located in Climate Zone 6B shall use Climate Zone 5B.
3. The *gross floor area* in square feet shall be reported as defined in Section 3.
4. If entire *building* is a nontarget building, a single ((~~activity/type~~)) building activity type not listed in Table 7-1, it should be listed as "*building without target*" on Z6.1 Form A. List "energy target" as "N/A" on Z6.2 Form B and Z6.2 Form B is considered complete.
5. Fill in fraction of *gross floor area* (A)_{*i*} for each activity. For single-activity *buildings* this is 1.0.
6. Fill in the operating shifts normalization factor (S)_{*i*} from Table 7-3 for each activity.
7. Fill in the activity energy target (EUI_{t1})_{*i*} from Table 7-2 (or table from AHJ) for each activity.
8. Calculate weighted space *EUI* target ($A \times S \times EUI_{t1}$)_{*i*} for each activity.
9. Add up fraction of floor area and enter sum in "Total fraction of floor area with target," and add up all weighted space *EUI* targets and enter sum as the "energy target" on Z6.2 and Z6.1 Forms B and A.
10. If more than 50 percent of *gross floor area* has no target, it should be listed as "*building without target*" on Z6.1 Form A. List "energy target" as "N/A" on Z6.2 Form B. For single-activity *buildings* this is 1.0.

Z6.3 Energy Use Intensity Calculations (Form C). *Energy Use Intensity* Calculations shall be reported via the U.S. EPA's ENERGY STAR Portfolio Manager (www.energystar.gov/benchmark). The *energy manager* is responsible for creating Energy Star portfolio manager record for each *building*.

Exception to Z6.3: *Buildings* unable to comply with Section 5.2, Building energy monitoring shall comply at the *connected buildings* level or demonstrate compliance through Z4.3 or Z4.5.

The Energy Star portfolio manager *building* record shall be identical to the *building* activity/type, fraction floor area, operating shifts (hours of operation) and *gross floor area* of the *building* as reported on Form B. All inputs shall be up to date prior to reporting as required in Section Z4 and annually as required in Section 5.1.2.3, Annual updates of the *net energy use* and *EUI*.

Prior to submitting reports run the Energy Star portfolio manager data quality checker and make all corrections required to complete the report.

The *energy manager* shall use the EPA's Energy Star portfolio manager share properties feature and share the property data with the *AHJ* by enabling the read only access and exchange data feature.

For each report submitted under Section Z4, the *energy manager* shall create and submit a report documenting the required data fields listed (below) and other fields deemed necessary by the *AHJ* for the reporting period. (~~This shall be submitted using the Washington state report specified in Energy Star portfolio manager.~~)

Report fields shall include:

- Portfolio manager property ID;
- Portfolio manager parent property ID;
- Property name;
- Parent property name;
- Address 1;
- Address 2;
- City;
- County;
- State/Province;
- Postal Code;
- Primary property type - Self-selected;
- Primary property type - EPA calculated;
- List of all property use types at property;
- Property GFA - Self-reported (ft²);
- Property GFA - EPA calculated (*buildings* and parking) (ft²);
- Property GFA - EPA calculated (*buildings*) (ft²);
- Property GFA - EPA calculated (parking) (ft²);
- Largest property use type;
- Largest property use type - *Gross floor area* (ft²);
- 2nd Largest property use type;
- 2nd Largest property use - *Gross floor area* (ft²);
- 3rd Largest property use type;
- 3rd Largest property use type - *Gross floor area* (ft²);
- Year built;
- Occupancy;
- Property notes;
- Property data administrator;
- Property data administrator - Email;
- Last modified date - Property;
- Last modified date - Electric meters;
- Last modified date - Gas meters;
- Last modified date - Nonelectric nongas energy meters;
- Local standard ID(s) Washington state building standard;
- Data center - Energy estimates applied;

- Electricity use - Grid purchase and generated from on-site renewable systems (kWh);
- Electricity use - Grid purchase (kWh);
- Electricity use - Generated from on-site renewable systems and used on-site (kWh);
- Natural gas use (therms);
- Fuel oil #1 use (kBtu);
- Fuel oil #2 use (kBtu);
- Fuel oil #4 use (kBtu);
- Fuel oil #5 and 6 use (kBtu);
- Diesel #2 use (kBtu);
- Kerosene use (kBtu);
- Propane use (kBtu);
- District steam use (kBtu);
- District hot water use (kBtu);
- District chilled water use (kBtu);
- Coal - Anthracite use (kBtu);
- Coal - Bituminous use (kBtu);
- Coke use (kBtu);
- Wood use (kBtu);
- Other use (kBtu);
- Default values;
- Temporary values;
- Estimated data flag - Electricity (grid purchase);
- Estimated data flag - Natural gas;
- Alert - Data center does not have an IT meter;
- Alert - *Gross floor area* is 0 ft²;
- Alert - Property has no uses;
- Data quality checker - Date run;
- Data quality checker run - ?
- Alert - Energy meter has less than 12 full calendar months of data;
- Alert - Energy meter has gaps;
- Alert - Energy meter has overlaps;
- Alert - Energy - No meters selected for metrics;
- Alert - Energy meter has single entry more than 65 days;
- Estimated values - Energy;
- Energy Star score;
- National median *site energy* use (kBtu);
- National median *site EUI* (kBtu/ft²);
- *Site energy* use (kBtu);
- *Site EUI* (kBtu/ft²);
- *Weather normalized site energy* use (kBtu);
- *Weather normalized site EUI* (kBtu/ft²);
- *Weather normalized site electricity* (kWh);
- *Weather normalized site electricity intensity* (kWh/ft²);
- *Weather normalized site natural gas use* (therms);
- *Weather normalized site natural gas intensity* (therms/ft²) energy current date;
- Electricity use - Generated from on-site renewable systems (kWh);
- Electricity use - Generated from on-site renewable systems and exported (kWh);
- Electricity Use - Grid purchase and generated from on-site renewable systems (kBtu);

- Electricity use - Grid purchase (kBtu);
- Electricity use - Generated from on-site renewable systems and used on site (kBtu);
- Natural gas use (kBtu);
- Percent of total electricity generated from on-site renewable systems;
- Cooling degree days (CDD) (°F);
- Heating degree days (HDD) (°F);
- Weather station name;
- Weather station ID.

Z6.4 End-use analysis requirements. *Building owners* shall demonstrate compliance with Form D by providing the documentation required by section Z6.4.1.

Z6.4.1 Energy Audit Forms (Form D). The energy audit form shall be provided electronically by completing the energy audit form included in the U.S. Department of Energy, Energy Asset Score Tool, or an equivalent tool provided by the AHJ. This form shall be completed to document the energy audit, as published in ASHRAE Standard 211, *Standard for commercial building energy audits*, including *EEMs* considered but determined to have a *simple payback* that is greater than the *EEMs useful life*.

Form E - Not adopted.

Z6.5 Normative Annex X, Investment Criteria Tool (Form F).

Z6.5.1 To demonstrate compliance with the investment criteria of Normative Annex X, *building owners* shall complete and submit Form F.

Z6.5.2 Form F shall be developed by the AHJ. Form F shall be a life cycle cost evaluation tool compliant with NIST Standard 135 and capable of supporting the evaluation criteria required by Normative Annex X.

Z6.5.3 Form F shall evaluate all EEMs considered that have a *simple payback* that is less than the *EEMs useful life*.

Z6.6 Documentation of a building of historic significance (Form G).

Z6.6.1 Energy efficiency measure exemptions for historic buildings. No individual *energy efficiency measure* identified by energy efficiency audits need to be implemented if it would compromise the historical integrity of a *building* or part of a *building*. *Building owners* seeking this exception shall provide the following documentation. Certified historic *buildings* are not exempt from the other requirements of this standard.

Z6.6.2 Plan for compliance. The owner of a qualifying historic *building* shall have the plan for compliance evaluated by a qualified historic preservationist, as defined in 36 C.F.R., Part 61, identifying any energy efficiency requirement that may compromise the historic integrity of the *building* or part of the *building*. Any element of the plan identified to compromise the historic integrity of the *building* or part of the *building* shall be omitted from the compliance plan. Evidence of this evaluation must be submitted to the AHJ for approval.

Z6.6.3 Documentation of a historic building. *Building owners* must provide documentation to the AHJ that proves its historic identification or eligibility. Valid documentation from any existing programs listed below is acceptable.

1. Examples of existing programs that verify historic property include:
 - a. The National Register of Historic Places;
 - b. The Washington heritage register;
 - c. Properties that are identified by the department of archaeology and historic preservation (DAHP) to be eligible for listing in either one of these registers; and
 - d. Properties which are listed in a local register of historic places; or
2. Other documentation approved by the AHJ.

Z6.7 Application for Exemption Certificate (Form H).

Apply for an exemption certificate by submitting the following documentation in the form specified by the AHJ. The application must include:

1. *Building* identification:
 - a. Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State; and
 - k. Postal code.
2. Contact information:
 - a. *Building* owner name(s);
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State/Province;
 - g. Country;
 - h. Postal code;
 - i. Telephone number; and
 - j. Email address.
3. *Building* information:
 - a. Primary building activity type from Table 7-1, or a description of the (~~nonlisted~~) nontarget building type;
 - b. *Building* gross floor area;
 - c. *Building* gross conditioned floor area.
4. Reason for exemption: Based on exemptions listed in Section 24.1(2).

A list all of documents enclosed and any facts in support of this application. Provide at least two of the acceptable documents listed below:

- a. Municipal or county records;
- b. Documents from a *qualified person*;
- c. Construction permit;
- d. Certificate of occupancy or application for certificate of occupancy;
- e. Demolition permit;
- f. Financial statements such as statement of assets; liabilities, capital, and surplus, statement of revenue and expenses; or statement of cash flow;

g. A letter from the *building owner* stating facts and explaining financial hardships;

h. Other documentation approved by the AHJ.

5. Signature and statement of *building owner* stating that the authorized representative of the *building*, affirm and attest to the accuracy, truthfulness and completeness of the statements of material fact provided in this form.

Z6.8 Grouped Buildings Compliance with Standard 100 (Form J).

1. Grouped buildings identification:

a. Washington state grouped buildings ID;

b. County;

c. County parcel number(s);

d. Portfolio manager property ID number;

e. Property name;

f. Parent property name;

g. Address 1 (street);

h. Address 2;

i. City;

j. State;

k. Postal code.

2. Contact information:

a. Grouped buildings owner name(s);

b. Contact name;

c. Address 1 (street);

d. Address 2;

e. City;

f. State/province;

g. Country;

h. Postal code;

i. Telephone number;

j. Email address.

3. Qualified person:

a. Qualified person name;

b. Address 1 (street);

c. Address 2;

d. City;

e. State;

f. Postal code;

g. Telephone number;

h. Email address;

i. Licensed, certified (select all that apply):

i. Licensure; or

ii. Certifying authority.

4. Energy manager (if different than the qualified person):

a. Energy manager name;

b. Address 1 (street);

c. Address 2;

d. City;

e. State/province;

f. Postal code;

g. Country;

h. Telephone number;

i. Email address.

5. Decarbonization plan author, where applicable:

a. Company name;

b. Contact name;

- c. Address 1 (street);
- d. Address 2;
- e. City;
- f. State;
- g. Postal code;
- h. Telephone number;
- i. Email address.

6. This compliance report is for:

- a. Grouped buildings that meet the EUI_t ;
 - b. Grouped buildings that meet the investment criteria prior to the compliance date;
 - c. Grouped buildings that will meet the EUI_t through conditional compliance;
 - d. Grouped buildings that will meet the investment criteria through conditional compliance;
 - e. Annual reporting for conditional compliance;
 - f. Progress reporting for decarbonization plan;
 - g. Completion reporting.
7. Summary data:

a. Energy use intensity target (EUI_t) (kBtu/ft²/yr) based on completed Section Z6.2 Form B;

Note: Baseline WNEUI for grouped buildings that will meet investment criteria through conditional compliance.

- b. Measured site EUI (kBtu/ft²) for the compliance year for grouped buildings based on Section Z6.3 Form C;
- c. Grouped buildings without an energy target;

Notes: 1. Predicted site EUI for grouped buildings that will meet the EUI_t or investment criteria through conditional compliance.
2. Grouped buildings unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site EUI as calculated by the Energy Star portfolio manager account and reported on Form C.

- d. Grouped buildings measured weather normalized site EUI (kBtu/ft²) for the compliance year based on Section Z6.3 Form C;
- e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this grouped buildings from Section Z6.3 Form C;
- f. Grouped buildings applying for conditional compliance through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:

- Baseline EUI_t ;
- Projected EUI_t ;

Note: Not applicable to decarbonization plan.

g. Grouped buildings applying for conditional compliance through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:

- Baseline total kBtu;
- Projected total kBtu;
- Projected savings total kBtu.

Note: Not applicable to decarbonization plan.

8. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for Tier 1 covered buildings, Section Y3.2 for Tier 2 covered buildings, and for campuses participating in the decarbonization plan by July 1, 2030, for buildings not covered, but connected to the district energy system? [] Yes [] No

- Upload energy management plan as specified by the AHJ.

9. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for Tier 1 covered buildings, Section Y3.2 for Tier 2 covered buildings, and for campuses participating in the decarbonization plan by July 1, 2030, for buildings not covered, but connected to the district energy system? Yes No

• Upload operation and maintenance implementation documentation as specified by the AHJ.

10. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Section Z6.4 Form D.

11. Have all EEMs required by Section 8 been implemented? Yes No

12. Have the requirements of Section 9 been completed? Yes No

13. We state that these grouped buildings comply with ANSI/ASHRAE/IES Standard 100 as amended by the AHJ to conform with RCW 19.27A.210:

a. Signature of grouped buildings owner:

• Date:

b. Signature of qualified person:

• Date:

c. Signature of energy manager:

• Date:

d. Signature of authority having jurisdiction:

• Conditional or final compliance:

• Date:

Z7 Section 7—Tables as modified by Washington state.

Table 7-1 Building Activity Types/Activities

Building Activity Type ^{1,2}				
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes
1	Banking/financial services	Bank Branch		
2	Banking/financial services	Financial Office		
3	Education	Adult Education		
4	Education	College/University		<u>8,9</u>
5	Education	K-12 School	Elementary/middle school	<u>9</u>
6	Education	K-12 School	High school	<u>9</u>
7	Education	Preschool/Daycare		
8	Education	Vocational School		
9	Education	Other - Education		
10	Entertainment/public assembly	Aquarium		
11	Entertainment/public assembly	Bar/Nightclub		
12	Entertainment/public assembly	Bowling Alley		
13	Entertainment/public assembly	Casino		
14	Entertainment/public assembly	Convention Center		
15	Entertainment/public assembly	Fitness Center/Health Club/Gym		
16	Entertainment/public assembly	Ice/Curling Rink		
17	Entertainment/public assembly	Indoor Arena		
18	Entertainment/public assembly	Movie Theater		
19	Entertainment/public assembly	Museum		

Building Activity Type ^{1,2}				
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes
20	Entertainment/public assembly	Performing Arts		
21	Entertainment/public assembly	Race Track		
22	Entertainment/public assembly	Roller Rink		
23	Entertainment/public assembly	Social/Meeting Hall		
24	Entertainment/public assembly	Stadium (Closed)		
25	Entertainment/public assembly	Stadium (Open)		
26	Entertainment/public assembly	Swimming Pool		
27	Entertainment/public assembly	Zoo		
28	Entertainment/public assembly	Other - Entertainment/Public Assembly	Entertainment/culture	
29	Entertainment/public assembly	Other - Entertainment/Public Assembly	Library	
30	Entertainment/public assembly	Other - Entertainment/Public Assembly	Other public assembly	
31	Entertainment/public assembly	Other - Entertainment/Public Assembly	Recreation	
32	Entertainment/public assembly	Other - Entertainment/Public Assembly	Social/meeting	
33	Entertainment/public assembly	Other - Recreation		
34	Entertainment/public assembly	Other - Stadium		
35	Food sales and service	Bar/Nightclub		
36	Food sales and service	Convenience Store with Gas Station		
37	Food sales and service	Convenience Store without Gas Station		
38	Food sales and service	Fast Food Restaurant		
39	Food sales and service	Food Sales	Grocery/food market	
40	Food sales and service	Food Sales	Convenience store with gas	
41	Food sales and service	Food Sales	Convenience store	
42	Food sales and service	Food Sales	Other food sales	
43	Food sales and service	Food Service	Fast food	
44	Food sales and service	Food Service	Restaurant/cafeteria	
45	Food sales and service	Food Service	Other food service	
46	Food sales and service	Restaurant		
47	Food sales and service	Supermarket/Grocery Store		
48	Food sales and service	Wholesale Club/Supercenter		
49	Food sales and service	Other - Restaurant/Bar		
50	Healthcare	Ambulatory Surgical Center		
51	Healthcare	Hospital (General Medical & Surgical)(*)		9
52	Healthcare	Medical Office		3
53	Healthcare	Outpatient Rehabilitation/Physical Therapy		
54	Healthcare	Residential Care Facility		
55	Healthcare	Senior Care Community		
56	Healthcare	Urgent Care/Clinic/Other Outpatient		
57	Healthcare	Other - Specialty Hospital		

No.	Building Activity Type ^{1,2}			Notes
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	
58	Lodging/residential	Barracks		
59	Lodging/residential	Hotel	Hotel	
60	Lodging/residential	Hotel	Motel or inn	
61	Lodging/residential	Multifamily Housing		
62	Lodging/residential	Prison/Incarceration		<u>9</u>
63	Lodging/residential	Residence Hall/Dormitory		
64	Lodging/residential	Residential Care Facility		
65	Lodging/residential	Senior Care Community		
66	Lodging/residential	Other - Lodging/Residential		
67	Mixed use	Mixed Use Property		4
68	Office	Medical Office		3
69	Office	Office	Admin/professional office	
70	Office	Office	Bank/other financial	
71	Office	Office	Government office	
72	Office	Office	Medical office (diagnostic)	3
73	Office	Office	Other office	
74	Office	Veterinary Office		
75	Office	Other - Office		
76	Public services	Courthouse		
77	Public services	Fire Station		
78	Public services	Library		
79	Public services	Mailing Center/Post Office		
80	Public services	Police Station		
81	Public services	Prison/Incarceration		<u>9</u>
82	Public services	Social/Meeting Hall		
83	Public services	Transportation Terminal/Station		
84	Public services	Other - Public Service		
85	Religious worship	Worship Facility		
86	Retail	Automobile Dealership		
87	Retail	Convenience Store with Gas Station		
88	Retail	Convenience Store without Gas Station		
89	Retail	Enclosed Mall		5
90	Retail	Lifestyle Center	Enclosed mall	5
91	Retail	Lifestyle Center	Other retail	
92	Retail	Lifestyle Center	Retail store	
93	Retail	Lifestyle Center		4
94	Retail	Retail Store		
95	Retail	Strip Mall		4
96	Retail	Supermarket/Grocery Store		
97	Retail	Wholesale Club/Supercenter		
98	Retail	Other - Retail/Mall	Enclosed mall	5
99	Retail	Other - Retail/Mall		4
100	Technology/science	Data Center		6

Building Activity Type ^{1,2}				
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes
101	Technology/science	Laboratory		
102	Technology/science	Other - Technology/Science	Other service	
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)		
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop	
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop	
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/maintenance	
107	Services	Other - Services		
108	Utility	Energy/Power Station		7
109	Utility	Other - Utility		7
110	Warehouse/storage	Self-Storage Facility		
111	Warehouse/storage	Distribution Center		
112	Warehouse/storage	Nonrefrigerated Warehouse		
113	Warehouse/storage	Refrigerated Warehouse		

- Notes:
- Select the most specific building activity type that applies.
 - Building Activity Types are defined by *AHJ* in Table 7-4 and also include the following:
 - Data center: Is an activity space designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more. *Gross floor area* shall only include space within the *building* including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment. *Gross floor area* shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space.
 - Urgent care center/clinic/other outpatient office means the *buildings* used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care.
 - All medical offices considered to be diagnostic type.
 - Must use of Section 7.2.3 method for mixed use *buildings*.
 - Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
 - This is a *building* or activity without an energy target. Included to provide definition only.
 - This is a *building* or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.
 - Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory *building* activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 Laboratory for an area weighted *EUI_t*.
 - Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the *EUI_t*. "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

Table 7-2a Building Activity Site Energy Targets (EUI_{t1}) (I-P Units)

Building Activity Type ^{1,2}					Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	EUI _t	EUI _t
1	Banking/financial services	Bank Branch			69	71
2	Banking/financial services	Financial Office			69	71
3	Education	Adult Education			49	51
4	Education	College/University		8, 9	102	102
5	Education	K-12 School	Elementary/middle school	9	49	50
6	Education	K-12 School	High school	9	48	49
7	Education	Preschool/Daycare			59	59
8	Education	Vocational School			49	51
9	Education	Other - Education			49	51

	Building Activity Type ^{1,2}				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	EUI _f	EUI _f
10	Entertainment/public assembly	Aquarium			55	59
11	Entertainment/public assembly	Bar/Nightclub			55	59
12	Entertainment/public assembly	Bowling Alley			73	78
13	Entertainment/public assembly	Casino			55	59
14	Entertainment/public assembly	Convention Center			50	52
15	Entertainment/public assembly	Fitness Center/Health Club/Gym			73	78
16	Entertainment/public assembly	Ice/Curling Rink			73	78
17	Entertainment/public assembly	Indoor Arena			67	70
18	Entertainment/public assembly	Movie Theater			67	70
19	Entertainment/public assembly	Museum			67	70
20	Entertainment/public assembly	Performing Arts			55	59
21	Entertainment/public assembly	Race Track			67	70
22	Entertainment/public assembly	Roller Rink			73	78
23	Entertainment/public assembly	Social/Meeting Hall			50	52
24	Entertainment/public assembly	Stadium (Closed)			67	70
25	Entertainment/public assembly	Stadium (Open)			67	70
26	Entertainment/public assembly	Swimming Pool			73	78
27	Entertainment/public assembly	Zoo			55	59
28	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Entertainment/culture		67	70
29	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Library		56	59
30	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Other public assembly		55	59
31	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Recreation		73	78
32	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Social/meeting		50	52
33	Entertainment/public assembly	Other - Recreation			73	78
34	Entertainment/public assembly	Other - Stadium			67	70

Building Activity Type ^{1,2}					Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	EUI _f	EUI _f
35	Food sales and service	Bar/Nightclub			361	378
36	Food sales and service	Convenience Store with Gas Station			260	269
37	Food sales and service	Convenience Store without Gas Station			244	253
38	Food sales and service	Fast Food Restaurant			427	454
39	Food sales and service	Food Sales	Grocery/food market		191	198
40	Food sales and service	Food Sales	Convenience store with gas		260	269
41	Food sales and service	Food Sales	Convenience store		244	253
42	Food sales and service	Food Sales	Other food sales		184	189
43	Food sales and service	Food Service	Fast food		427	454
44	Food sales and service	Food Service	Restaurant/cafeteria		361	378
45	Food sales and service	Food Service	Other food service		293	308
46	Food sales and service	Restaurant			361	378
47	Food sales and service	Supermarket/Grocery Store			191	198
48	Food sales and service	Wholesale Club/ Supercenter			68	75
49	Food sales and service	Other - Restaurant/Bar			361	378
50	Healthcare	Ambulatory Surgical Center			90	96
51	Healthcare	Hospital (General Medical & Surgical)*		9	215	215
52	Healthcare	Medical Office		3		
53	Healthcare	Outpatient Rehabilitation/Physical Therapy			90	96
54	Healthcare	Residential Care Facility			78	82
55	Healthcare	Senior Care Community			78	82
56	Healthcare	Urgent Care/Clinic/ Other Outpatient			90	96
57	Healthcare	Other - Specialty Hospital			196	196
58	Lodging/residential	Barracks			88	90
59	Lodging/residential	Hotel	Hotel		68	72
60	Lodging/residential	Hotel	Motel or inn		74	77
61	Lodging/residential	Multifamily Housing			32	33
62	Lodging/residential	Prison/Incarceration		9	101	106
63	Lodging/residential	Residence Hall/ Dormitory			88	90
64	Lodging/residential	Residential Care Facility			78	82
65	Lodging/residential	Senior Care Community			78	82
66	Lodging/residential	Other - Lodging/ Residential			71	74
67	Mixed use	Mixed Use Property		4		
68	Office	Medical Office		3	60	65

No.	Building Activity Type ^{1,2}			Notes	Climate Zone 4C	Climate Zone 5B
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		EUI _f	EUI _f
69	Office	Office	Admin/professional office		63	66
70	Office	Office	Bank/other financial		69	71
71	Office	Office	Government office		66	69
72	Office	Office	Medical office (diagnostic)	3	60	65
73	Office	Office	Other office		66	68
74	Office	Veterinary Office			90	96
75	Office	Other - Office			66	68
76	Public services	Courthouse			101	106
77	Public services	Fire Station			65	68
78	Public services	Library			56	59
79	Public services	Mailing Center/Post Office			51	54
80	Public services	Police Station			65	68
81	Public services	Prison/Incarceration		9	101	106
82	Public services	Social/Meeting Hall			50	52
83	Public services	Transportation Terminal/ Station			55	59
84	Public services	Other - Public Service			66	69
85	Religious worship	Worship Facility			39	42
86	Retail	Automobile Dealership			59	66
87	Retail	Convenience Store with Gas Station			260	269
88	Retail	Convenience Store without Gas Station			244	253
89	Retail	Enclosed Mall		5	58	64
90	Retail	Lifestyle Center	Enclosed mall	5	58	64
91	Retail	Lifestyle Center	Other retail		55	62
92	Retail	Lifestyle Center	Retail store		68	75
93	Retail	Lifestyle Center		4		
94	Retail	Retail Store			68	75
95	Retail	Strip Mall		4		
96	Retail	Supermarket/Grocery Store			191	198
97	Retail	Wholesale Club/ Supercenter			68	75
98	Retail	Other - Retail/Mall	Enclosed mall	5	58	64
99	Retail	Other - Retail/Mall		4		
100	Technology/science	Data Center		6		
101	Technology/science	Laboratory			237	249
102	Technology/science	Other - Technology/ Science	Other service		66	69
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)			66	69

No.	Building Activity Type ^{1,2}			Notes	Climate Zone 4C	Climate Zone 5B
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		EUI _f	EUI _f
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop		36	39
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop		60	64
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/maintenance		41	44
107	Services	Other - Services			66	69
108	Utility	Energy/Power Station		7		
109	Utility	Other - Utility		7		
110	Warehouse/storage	Self-Storage Facility			36	44
111	Warehouse/storage	Distribution Center			36	44
112	Warehouse/storage	Nonrefrigerated Warehouse			36	44
113	Warehouse/storage	Refrigerated Warehouse			121	126

- Notes:
1. Select the most specific building activity type that applies.
 2. Building Activity Types are defined by *AHJ* in Table 7-4 and also include the following:
 - Data center: Is an activity space designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more. *Gross floor area* shall only include space within the *building* including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment. *Gross floor area* shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space.
 - Urgent care center/clinic/other outpatient office means the *buildings* used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care.
 3. All medical offices considered to be diagnostic type.
 4. Must use of Section 7.2.3 method for mixed use *buildings*.
 5. Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
 6. This is a *building* or activity without an energy target. Included to provide definition only.
 7. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.
 8. Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory building activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 Laboratory for an area weighted EUI_f.
 9. Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the EUI_f, "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

Table 7-3 Building Operating Shifts Normalization Factor

No.	Building Activity Type ^(1,2)			Notes	Weekly Hours ^{1,2}		
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		50 or less	51 to 167	168
1	Banking/financial services	Bank Branch		3	0.8	1.0	1.5
2	Banking/financial services	Financial Office		3	0.8	1.0	1.5
3	Education	Adult Education		4	0.9	1.1	1.9
4	Education	College/University		4,10	0.9	1.1	1.9
5	Education	K-12 School	Elementary/middle school	4,10	0.9	1.1	1.9
6	Education	K-12 School	High school	4,10	0.9	1.1	1.9
7	Education	Preschool/Daycare		4	0.9	1.1	1.9
8	Education	Vocational School		4	0.9	1.1	1.9
9	Education	Other - Education		4	0.9	1.1	1.9

No.	Building Activity Type ^(1,2)			Notes	Weekly Hours ^{1,2}		
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		50 or less	51 to 167	168
10	Entertainment/public assembly	Aquarium		4,9	0.6	1.1	1.6
11	Entertainment/public assembly	Bar/Nightclub		4	0.6	1.1	1.6
12	Entertainment/public assembly	Bowling Alley		4	0.6	1.1	1.6
13	Entertainment/public assembly	Casino		4	0.6	1.1	1.6
14	Entertainment/public assembly	Convention Center		4	0.6	1.1	1.6
15	Entertainment/public assembly	Fitness Center/Health Club/Gym		4	0.6	1.1	1.6
16	Entertainment/public assembly	Ice/Curling Rink		4	0.6	1.1	1.6
17	Entertainment/public assembly	Indoor Arena		4	0.6	1.1	1.6
18	Entertainment/public assembly	Movie Theater		4	0.6	1.1	1.6
19	Entertainment/public assembly	Museum		4,9	0.6	1.1	1.6
20	Entertainment/public assembly	Performing Arts		4	0.6	1.1	1.6
21	Entertainment/public assembly	Race Track		4	0.6	1.1	1.6
22	Entertainment/public assembly	Roller Rink		4	0.6	1.1	1.6
23	Entertainment/public assembly	Social/Meeting Hall		4	0.6	1.1	1.6
24	Entertainment/public assembly	Stadium (Closed)		4	0.6	1.1	1.6
25	Entertainment/public assembly	Stadium (Open)		4	0.6	1.1	1.6
26	Entertainment/public assembly	Swimming Pool		4	0.6	1.1	1.6
27	Entertainment/public assembly	Zoo		4,9	0.6	1.1	1.6
28	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Entertainment/culture	4	0.6	1.1	1.6
29	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Library	4	0.6	1.1	1.6
30	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Other public assembly	4	0.6	1.1	1.6
31	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Recreation	4	0.6	1.1	1.6
32	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Social/meeting	4	0.6	1.1	1.6
33	Entertainment/public assembly	Other - Recreation		4	0.6	1.1	1.6
34	Entertainment/public assembly	Other - Stadium		4	0.6	1.1	1.6
35	Food sales and service	Bar/Nightclub		4	0.6	1.1	1.5

No.	Building Activity Type ^(1,2)			Notes	Weekly Hours ^{1,2}		
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		50 or less	51 to 167	168
36	Food sales and service	Convenience Store with Gas Station		4	0.5	0.9	1.3
37	Food sales and service	Convenience Store without Gas Station		4	0.5	0.9	1.3
38	Food sales and service	Fast Food Restaurant		4	0.6	1.1	1.5
39	Food sales and service	Food Sales	Grocery/food market	4	0.5	0.9	1.3
40	Food sales and service	Food Sales	Convenience store with gas	4	0.5	0.9	1.3
41	Food sales and service	Food Sales	Convenience store	4	0.5	0.9	1.3
42	Food sales and service	Food Sales	Other food sales	4	0.5	0.9	1.3
43	Food sales and service	Food Service	Fast food	4	0.6	1.1	1.5
44	Food sales and service	Food Service	Restaurant/cafeteria	4	0.6	1.1	1.5
45	Food sales and service	Food Service	Other food service	4	0.6	1.1	1.5
46	Food sales and service	Restaurant		4	0.6	1.1	1.5
47	Food sales and service	Supermarket/Grocery Store		4	0.5	0.9	1.3
48	Food sales and service	Wholesale Club/ Supercenter		4	0.6	1.0	1.5
49	Food sales and service	Other - Restaurant/Bar		4	0.6	1.1	1.5
50	Healthcare	Ambulatory Surgical Center		4,7	0.8	1.1	1.3
51	Healthcare	Hospital (General Medical & Surgical) ((*))		<u>10</u>	1.0	1.0	1.0
52	Healthcare	Medical Office		4,7			
53	Healthcare	Outpatient Rehabilitation/Physical Therapy		4,7	0.8	1.1	1.3
54	Healthcare	Residential Care Facility			1.0	1.0	1.0
55	Healthcare	Senior Care Community			1.0	1.0	1.0
56	Healthcare	Urgent Care/Clinic/ Other Outpatient		4,7	0.8	1.1	1.3
57	Healthcare	Other - Specialty Hospital			1.0	1.0	1.0
58	Lodging/residential	Barracks			1.0	1.0	1.0
59	Lodging/residential	Hotel	Hotel		1.0	1.0	1.0
60	Lodging/residential	Hotel	Motel or inn		1.0	1.0	1.0
61	Lodging/residential	Multifamily Housing			1.0	1.0	1.0
62	Lodging/residential	Prison/Incarceration		<u>10</u>	1.0	1.0	1.0
63	Lodging/residential	Residence Hall/ Dormitory			1.0	1.0	1.0
64	Lodging/residential	Residential Care Facility			1.0	1.0	1.0
65	Lodging/residential	Senior Care Community			1.0	1.0	1.0
66	Lodging/residential	Other - Lodging/ Residential			1.0	1.0	1.0

No.	Building Activity Type ^(1,2)			Notes	Weekly Hours ^{1,2}		
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		50 or less	51 to 167	168
67	Mixed use	Mixed Use Property		6			
68	Office	Medical Office		4,7	0.8	1.1	1.3
69	Office	Office	Admin/professional office	3	0.8	1.0	1.5
70	Office	Office	Bank/other financial	3	0.8	1.0	1.5
71	Office	Office	Government office	3	0.8	1.0	1.5
72	Office	Office	Medical office (diagnostic)	4	0.8	1.1	1.3
73	Office	Office	Other office	3	0.8	1.0	1.5
74	Office	Veterinary Office		3	0.8	1.1	1.3
75	Office	Other - Office		3	0.8	1.0	1.5
76	Public services	Courthouse		4	0.8	0.8	1.1
77	Public services	Fire Station		3	0.8	0.8	1.1
78	Public services	Library		4	0.6	1.1	1.6
79	Public services	Mailing Center/Post Office		3	0.8	1.2	1.3
80	Public services	Police Station		3	0.8	0.8	1.1
81	Public services	Prison/Incarceration		10	1.0	1.0	1.0
82	Public services	Social/Meeting Hall		4	0.6	1.1	1.6
83	Public services	Transportation Terminal/Station		4	0.6	1.1	1.6
84	Public services	Other - Public Service		4	0.8	1.2	1.3
85	Religious worship	Worship Facility		5	0.9	1.7	1.7
86	Retail	Automobile Dealership		4	0.6	1.0	1.5
87	Retail	Convenience Store with Gas Station		4	0.5	0.9	1.3
88	Retail	Convenience Store without Gas Station		4	0.5	0.9	1.3
89	Retail	Enclosed Mall		4	0.6	1.0	1.5
90	Retail	Lifestyle Center	Enclosed mall	4	0.6	1.0	1.5
91	Retail	Lifestyle Center	Other retail	4	0.6	1.0	1.5
92	Retail	Lifestyle Center	Retail store	4	0.6	1.0	1.5
93	Retail	Lifestyle Center					
94	Retail	Retail Store		4	0.6	1.0	1.5
95	Retail	Strip Mall					
96	Retail	Supermarket/Grocery Store		4	0.5	0.9	1.3
97	Retail	Wholesale Club/Supercenter		4	0.6	1.0	1.5
98	Retail	Other - Retail/Mall	Enclosed mall	4	0.6	1.0	1.5
99	Retail	Other - Retail/Mall					
100	Technology/science	Data Center					
101	Technology/science	Laboratory		3	1.0	1.0	1.0
102	Technology/science	Other - Technology/Science	Other service	3	0.8	1.2	1.3

No.	Building Activity Type ^(1,2)			Notes	Weekly Hours ^{1,2}		
	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		50 or less	51 to 167	168
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)		4	0.8	1.2	1.3
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop	4	0.8	1.2	1.3
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop	4	0.8	1.2	1.3
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/maintenance	4	0.8	1.2	1.3
107	Services	Other - Services		4	0.8	1.2	1.3
108	Utility	Energy/Power Station					
109	Utility	Other - Utility					
110	Warehouse/storage	Self-Storage Facility		4	0.8	1.0	1.4
111	Warehouse/storage	Distribution Center		3	0.8	1.0	1.4
112	Warehouse/storage	Nonrefrigerated Warehouse		3	0.8	1.0	1.4
113	Warehouse/storage	Refrigerated Warehouse		3,8	1.0	1.0	1.4

Notes: 1. Do not count the hours when the property is occupied only by maintenance, security, the cleaning crew, or other support personnel. Do not count the hours when the property is occupied only by maintenance staff.
 2. Working hours are based on the average use over the 12-month period selected to document energy use in form C.
 3. The weekly hours are the total number of hours per week where the majority of workers are present. If there are two or more shifts of workers, add the hours. When developing targets using Section 7.2.3 for mixed use *buildings*, use the hours each separate activity, the hours per week the majority of workers are present.
 4. The weekly hours are the hours that be majority of the *building* is open to serve the public. When developing targets using Section 7.2.3 for mixed use *buildings*, the hours each separate activity is open to the public.
 5. The weekly hours the facility is open for operation, which may include worship services, choir practice, administrative use, committee meetings, classes, or other activities.
 6. Must use of Section 7.2.3 method for mixed use *buildings*.
 7. Health care *buildings* may use other weekly hours if they are required to operate *building* systems additional hours to protect patient and staff safety. Provide documentation of the requirement in the energy management plan.
 8. Refrigerated warehouse greater than 167 hours assumes the workers on shift are loading and/or unloading vehicles.
 9. Aquariums, museums, and zoos may use other weekly hours if they are required to operate *building* systems additional hours to protect *building* contents. Provide documentation of the requirement in the energy management plan.
 10. College/university, K-12 school, hospital (general medical and surgical) and prison/incarceration building activity types complying at the campus-level (footnote 9 of Tables 7-1, 7-2a, and 7-4) shall apply the campus-level shift normalization factor to the area weighted aggregate *EUI*. Include all space uses listed in the campus-level building activity type (college/university, K-12 school, hospital, prison) Table 7-4 definitions. For space uses not listed in the campus-level building activity type definitions, the specific space use may use their specific shift normalization factor.

Table 7-4 Building Activity Type Definitions Table

No.	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
	Portfolio Manager Types	Portfolio Manager Sub-Types		
				Definitions are provided to define building activity types and the spaces within to include as <i>gross floor area</i> . Unless otherwise defined, <i>gross floor area</i> shall include all space within the <i>building</i> and not space outside the <i>building</i> , such as exterior/outside loading bays or docks, open air stairwells and breezeways and vehicle parking and parking garages. Definitions are not necessarily exclusive. For <i>Tier 1 covered buildings</i> , the <i>qualified person</i> , or for <i>Tier 2 covered buildings</i> , the <i>qualified energy manager</i> shall determine the <i>gross floor area</i> associated with each identified building activity type using industry standards guidance documents provided by the <i>AHJ</i> .

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
1	Banking/ financial services	Bank Branch		<p>Bank branch refers to a commercial banking outlet that offers banking services to walk-in customers.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including banking areas, vaults, lobbies, atriums, kitchens used by staff, restrooms, conference rooms, storage areas, stairways, and elevator shafts.</p>
2	Banking/ financial services	Financial Office		<p>Financial office refers to <i>buildings</i> used for financial services such as bank headquarters and securities and brokerage firms.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, trading floors, conference rooms and auditoriums, vaults, restrooms, kitchens used by staff, lobbies, atriums, fitness areas for staff, storage areas, stairways, and elevator shafts.</p>
3	Education	Adult Education		<p>Adult education refers to <i>buildings</i> used primarily for providing adult students with continuing education, workforce development, or professional development outside of the college or university setting.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, administrative space, conference rooms, kitchens used by staff, lobbies, cafeterias, auditoriums, restrooms, stairways, atriums, elevator shafts, and storage areas.</p>
4	Education	College/ University	8, 9	<p>College/university refers to <i>buildings</i> used for the purpose of higher education. This includes public and private colleges and universities.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, libraries, laboratory classrooms, offices, cafeterias, maintenance facilities, arts facilities, athletic facilities, residential areas, storage rooms, restrooms, elevator shafts, and stairways.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
5	Education	K-12 School	Elementary/ middle school	9	<p>K-12 school refers to <i>buildings</i> or campuses used as a school for kindergarten through 12th grade students. This does not include college or university classroom facilities/laboratories, vocational, technical, trade, adult, or continuing education schools, preschools, or day care facilities. If the school serves any of the above student populations (e.g., an elementary school that includes prekindergarten), at least 75 percent of the students must be in grades kindergarten through 12.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, laboratory classrooms, portable classrooms, greenhouses, stairways, atriums, elevator shafts, small landscaping sheds, and storage areas.</p>
6	Education	K-12 School	High School	9	
7	Education	Preschool/ Daycare			<p>Preschool/daycare applies to <i>buildings</i> used for educational programs or daytime supervision/recreation for young children before they attend kindergarten.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, stairways, elevator shafts, and storage areas.</p>
8	Education	Vocational School			<p>Vocational school refers to <i>buildings</i> primarily designed to teach skilled trades to students, including trade and technical schools. Typically, vocational schools are commonly post-secondary education, consisting of 1-2 years of technical/trade training.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, laboratory classrooms, stairways, elevator shafts, and storage areas.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
9	Education	Other - Education		<p>Other – Education refers to <i>buildings</i> used for religious, community, or other educational purposes that do not meet the definition of any other building activity type defined in Table 7-4 (i.e., educational purposes other than adult education, college/university, K-12 school, preschool/daycare and vocational schools).</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, auditoriums, laboratory classrooms, stairways, elevator shafts, and storage areas.</p>
10	Entertainment/public assembly	Aquarium		<p>Aquarium refers to <i>buildings</i> used to provide aquatic habitat primarily to live animals and which may include public or private viewing areas and educational programs.</p> <p><i>Gross floor area</i> should include public and restricted areas such as visitor walkways, tank space, retail areas, restaurants, restrooms, laboratories, classrooms, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
11	Entertainment/public assembly	Bar/Nightclub		<p>Bar/nightclub refers to <i>buildings</i> used primarily for social/entertainment purposes and is characterized by most of the revenue being generated from the sale of beverages instead of food.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including standing/seating areas, stage/dressing room areas, food/drink preparation or kitchen areas, retail areas, restrooms, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p> <p>Properties whose primary business revenue is generated from the sale of food should be entered using one of the restaurant building activity types, even if there is a bar.</p>
12	Entertainment/public assembly	Bowling Alley		<p>Bowling alley refers to <i>buildings</i> used for public or private, recreational or professional bowling.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including bowling lanes, concession areas, restrooms, party rooms, retail areas, administrative/office space, employee break rooms, storage areas, and mechanical rooms.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
13	Entertainment/ public assembly	Casino		<p>Casino refers to <i>buildings</i> primarily used to conduct gambling activities including both electronic and live table games.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the main casino floor/gaming area, restaurants/bars, retail areas, administrative/office space, restrooms, mechanical rooms, storage areas, elevator shafts, and stairwells. If your casino is in the same <i>building</i> as a hotel, enter a separate hotel building activity type.</p>
14	Entertainment/ public assembly	Convention Center		<p>Convention center refers to <i>buildings</i> used primarily for large conferences, exhibitions, and similar events. Convention centers may include a diverse variety of spaces, including large exhibition halls, meeting rooms, and concession stands.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including exhibit halls, preparation and staging areas, meeting rooms, concession stands, offices, restrooms, break rooms, security areas, elevator shafts, and stairwells.</p> <p>Conference facilities located within a hotel should be included along with your hotel building activity type details, rather than added as a separate convention center building activity type. Conference facilities primarily serving smaller meetings should be entered as social/meeting hall.</p>
15	Entertainment/ public assembly	Fitness Center/ Health Club/Gym		<p>Fitness center/health club/gym refers to <i>buildings</i> used for recreational or professional athletic training and related activities.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including weight and cardio equipment areas, personal training areas, courts, locker rooms, restrooms, sauna and spa areas, retail areas, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
16	Entertainment/ public assembly	Ice/Curling Rink		<p>Ice/curling rink refers to <i>buildings</i> that include one or more ice sheets used for public or private, recreational or professional skating, hockey, or ringette.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including ice area, spectator areas, concession stands, retail areas, locker rooms, restrooms, administrative/office areas, employee break rooms, mechanical rooms, and storage areas. Larger facilities primarily serving professional or collegiate functions and with significant spectator seating (above 5,000 seats) should be entered as indoor arena.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
17	Entertainment/ public assembly	Indoor Arena		<p>Indoor arena refers to enclosed structures used for professional or collegiate sports and entertainment events. Examples of events held in indoor arenas include basketball and hockey games, circus performances, and concerts. Indoor arenas usually have capacities of 5,000 seats or more and are often characterized by multiple concourses and concession areas.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including court/rink space, all concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
18	Entertainment/ public assembly	Movie Theater		<p>Movie theater refers to <i>buildings</i> used for public or private film screenings.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including seating areas, lobbies, concession stands, restrooms, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
19	Entertainment/ public assembly	Museum		<p>Museum refers to <i>buildings</i> that display collections to outside visitors for public viewing and enjoyment and for informational/educational purposes.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including public collection display areas, meeting rooms, classrooms, gift shops, food service areas, restrooms, administrative/office space, mechanical rooms, storage areas for collections, elevator shafts, and stairwells.</p>
20	Entertainment/ public assembly	Performing Arts		<p>Performing arts refers to <i>buildings</i> used for public or private artistic or musical performances.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including seating, stage and backstage areas, food service areas, restrooms, retail areas, rehearsal studios, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
21	Entertainment/ public assembly	Race Track		<p>Race track refers to <i>buildings</i> used primarily to hold racing events such as vehicle races, track/field races, horse races, and/or dog-races.</p> <p><i>Gross floor area</i> should include all spectator viewing areas, concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, restrooms, administrative/office areas, employee break rooms, mechanical rooms, storage areas, elevator shafts, and stairwells. <u>The footprint of the race track itself should also be included in the gross floor area, along with the footprint of any staging areas.</u></p>
22	Entertainment/ public assembly	Roller Rink		<p>Roller rink refers to <i>buildings</i> used primarily for roller-skating, inline skating/rollerblading, or skateboarding.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the rink space, concession areas, restrooms, locker rooms, retail areas, administrative/office areas, employee break rooms, mechanical rooms, and storage areas.</p>
23	Entertainment/ public assembly	Social/Meeting Hall		<p>Social/meeting hall refers to <i>buildings</i> primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
24	Entertainment/ public assembly	Stadium (Closed)		<p>Stadium (closed) refers to structures with a permanent or retractable roof which are used primarily for professional or collegiate sports and entertainment events. Examples of events held in closed stadiums include baseball and football games, and concerts. Closed stadiums usually have capacities of 25,000 seats or more and are often characterized by multiple concourses and concession areas.</p> <p><i>Gross floor area</i> should include all space within the <i>building(s)</i>, including concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells. <u>The footprint of the playing field should also be included in the gross floor area.</u></p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
25	Entertainment/ public assembly	Stadium (Open)			<p>Stadium (open) refers to structures used primarily for professional or collegiate sports and entertainment events in which the playing field is not covered and is exposed to the outside. Examples of events held in open stadiums include baseball, football, and soccer games, and concerts. Open stadiums usually have capacities of 5,000 seats or more and are often characterized by multiple concourses and concession areas.</p> <p><i>Gross floor area</i> should include all space <u>within the building(s)</u>, including concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells. <u>The footprint of the playing field should also be included in the gross floor area.</u></p>
26	Entertainment/ public assembly	Swimming Pool			Swimming pool refers to any heated swimming pools located inside a <i>building</i> .
27	Entertainment/ public assembly	Zoo			<p>Zoo refers to <i>buildings</i> used primarily to provide habitat to live animals and which may include public or private viewing and educational programs.</p> <p><i>Gross floor area</i> should include all space within all fully enclosed <i>buildings</i>, including habitats, visitor viewing areas, theaters, classrooms, food service areas, restrooms, retail stores, veterinary offices, exhibit space, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
28	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Entertainment/ culture		Entertainment/culture refers to <i>buildings</i> providing entertainment and/or cultural services that do not meet the definition of any other building activity type defined in Table 7-4.
29	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Library		<p>Library refers to <i>buildings</i> used to store and manage collections of literary and artistic materials such as books, periodicals, newspapers, films, etc. that can be used for reference or lending.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including circulation rooms, storage areas, reading/study rooms, administrative space, kitchens used by staff, lobbies, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
30	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Other public assembly		Other public assembly refers to <i>buildings</i> primarily used for entertainment or public gatherings that do not meet the definition of any other building activity type defined in Table 7-4. <i>Gross floor area</i> should include all space within the <i>building</i> , including entertainment areas, administrative areas, and supporting areas such as storage rooms, hallways, restrooms, stairways, and maintenance areas.
31	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Recreation		Recreation refers to <i>buildings</i> primarily used for recreation that do not meet the definition of any other building activity type defined in Table 7-4. <i>Gross floor area</i> should include all space within the <i>building</i> , including recreational areas, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.
32	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Social/meeting		Social/meeting hall refers to <i>buildings</i> primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities. <i>Gross floor area</i> should include all space within the <i>building</i> , including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
33	Entertainment/ public assembly	Other - Recreation			Other - Recreation refers to <i>buildings</i> primarily used for recreation that do not meet the definition of any other building activity type defined in Table 7-4. <i>Gross floor area</i> should include all space within the <i>building</i> , including recreational areas, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.
34	Entertainment/ public assembly	Other - Stadium			Other - Stadium refers to <i>buildings</i> primarily used for sporting events that do not meet the definition of any other building activity type defined in Table 7-4. <i>Gross floor area</i> should include all space within the <i>building</i> , including areas for athletic activity and spectator seating, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
35	Food sales and service	Bar/Nightclub		<p>Bar/nightclub refers to <i>buildings</i> used primarily for preparation and sale of ready-to-eat food and beverages, but with secondary purposes characterized by revenue generated from social/entertainment services and associated sale of beverages instead of food. Examples include restaurants with lounges and nightclubs featuring entertainment together or separate from dining.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.</p>
36	Food sales and service	Convenience Store with Gas Station		<p>Convenience store with gas station refers to <i>buildings</i> that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.</p>
37	Food sales and service	Convenience Store without Gas Station		<p>Convenience store without gas station refers to <i>buildings</i> used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, restrooms, staff break rooms, and storage areas.</p>
38	Food sales and service	Fast Food Restaurant		<p>Fast food restaurant, also known as quick service restaurant, refers to <i>buildings</i> used for the preparation and sale of ready-to-eat food. Fast food restaurants are characterized by a limited menu of food prepared quickly (often within a few minutes), and sometimes cooked in bulk in advance and kept hot.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
39	Food sales and service	Food Sales	Supermarket/ Grocery Store/ Food Market		<p>Supermarket/grocery store/food market refers to <i>buildings</i> used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. <i>Buildings</i> where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.</p>
40	Food sales and service	Food Sales	Convenience store with gas		<p>Convenience store with gas station refers to <i>buildings</i> that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.</p>
41	Food sales and service	Food Sales	Convenience store		<p>Convenience store without gas station refers to <i>buildings</i> used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, restrooms, staff break rooms, and storage areas.</p>
42	Food sales and service	Food Sales	Other food sales		<p>Other food sales refers to <i>buildings</i> used for the sales of food on either a retail or wholesale basis, but which do not meet the definition of supermarket/grocery store/food market, convenience store, or convenience store with gas stations. For example, specialty food sales like a cheese shop or butcher.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales areas, storage areas, offices, kitchens, restrooms, and staff break rooms.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
43	Food sales and service	Food Sales	Fast Food		Fast food restaurant, also known as quick service restaurant, refers to <i>buildings</i> used for the preparation and sale of ready-to-eat food. Fast food restaurants are characterized by a limited menu of food prepared quickly (often within a few minutes), and sometimes cooked in bulk in advance and kept hot. <i>Gross floor area</i> should include all space within the <i>building</i> , including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
44	Food sales and service	Food Sales	Restaurant/cafeteria		Restaurant/cafeteria refers to <i>buildings</i> used for preparation and sale of ready-to-eat food and beverages, but which do not fit in the fast food building activity type. Examples include fast casual, casual, and fine dining restaurants. <i>Gross floor area</i> should include all space within the <i>building</i> , including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
45	Food sales and service	Food Sales	Other food service		Other food service refers to <i>buildings</i> used for preparation and sale of food and beverages, but which do not meet the definition of restaurant or bar/nightclub. For example, a bakery or coffee shop. <i>Gross floor area</i> should include all space within the <i>building</i> , including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
46	Food sales and service	Restaurant			Restaurant refers to <i>buildings</i> used for preparation and sale of ready-to-eat food and beverages, but which do not fit in the fast food building activity type. Examples include fast casual, casual, and fine dining restaurants. <i>Gross floor area</i> should include all space within the <i>building</i> , including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
47	Food sales and service	Supermarket/Grocery Store			Supermarket/grocery store refers to <i>buildings</i> used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. <i>Buildings</i> where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types. <i>Gross floor area</i> should include all space within the <i>building</i> , including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
48	Food sales and service	Wholesale Club/ Supercenter		<p>Wholesale club/supercenter refers to <i>buildings</i> used to conduct the retail sale of a wide variety of merchandise, typically in bulk quantities. Merchandise may include food, clothing, office supplies, furniture, electronics, books, sporting goods, toys, and hardware.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, elevators, and stairwells.</p>
49	Food sales and service	Other - Restaurant/Bar		<p>Other - Restaurant/bar refers to <i>buildings</i> used for preparation and sale of ready-to-eat food and beverages, but which does not fit into the fast food restaurant, restaurant, or bar/nightclub building activity types.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including kitchens, sales areas, dining areas, restrooms, staff break rooms, and storage areas.</p>
50	Health care	Ambulatory Surgical Center		<p>Ambulatory surgical centers refers to health care facilities that provide same-day surgical care, including diagnostic and preventive procedures.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, operating and recovery rooms, waiting rooms, restrooms, employee break rooms and kitchens, elevator shafts, stairways, mechanical rooms, and storage areas.</p>
51	Health care	Hospital (General Medical & Surgical)	9	<p>Hospital refers to a general medical and surgical hospital (including critical access hospitals and children's hospitals). These facilities provide acute care services intended to treat patients for short periods of time, including emergency medical care, physician's office services, diagnostic care, ambulatory care, surgical care, and limited specialty services such as rehabilitation and cancer care. The definition of hospital accounts for all ((space types)) <u>building activity types</u> owned by the hospital that are located within the hospital <i>building/complex</i>, including nonclinical spaces such as administrative offices, food service, retail, hotels, and power plant.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i> on the campus including operating rooms, bedrooms, emergency treatment areas, and medical offices, exam rooms, laboratories, lobbies, atriums, cafeterias, restrooms, stairways, corridors connecting <i>buildings</i>, storage areas, and elevator shafts.</p>
52	Health care	Medical Office	3	<p>All medical offices considered to be diagnostic type.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
53	Health care	Outpatient Rehabilitation/Physical Therapy		<p>Outpatient rehabilitation/physical therapy offices refers to <i>buildings</i> used to provide diagnosis and treatment for rehabilitation and physical therapy.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, exam rooms, waiting rooms, indoor pool areas, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.</p>
54	Health care	Residential Care Facility		<p>Residential care facilities refers to <i>buildings</i> that provide rehabilitative and restorative care to patients on a long-term or permanent basis. Residential care facilities treat mental health issues, substance abuse, and rehabilitation for injury, illness, and disabilities. This building activity type is intended for facilities that offer long-term residential care to residents of all ages who may need assistance with activities of daily living. If a facility is designed to provide nursing and assistance to seniors only, then the senior care community building activity type should be used.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between <i>buildings</i>, and elevator shafts.</p>
55	Health care	Senior Care Community		<p>Senior care community refers to <i>buildings</i> that house and provide care and assistance for elderly residents.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between <i>buildings</i>, and elevator shafts.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
56	Health care	Urgent Care/ Clinic/Other Outpatient		<p>Urgent care center/clinic/other outpatient office refers to <i>buildings</i> used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, exam rooms, waiting rooms, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.</p>
57	Health care	Other - Specialty Hospital		<p>Other/specialty hospitals refers to long-term acute care hospitals, inpatient rehabilitation facilities, including cancer centers and psychiatric and substance abuse hospitals/facilities.</p> <p><i>Gross floor area</i> should include all space within the <i>building/complex</i>, including medical offices, patient rooms, laboratories, lobbies, atriums, cafeterias, restrooms, stairways, corridors connecting <i>buildings</i>, storage areas, and elevator shafts.</p>
58	Lodging/ residential	Barracks		<p>Barracks refers to <i>residential buildings</i> associated with military facilities or educational institutions, which offer multiple accommodations for long-term residents.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including bedrooms, common areas, food service facilities, restrooms, laundry facilities, meeting spaces, exercise rooms, health club/spas, lobbies, elevator shafts, storage areas, and stairways.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
59	Lodging/ residential	Hotel	Hotel		<p>Hotel refers to <i>buildings</i> renting overnight accommodations on a room/suite and nightly basis, and typically include a bath/shower and other facilities in guest rooms. Hotel properties typically have daily services available to guests including housekeeping/laundry and a front desk/concierge. Hotel does not apply to properties where more than 50 percent of the floor area is occupied by fractional ownership units such as condominiums or vacation timeshares, or to private residences that are rented out on a daily or weekly basis. Hotel properties should be majority-owned by a single entity and have rooms available on a nightly basis. Condominiums or time shares should select the multifamily housing building activity type.</p> <p><i>Gross floor area</i> should include all interior space within the <i>building</i>, including guestrooms, halls, lobbies, atriums, food preparation and restaurant space, conference and banquet space, fitness centers/spas, laundry facilities, elevator shafts, stairways, mechanical rooms, storage areas, restrooms, employee break rooms, and back-of-house offices.</p>
60	Lodging/ residential	Hotel	Motel or inn		<p>Motel is a hotel like lodging where most rooms are entered from the exterior.</p> <p><i>Gross floor area</i> should include all interior space within the <i>building</i>, including guestrooms, halls, lobbies, atriums, food preparation and restaurant space, conference and banquet space, fitness centers/spas, laundry facilities, elevator shafts, stairways, mechanical rooms, storage areas, restrooms, employee break rooms, and back-of-house offices.</p>
61	Lodging/ residential	Multifamily Housing			<p>Multifamily housing refers to a covered multifamily <i>building</i> containing sleeping units or more than five dwelling units where occupants are primarily permanent in nature.</p> <p><i>Gross floor area</i> should include management offices or other spaces that may not contain living units.</p> <p><i>Gross floor area</i> should include all interior space within the <i>building</i>, including living space in each unit (including occupied and unoccupied units), interior common areas (e.g., lobbies, offices, community rooms, common kitchens, fitness rooms), hallways, stairwells, elevator shafts, connecting corridors between <i>buildings</i>, storage areas, restrooms, and mechanical space such as a boiler room.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
62	Lodging/ residential	Prison/ Incarceration	9	<p>Prison/incarceration refers to federal, state, local, or private-sector <i>buildings</i> used for the detention of persons awaiting trial or convicted of crimes.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including holding cells, cafeterias, administrative spaces, kitchens, lobbies, atriums, conference rooms and auditoriums, fitness areas, storage areas, restrooms, stairways, and elevator shafts.</p>
63	Lodging/ residential	Residence Hall/ Dormitory		<p>Residence hall/dormitory refers to <i>buildings</i> associated with educational institutions or military facilities, which offer multiple accommodations for long-term residents.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including bedrooms, common areas, food service facilities, restrooms, laundry facilities, meeting spaces, exercise rooms, health club/spas, lobbies, elevator shafts, storage areas, and stairways.</p>
64	Lodging/ residential	Residential Care Facility		<p>Residential care facilities refers to <i>buildings</i> that provide rehabilitative and restorative care to patients on a long-term or permanent basis. Residential care facilities treat mental health issues, substance abuse, and rehabilitation for injury, illness, and disabilities. This building activity type is intended for facilities that offer long-term residential care to residents of all ages who may need assistance with activities of daily living. If a facility is designed to provide nursing and assistance to seniors only, then the senior care community building activity type should be used.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between <i>buildings</i>, and elevator shafts.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
65	Lodging/ residential	Senior Care Community			<p>Senior care community refers to <i>buildings</i> that house and provide care and assistance for elderly residents.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between <i>buildings</i>, and elevator shafts.</p> <p>A community with only independent living should benchmark under the multifamily building activity type.</p>
66	Lodging/ residential	Other - Lodging/ Residential			<p>Other - Lodging/residential refers to <i>buildings</i> used for residential purposes other than those described in the available building activity types in this table (i.e., residential other than multifamily residential, single family home, senior care community, residence hall/dormitory, barracks, prison/incarceration, or hotel).</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including living areas, common areas, and administrative space, kitchens used by staff, lobbies, waiting areas, cafeterias, restrooms, stairways, atriums, elevator shafts, and storage areas.</p>
67	Mixed use	Mixed Use Property		4	<p>Must use of Section 7.2.3 method for mixed use <i>buildings</i>, area weighted EUI_t based on building activity types.</p>
68	Office	Medical Office		3	<p>Medical office refers to <i>buildings</i> used to provide diagnosis and treatment for medical, dental, or psychiatric outpatient care.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, exam rooms, laboratories, lobbies, atriums, conference rooms and auditoriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.</p> <p>If you have restaurants, retail (pharmacy), or services (dry cleaners) within the medical office, you should most likely include this square footage and energy in the medical office building activity type.</p>
69	Office	Office	Admin/ professional office		<p>Administrative/professional office refers to <i>buildings</i> used for the conduct of commercial business activities.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, conference rooms and auditoriums, kitchens used by staff, lobbies, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
70	Office	Office	Bank/other financial		<p>Financial office refers to <i>buildings</i> used for financial services such as bank headquarters and securities and brokerage firms.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, trading floors, conference rooms and auditoriums, vaults, kitchens used by staff, lobbies, atriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>
71	Office	Office	Government office		<p>Government office is an office used by employees of federal, state, county, or city governments.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, conference rooms and auditoriums, kitchens used by staff, lobbies, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>
72	Office	Office	Medical office (diagnostic)	3	<p>Medical office refers to <i>buildings</i> used to provide diagnosis and treatment for medical, dental, or psychiatric outpatient care.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, exam rooms, laboratories, lobbies, atriums, conference rooms and auditoriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.</p>
73	Office	Office	Other office		<p>Other office is an office that does not meet the definition of any of the other office building activity type defined in Table 7-4.</p>
74	Office	Veterinary Office			<p>Veterinary office refers to <i>buildings</i> used for the medical care and treatment of animals.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, exam rooms, waiting rooms, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.</p>
75	Office	Other - Office			<p>Other office is an office that does not meet the definition of any of the other office building activity type defined in Table 7-4.</p>
76	Public services	Courthouse			<p>Courthouse refers to <i>buildings</i> used for federal, state, or local courts, and associated administrative office space.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including temporary holding cells, chambers, kitchens used by staff, lobbies, atriums, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
77	Public services	Fire Station		<p>Fire station refers to <i>buildings</i> used to provide emergency response services associated with fires. Fire stations may be staffed by either volunteer or full-time paid firefighters.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including office areas, vehicle storage areas, residential areas (if applicable), storage areas, break rooms, restrooms, kitchens, elevator shafts, and stairwells.</p>
78	Public services	Library		<p>Library refers to <i>buildings</i> used to store and manage collections of literary and artistic materials such as books, periodicals, newspapers, films, etc. that can be used for reference or lending.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including circulation rooms, storage areas, reading/study rooms, administrative space, kitchens used by staff, lobbies, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.</p>
79	Public services	Mailing Center/ Post Office		<p>Mailing center/post office refers to <i>buildings</i> used as retail establishments dedicated to mail and mailing supplies. This includes U.S. Post Offices, in addition to private retailers that offer priority mail services and mailing supplies.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including retail counters, administrative space, kitchens used by staff, restrooms, lobbies, conference rooms, storage areas, stairways, and mechanical rooms.</p>
80	Public services	Police Station		<p>Police station applies to <i>buildings</i> used for federal, state, or local police forces and their associated office space.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including offices, temporary holding cells, kitchens used by staff, restrooms, lobbies, atriums, conference rooms and auditoriums, fitness areas for staff, storage areas, stairways, and elevator shafts.</p>
81	Public services	Prison/ Incarceration	9	<p>Prison/incarceration refers to federal, state, local, or private-sector <i>buildings</i> used for the detention of persons awaiting trial or convicted of crimes.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including holding cells, cafeterias, administrative spaces, kitchens, restrooms, lobbies, atriums, conference rooms and auditoriums, fitness areas, storage areas, stairways, and elevator shafts.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
82	Public services	Social/Meeting Hall		<p>Social/meeting hall refers to <i>buildings</i> primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.</p>
83	Public services	Transportation Terminal/Station		<p>Transportation terminal/station applies to <i>buildings</i> used primarily for accessing public or private transportation. This includes train stations, bus stations, airports, and seaports. These terminals include areas for ticket purchases, and embarkation/disembarkation, and may also include public waiting areas with restaurants and other concessions.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including boarding areas, waiting areas, administrative space, kitchens used by staff, restrooms, lobbies, restaurants, cafeterias, stairways, atriums, elevator shafts, and storage areas.</p>
84	Public services	Other - Public Service		<p>Other - Public service refers to <i>buildings</i> used by public-sector organizations to provide public services other than those described in the available building activity types in this table (i.e., services other than offices, courthouses, drinking water treatment and distribution plants, fire stations, libraries, mailing centers or post offices, police stations, prisons or incarceration facilities, social or meeting halls, transportation terminals or stations, or wastewater treatment plants).</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including administrative space, kitchens used by staff, restrooms, lobbies, waiting areas, cafeterias, stairways, atriums, elevator shafts, landscaping sheds, and storage areas.</p>
85	Religious worship	Worship Facility		<p>Worship facility refers to <i>buildings</i> that are used as places of worship. This includes churches, temples, mosques, synagogues, meetinghouses, or any other <i>buildings</i> that primarily function as a place of religious worship.</p> <p><i>Gross floor area</i> should include all areas inside the <i>building</i> that includes the primary worship area, including food preparation, community rooms, classrooms, and supporting areas such as restrooms, storage areas, hallways, and elevator shafts.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
86	Retail	Automobile Dealership			Automobile dealership refers to <i>buildings</i> used for the sale of new or used cars and light trucks. <i>Gross floor area</i> should include all space within the <i>building</i> , including sales floors, offices, conference rooms, vehicle service centers, parts storage areas, waiting rooms, staff break rooms, restrooms, hallways, and stairwells.
87	Retail	Convenience Store with Gas Station			Convenience store with gas station refers to <i>buildings</i> that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair. <i>Gross floor area</i> should include all space within the <i>building</i> , including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.
88	Retail	Convenience Store without Gas Station			Convenience store without gas station refers to <i>buildings</i> used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station. <i>Gross floor area</i> should include all space within the <i>building</i> , including sales floors, offices, restrooms, staff break rooms, and storage areas.
89	Retail	Enclosed Mall		5	Enclosed mall refers to <i>buildings</i> that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores. <i>Gross floor area</i> should include all space within the <i>building</i> , including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.
90	Retail	Lifestyle Center	Enclosed mall	5	Enclosed mall refers to <i>buildings</i> that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores. <i>Gross floor area</i> should include all space within the <i>building</i> , including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
91	Retail	Lifestyle Center	Other retail		<p>Other - Retail refers to a mixed-use commercial development that includes retail stores and leisure amenities that do not meet the definition of lifestyle center - retail store.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including retail stores, offices, food courts, restaurants, residential areas, storage areas, restrooms, staff break rooms, walkways, stairwells, and mechanical areas.</p>
92	Retail	Lifestyle Center	Retail store		<p>Lifestyle center refers to a mixed-use commercial development that includes retail stores and leisure amenities, where individual retail stores typically contain an entrance accessible from the outside and are not connected by internal walkways. Lifestyle centers have an open-air design, unlike traditional enclosed malls, and often include landscaped pedestrian areas, as well as streets and vehicle parking.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including retail stores, offices, food courts, restaurants, residential areas, storage areas, restrooms, staff break rooms, walkways, stairwells, and mechanical areas.</p>
93	Retail	Lifestyle Center		4	<p>Must use of Section 7.2.3 method for mixed use <i>buildings</i>.</p>
94	Retail	Retail Store			<p>Retail store refers to individual stores used to conduct the retail sale of nonfood consumer goods such as clothing, books, toys, sporting goods, office supplies, hardware, and electronics. <i>Buildings</i> containing multiple stores should be classified as enclosed mall, lifestyle center, or strip mall.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales areas, storage areas, offices, restrooms, staff break rooms, elevators, and stairwells.</p>
95	Retail	Strip Mall		4	<p>Strip mall refers to <i>buildings</i> comprising more than one retail store, restaurant, or other business, in an open-air configuration where each establishment has an exterior entrance to the public and there are no internal walkways.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including retail stores, offices, restaurants, storage areas, restrooms, staff break rooms, and stairwells.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
96	Retail	Supermarket/ Grocery Store			<p>Supermarket/grocery store refers to <i>buildings</i> used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. <i>Buildings</i> where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.</p>
97	Retail	Wholesale Club/ Supercenter			<p>Wholesale club/supercenter refers to <i>buildings</i> used to conduct the retail sale of a wide variety of merchandise, typically in bulk quantities. Merchandise may include food, clothing, office supplies, furniture, electronics, books, sporting goods, toys, and hardware.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, elevators, and stairwells.</p>
98	Retail	Other - Retail/ Mall	Enclosed mall	5	<p>Enclosed mall refers to <i>buildings</i> that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.</p>
99	Retail	Other - Retail/ Mall		4	<p>Must use of Section 7.2.3 method for mixed use <i>buildings</i>.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
100	Technology/ science	Data Center		6	<p>Data center refers to an activity space or <i>buildings</i> specifically designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more.</p> <p><i>Gross floor area</i> shall only include space within the <i>building</i>, including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment.</p> <p><i>Gross floor area</i> shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space.</p> <p>This is a <i>building</i> or activity without an energy target. Included to provide definition only.</p>
101	Technology/ science	Laboratory			<p>Laboratory refers to <i>buildings</i> that provide controlled conditions in which scientific research, measurement, and experiments are performed or practical science is taught.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including workstations/hoods, offices, conference rooms, restrooms, storage areas, decontamination rooms, mechanical rooms, elevator shafts, and stairwells.</p>
102	Technology/ science	Other - Technology/ Science	Other service		<p>Other - Technology/science refers to <i>buildings</i> used for science and technology related services other than laboratories and data centers.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including areas with the main business activity, production areas, administrative offices, restrooms, employee break areas, stairways, atriums, elevator shafts, and storage areas.</p>
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)			<p>Personal services refers to <i>buildings</i> used to sell services rather than physical goods. Examples include dry cleaners, salons, spas, etc.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, storage areas, restrooms, staff break rooms, walkways, and stairwells.</p>

	Building Activity Type ^{1,2}			Notes	Clean Buildings Performance Standard Definitions
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop		<p>Repair services refers to <i>buildings</i> in which repair service is provided other than vehicle repair or maintenance. Examples include vehicle service or repair shops, shoe repair, jewelry repair, locksmiths, etc.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, repair areas, workshops, offices, parts storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.</p>
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop		<p>Vehicle service/repair shop refers to <i>buildings</i> in which vehicle repair service is provided. Examples include vehicle mechanical repair, body and paint shops, muffler, brake and tire shops.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, repair areas, workshops, offices, parts storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.</p>
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/maintenance		<p>Repair services - Vehicle storage/maintenance refers to <i>buildings</i> in which vehicle storage or maintenance service is provided. Examples include warehousing of vehicles and maintenance services such as vehicle washing/detailing.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, maintenance areas, repair areas, workshops, offices, storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.</p>
107	Services	Other - Services			<p>Other - Services refers to <i>buildings</i> in which primarily services are offered, but which does not fit into the personal services or repair services building activity type. Examples include kennels, photo processing shops, etc.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including sales floors, offices, storage areas, restrooms, staff break rooms, walkways, and stairwells.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
108	Utility	Energy/Power Station	7	<p>Energy/power station applies to <i>buildings</i> containing machinery and/or associated equipment for generating electricity or district heat (steam, hot water, or chilled water) from a raw fuel, including fossil fuel power plants, traditional district heat power plants, combined heat and power plants, nuclear reactors, hydroelectric dams, or facilities associated with a solar or wind farm.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including power generation areas (boilers, turbines, etc.), administrative space, cooling towers, kitchens used by staff, restrooms, lobbies, meeting rooms, cafeterias, stairways, elevator shafts, and storage areas (which may include fossil fuel storage tanks or bins).</p> <p>This is a <i>building</i> or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.</p>
109	Utility	Other - Utility	7	<p>Other - Utility applies to <i>buildings</i> used by a utility for some purpose other than general office or energy/power generation. This may include utility transfer stations or maintenance facilities. Note that an administrative office occupied by a utility should be entered as office, and a power or energy generation plant should be entered as energy/power station.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including administrative space, maintenance and equipment areas, generator rooms, kitchens used by staff, restrooms, lobbies, meeting rooms, stairways, elevator shafts, and storage areas.</p> <p>This is a <i>building</i> or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.</p>
110	Warehouse/ storage	Self-Storage Facility		<p>Self-storage facility refers to <i>buildings</i> that are used for private storage. Typically, a single self-storage facility will contain a variety of individual units that are rented out for the purpose of storing personal belongings.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including individual storage units, administrative offices, security and maintenance areas, mechanical rooms, hallways, stairways, and elevator shafts.</p>

	Building Activity Type ^{1,2}		Notes	Clean Buildings Performance Standard Definitions
111	Warehouse/ storage	Distribution Center		<p>Distribution center refers to unrefrigerated <i>buildings</i> that are used for the temporary storage and redistribution of goods, manufactured products, merchandise or raw materials. <i>Buildings</i> that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including space designed to store nonperishable goods and merchandise, offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.</p>
112	Warehouse/ storage	Nonrefrigerated Warehouse		<p>Nonrefrigerated warehouse refers to unrefrigerated <i>buildings</i> that are used to store goods, manufactured products, merchandise or raw materials. <i>Buildings</i> that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, including the main storage rooms, administrative offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.</p>
113	Warehouse/ storage	Refrigerated Warehouse		<p>Refrigerated warehouse refers to refrigerated <i>buildings</i> that are used to store or redistribute perishable goods or merchandise under refrigeration at temperatures below 50 degrees Fahrenheit (10 degrees Celsius). <i>Buildings</i> that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility.</p> <p><i>Gross floor area</i> should include all space within the <i>building</i>, which includes temperature controlled areas, administrative offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.</p>

Notes:

1. Select the most specific building activity type that applies.
2. Building activity types are defined by *AHJ* in Table 7-4.
3. All medical offices considered to be diagnostic type.
4. Must use of Section 7.2.3 method for mixed use *buildings*.
5. Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
6. This is a *building* or activity without an energy target. Included to provide definition only.
7. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.
8. Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory *building* activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 laboratory for an area weighted *EUI*.
9. Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the *EUI*. "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

AMENDATORY SECTION (Amending WSR 24-03-033, filed 1/8/24, effective 2/8/24)

WAC 194-50-160 Normative Annex Y—Washington state Tier 2 covered buildings reporting requirements—This is a normative annex and is part of the Tier 2 covered building requirements of this standard.

Y1 Building owner notifications by the AHJ.

Y1.1 Notification to building owners of covered buildings by the AHJ.

Based on records obtained from each county assessor and other available information sources, the *AHJ* must create a database of *covered buildings* and *building owners* required to comply with the standard established in accordance with this section. The database may include *buildings* and *building complexes* presumed to meet the definition of *covered building* and *multifamily residential buildings* greater than 20,000 square feet in floor area.

Y1.1.1 The database will contain information about *buildings* that may be subject to compliance and their owners. The database will also contain information to assist tracking and reporting on *building owner* compliance, and incentive application and distribution. Commerce will create a method for tracking *building owner* notification responses. Each *building* or *building complex* will be assigned a unique *building* identifier.

Y1.2 By July 1, 2025, the *AHJ* must provide the owners of *covered buildings* with notification of compliance requirements.

Y1.3 Failure by the *AHJ* to provide the notification in Section Y1.2 does not release the *building owner* of the legal obligation to comply with this law. When a *covered building* undergoes a change of ownership, it is the buyer's responsibility to contact the *AHJ* and update the *covered building's* profile.

Y2 Building owner response to notifications.

Y2.1 Correction of errors. *Building owners* are responsible for reviewing the property and *building* information provided by the *AHJ* through notification including, but not limited to, *building* or *building complex* ownership details, *gross floor area*, and other information as identified by the *building owner*.

Y2.1.1 Correction of errors documentation. *Building owners* who are notified in error may submit a correction to the *AHJ*. The correction will be used to document *gross floor area* (conditioned and unconditioned) and/or *building* type.

Y3 Washington state reporting requirements for building owners.

Y3.1 General compliance. The *building owner* of a *Tier 2 covered building* must report compliance with the standard to the *AHJ* in accordance with the compliance schedule established under Section Y3.2 and every five years thereafter. For each reporting date, the *building owner* must submit documentation to demonstrate that

1. The *weather normalized energy use intensity* of the *Tier 2 covered building* measured in a period not to exceed two years prior to the compliance deadline specified in Normative Annex Y, Section Y3.1 compared to the *energy use intensity target*; and has developed and is maintaining an energy management plan (*EMP*) in accordance with Section

5, including an operations and maintenance program (O&M) in accordance with Section 6; or

2. The covered building has received Tier 2 covered building conditional compliance from the AHJ; or

3. The covered building is exempt from the standard by demonstrating that the building meets one of the criteria for an exemption.

Y3.2 Compliance schedule. The building owner of a Tier 2 covered building must report the building owner's compliance with the standard to the AHJ in accordance with the appropriate initial compliance date as follows and every five years thereafter.

1. For a building with more than 20,000 gross square feet but less than 50,001 gross square feet and all multifamily residential buildings more than 20,000 gross square feet: July 1, 2027.

2. Covered buildings complying at a (~~campus-level or connected~~) grouped building level shall use the compliance schedule representing the largest covered building or the compliance schedule can be graduated through the conditional compliance provisions of the standard in accordance with individual covered buildings compliance schedules of Sections Z3.2, Y3.2, and W3.2. (~~Where the largest building is more than 50,000 gross square feet but less than 90,001 gross square feet: June 1, 2028.~~) Notify the AHJ a minimum of 180 days prior to the largest covered building's compliance date when complying at a grouped building level to update the covered building profile(s) and (your compliance deadline) when applicable, to apply for conditional compliance in accordance with Section Z4.4 or Z4.5.

Y3.2.1 Early compliance option. Building owners may submit for compliance to the AHJ beginning July 1, 2025. Energy use data for developing the net energy consumption of the covered building shall be measured in a period not to exceed two years prior to the submission of compliance documentation. This section expires June 1, 2027.

Y3.2.2 Application for Tier 2 covered building conditional compliance. Applications for Tier 2 covered building conditional compliance must be submitted to the AHJ prior to the compliance date to receive Tier 2 covered building conditional compliance approval.

1. Tier 2 covered building conditional compliance is valid for the EMP and O&M requirements of the standard.

2. Benchmarking is required and shall be reported in application for Tier 2 covered building conditional compliance. Approved applications will receive a revised compliance date of 180 days. Application for Tier 2 covered building conditional compliance is limited to one application per compliance cycle.

Y3.2.3 Application for exemption. Building owners submitting an application for exemption as specified in Section Y4.1 must submit to the AHJ no sooner than two years prior and no later than 180 days prior to the compliance date to receive exemption approval prior to the compliance date.

Y4 Documentation of compliance with the standard. Documentation of compliance shall be submitted to the AHJ demonstrating the building owner has complied with the standard through submission of documentation in accordance with Section Y4.1, Y4.2 or Y4.3.

Y4.1 Documentation of compliance through exemption. Building owners seeking approval of exemption shall submit to the AHJ Section Y6.7 Form H, "Application for Exemption Certificate," documenting the following:

1. **Exemption conditions.** The *building* qualifies for one of the exemptions listed in Y4.1(2), and:

a. **Exemption verification.** Compliance with the exemption must be verified by the owner based on the *building* as it is to be occupied and operating on the compliance date.

b. **Exemption application time frame.** Applications for exemptions may be submitted no sooner than two years prior to the compliance date and submitted to the *AHJ* no later than 180 days prior to the compliance date.

c. **Exemption certificate validity.** Exemptions certificates are only valid for the current compliance review cycle.

2. **Exemptions.** *Covered buildings* are not eligible for exemption from the standards unless they meet at least one of the following criteria:

a. **Certificate of occupancy.** The *building* did not have a certificate of occupancy or temporary certificate of occupancy for a consecutive 12-month period within two years prior to the compliance date.

b. **Physical occupancy.** The *building* did not have *physical occupancy* by owner or tenant for at least 50 percent of the conditioned floor area throughout the consecutive 12-month period prior to the *building* compliance date.

c. **Floor area.** The sum of the *building's* gross floor area minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, is less than 20,000 square feet.

d. **Manufacturing or industrial.** More than 50 percent of the gross floor area of the *building* is used for manufacturing or other industrial purposes, as defined under the following use designations of the Washington state edition of the International Building Code:

i. Factory group F; or

ii. High hazard group H.

e. **Agricultural.** The *building* is an *agricultural structure*.

f. **Demolition.** The *building* is pending demolition.

g. **Financial hardship.** The *building* meets at least one of the following conditions of financial hardship:

i. The *building* had arrears of property taxes or water or wastewater charges that resulted in the *building's* inclusion, within the prior two years, on a city or county's annual tax lien sale list.

ii. The *building* has a court-appointed receiver in control of the asset due to financial distress.

iii. The *building* is owned by a financial institution through default by a borrower.

iv. The *building* has been acquired by a deed in lieu of foreclosure within the previous 24 months.

v. The *building* has a senior mortgage subject to a notice of default.

vi. The *building* owner has an immediate and heavy financial need that cannot be satisfied from other reasonable available resources and that is caused by events that are beyond their control.

3. **Notification of exemption approved or denied.** After documents have been submitted and reviewed, the *AHJ* will send notification of approval or denial.

a. If the exemption is approved, the *AHJ* shall notify the applicant stating the application has been approved and update the *AHJ* records for the *building*.

b. If the exemption is denied, the *AHJ* shall notify the applicant stating the application has been denied and update the *AHJ* records for the *building*.

i. **Requesting hearing for denied exemption.** See Section Y5.7 Administrative hearings.

4. **Compliance required when exemption denied.** When an application for exemption is denied, the *building owner* must proceed with the process to demonstrate compliance with one of the compliance options in Washington state reporting requirements for *building owners* in Sections Y4.2 through Y4.5.

Y4.2 Benchmarking. *Building owners* must provide the following documentation to verify that the *building weather normalized EUI* is compared to the *building EUI_t* and that the energy management plan (*EMP*), including the operations and maintenance program (*O&M*) is complete and being implemented.

1. Form A;
2. Form B; except *buildings* unable to meet Section 7.2, Determining Energy Target (*EUI_t*);
3. Form C.

Y4.3 Buildings approved for Tier 2 covered building conditional compliance. *Building owners* seeking approval of *Tier 2 covered building conditional compliance* for the energy management plan (*EMP*), including the operations and maintenance (*O&M*) program shall submit to the *AHJ Tier 2 covered building conditional compliance* application along with the following documentation:

1. Form A;
2. Form B;
3. Form C.

Once *Tier 2 covered building conditional compliance* is approved:

4. Documentation to verify that the *EMP* and *O&M* is complete and being implemented must be submitted to the *AHJ* by the revised compliance date.

Y5. Violations, assessment of administrative penalties and review of penalty decisions.

Y5.1 Authorization. The *AHJ* is authorized to impose administrative penalties on *building owners* for failing to submit documentation demonstrating compliance with the requirements of this standard. Failure to submit documentation demonstrating compliance by the scheduled reporting date will result in penalties by legal notice.

Y5.2 Notice of violation, opportunity to correct, and intent to assess penalties (NOVCI).

Y5.2.1 Notifying owner of failure to demonstrate compliance. The *AHJ* may issue a NOVCI when a *building owner* has failed to submit documentation that demonstrates compliance with this standard by the scheduled reporting date.

Y5.2.2 Issuing NOVCI. A NOVCI may be issued for any of the following reasons:

1. Failure to submit a compliance report in the form and manner prescribed by the *AHJ*.
2. Failure to submit compliance report by the revised compliance date after receiving *Tier 2 covered building conditional compliance* approval.
3. Failure to provide accurate reporting consistent with the requirements of the standard.
4. Failure to provide a valid exemption certificate.

Y5.2.3 Identifying failure to demonstrate compliance. The *AHJ* will identify in the NOVCI the section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance.

Y5.2.4 Specifying time frame to remedy. The NOVCI will specify the time by which the *building owner* must cure the violation by submitting documentation that demonstrates compliance with the identified section(s) of law, code, or the standard. The *AHJ* will give the *building owner* at least 30 calendar days to submit such documentation.

Y5.3 Response to NOVCI.

Y5.3.1 Responding to NOVCI. *Building owners* must respond to a NOVCI within 30 days by meeting one of the following:

1. **Compliance:** Submitting a compliance report in the form and manner prescribed by the *AHJ*.
2. **Exemption:** Submitting an application for exemption in accordance with Section Y4.1 Documentation of compliance through exemption, if applicable;
3. **Tier 2 Covered building conditional compliance:** Submitting a *Tier 2 covered building conditional compliance* application in accordance with Section Y4.3 Buildings approved for Tier 2 covered building conditional compliance;
4. **Pay penalties:** Submitting their intent to pay the penalties by using the form provided by the *AHJ*; or
5. **Request hearing:** Submitting a request for an administrative hearing to challenge or mitigate the penalty in accordance with Section Y5.7 Administrative hearings.

Y5.3.2 Missing NOVCI response deadline. If the *building owner* does not respond within 30 days in accordance with Section Y5.3.1 Responding to the NOVCI, the *building owner* waives their right to a hearing, and the *director* or their designee may issue a final order assessing the penalties described in the NOVCI.

Y5.4 Assessment of administrative penalties.

Y5.4.1 Penalties for building owners. Failure to submit documentation demonstrating compliance with the standard by the date specified in a NOVCI will result in the assessment of administrative penalties at an amount not to exceed \$0.30 per square foot of *gross floor area*.

Y5.4.1.1 Penalties for building owners pursuing relief. For *building owners* subject to a NOVCI who respond within 30 days:

1. **With documentation demonstrating compliance or successful challenges.** For *building owners* that submit documentation demonstrating compliance or are successful in their challenges:
 - a. Fines shall be waived.
 - b. *Building owners* may be eligible to apply for early adopter incentive program.
2. **Without compliance documentation or unsuccessful challenges.** For *building owners* that have not submitted documentation demonstrating compliance by deadline or *Tier 2 covered building conditional compliance* deadline, or have an unsuccessful challenge:
 - a. The Tier 2 *building owner* will be assessed the maximum penalty of amount equal to \$0.30 per square foot of *gross floor area*.
 - b. *Building owners* may not be eligible to apply for early adopter incentive program.
 - c. The *AHJ* may by rule increase the penalty rates to adjust for the effects of inflation.

Y5.4.1.2 Building owners that choose to pay the fine rather than pursuing compliance. *Building owners* may choose to respond to the NOVCI by paying the maximum penalty.

1. The Tier 2 *building owner* will be assessed the maximum penalty of \$0.30 per square foot of *gross floor area*.

2. *Building owners* may not be eligible to apply for early adopter incentive program.

3. Penalties are assessed for each compliance period.

Y5.4.2 Interest. Interest will accrue on civil penalties pursuant to RCW 43.17.240 if and when the debt becomes past due.

Y5.5 Due date and collection of penalties.

Y5.5.1 Penalties due. Penalties shall become due and payable on the later of:

1. Thirty days after receipt of the final order imposing the penalty; or

2. The date specified in the final order imposing the penalty.

Y5.5.2 Debt collection. If a penalty has not been paid by the due date, the *AHJ* may assign the debt to a collection agency as authorized by RCW 19.16.500 or take other action to pursue collection as authorized by law. If referred to a collection agency, the *AHJ* may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee.

Y5.6 Payment of administrative penalties. Penalties will be payable in U.S. funds to the Washington state department of commerce, as specified by the *AHJ*.

Y5.7 Administrative hearings.

Y5.7.1 Requesting a hearing. A *building owner* may request an administrative hearing after receiving a NOVCI or after the denial of their application for an exemption by submitting a request within 30 days of the date of a NOVCI or the denial of a timely application for exemption. All requests must be made in writing and filed at the address specified on the NOVCI. For convenience, the *AHJ* will attach a form titled "Request for Hearing" to the NOVCI that may be used to request an administrative hearing. Requests for hearing must be accompanied by the following:

1. Washington state *building ID*;

2. Submitted Annex Y Forms A, B, and C.

Y5.7.2 Hearing process. The *AHJ* may refer matters to the office of administrative hearings (OAH). Administrative hearings will be conducted in accordance with chapter 34.05 WAC, Administrative Procedure Act, chapter 10-08 WAC, Model rules of procedure, and the procedural rules adopted in this chapter. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this section, the procedural rules adopted in this section take precedence.

Y5.7.3 Initial orders to become final orders. Initial orders issued by the presiding officer will become final without further agency action unless, within 20 days,

1. The *director* determines that the initial order should be reviewed; or

2. A party to the proceeding files a petition for administrative review of the initial order.

Upon occurrence of either event, notice shall be given to all parties to the proceeding.

Y5.7.4 Judicial review. A final order entered pursuant to this section is subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.

Y5.7.5 Collected penalties. Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030 and reinvested into the clean buildings program, where feasible, to support compliance with the standard.

Y6 Compliance forms. The following sections replace Standard 100, Normative Annex C, "Reporting Forms," and provide additional forms specified by rule. *Building owners* are required to submit the applicable forms and the required supporting information to demonstrate compliance with the standard. These forms replace all referenced forms in this standard. The *AHJ* will make these forms available in an electronic format for submission to the *AHJ*.

Y6.1 Compliance with Standard 100 (Form A).

Note: For grouped buildings, use Grouped Buildings Compliance with Standard 100 (Form J), instead of Form A.

1. *Building* identification:
 - a. ((WA)) Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State;
 - k. Postal code.
2. Contact information:
 - a. *Building owner* name(s);
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State/province;
 - g. Country;
 - h. Postal code;
 - i. Telephone number;
 - j. Email address.
3. *Qualified person* (if applicable):
 - a. *Qualified person* name;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State;
 - f. Postal code;
 - g. Telephone number;
 - h. Email address;
 - i. Licensed, certified (select all that apply):
 - i. Licensure; or
 - ii. Certifying authority.

4. *Qualified energy manager* (if not the *qualified person*):
 - a. *Qualified energy manager* name;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State/province;
 - f. Postal code;
 - g. Country;
 - h. Telephone number;
 - i. Email address;
 - j. *Qualified energy manager* certification number.
5. *Energy manager* (if different than the *qualified person* or *qualified energy manager*):
 - a. *Energy manager* name;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State/province;
 - f. Postal code;
 - g. Country;
 - h. Telephone number;
 - i. Email address.
6. Summary data:
 - a. *Energy use intensity target* (EUI_t) (kBtu/ft²/yr) based on completed Section Y6.2 Form B;

Note: *Buildings* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site EUI target as calculated by the Energy Star portfolio manager account and reported on Form C.

 - b. Measured site EUI (kBtu/ft²) for the compliance year for this *building* based on Section Y6.3 Form C;
 - c. Measured *weather normalized* site EUI (kBtu/ft²) for the compliance year based on Section Y6.3 Form C;
 - d. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *building* from Section Y6.3 Form C;
 - e. *Buildings* unable to comply with Section 5.2, building energy monitoring, and complete Section Y6.3 Form C, shall provide a reason statement.
7. Have the energy management requirements of Section 5 been met?
 Yes No
 - Upload energy management plan as specified by the AHJ.
8. Have the operation and maintenance requirements of Section 6 been met? Yes No
 - Upload operation and maintenance implementation documentation as specified by the AHJ.
9. Date the audit and economic evaluation was completed (N/A if none required)
 - Upload audit reports as specified by Section Y6.4 Form D.
10. We state that this *building* complies with ANSI/ASHRAE/IES Standard 100 as amended by the AHJ to conform with RCW 19.27A.210:
 - a. Signature of *building owner*:
 - Date:
 - b. Signature of *qualified energy manager* or *qualified person*:
 - Date:
 - c. Signature of *energy manager*:
 - Date:
 - d. Signature of *authority having jurisdiction*:
 - Conditional or final compliance:

- Date:

Y6.2 Building activity and energy use intensity target (EUI_t) (Form

B). Complete form provided by the AHJ with the following information:

1. *Building* identification:
 - a. Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State;
 - k. Postal code.
2. List the *building* location climate zone, 4C or 5B. Determine the climate zone using the ASHRAE climate zone map located in Informative Annex G.
 - a. *Buildings* located in Climate Zone 5C shall use Climate Zone 4C.
 - b. *Buildings* located in Climate Zone 6B shall use Climate Zone 5B.
3. The *gross floor area* in square feet shall be reported as defined in Section 3.
4. If entire *building* is a nontarget building, a single (~~activity/type~~) building activity type not listed in Table 7-1, it should be listed as "*building* without target" on Section Y6.1 Form A. List "energy target" as "N/A" on Section Y6.2 Form B, and Section Y6.2 Form B is considered complete.
5. Fill in fraction of *gross floor area* (A)_{*i*} for each activity. For single-activity *buildings* this is 1.0.
6. Fill in the operating shifts normalization factor (S)_{*i*} from Table 7-3 for each activity.
7. Fill in the activity energy target (EUI_{t1})_{*i*} from Table 7-2 (or table from AHJ) for each activity.
8. Calculate weighted space *EUI* target ($A \times S \times EUI_{t1}$)_{*i*} for each activity.
9. Add up fraction of floor area and enter sum in "Total fraction of floor area with target," and add up all weighted space *EUI* targets and enter sum as the "energy target" on Sections Y6.2 and Y6.1 Forms B and A.
10. If more than 50 percent of *gross floor area* has no target, it should be listed as "*building* without target" on Section Y6.1 Form A. List "energy target" as "N/A" on Section Y6.2 Form B. For single-activity *buildings* this is 1.0.

Y6.3 Energy use intensity calculations (Form C). *Energy use intensity* calculations shall be reported via the U.S. EPA's ENERGY STAR portfolio manager (www.energystar.gov/benchmark). The *energy manager* is responsible for creating Energy Star portfolio manager record for each *building*.

Exception to Y6.3: *Buildings* unable to comply with Section 5.2, building energy monitoring shall demonstrate compliance at the *connected buildings* level.

The Energy Star portfolio manager *building* record shall be identical to the *building* activity/type, fraction floor area, operating shifts (hours of operation), and *gross floor area* of the *building* as reported on Form B. All inputs shall be up to date prior to reporting as required in Section Y4, and annually as required in Section 5.1.2.3.

Prior to submitting reports, run the Energy Star portfolio manager data quality checker and make all corrections required to complete the report.

The *energy manager* shall use the EPA's Energy Star portfolio manager share properties feature and share the property data with the AHJ by enabling the read-only access and exchange data feature.

For each report submitted under Section Y4, the *energy manager* shall create and submit a report documenting the required data fields listed (below) and other fields deemed necessary by the AHJ for the reporting period. (~~This shall be submitted using the Washington state report specified in Energy Star portfolio manager.~~)

Report fields shall include the following:

- Portfolio manager property ID;
- Portfolio manager parent property ID;
- Property name;
- Parent property name;
- Address 1;
- Address 2;
- City;
- County;
- State/Province;
- Postal Code;
- Primary property type - Self-selected;
- Primary property type - EPA calculated;
- List of all property use types at property;
- Property GFA - Self-reported (ft²);
- Property GFA - EPA calculated (*buildings* and parking) (ft²);
- Property GFA - EPA calculated (*buildings*) (ft²);
- Property GFA - EPA calculated (parking) (ft²);
- Largest property use type;
- Largest property use type - *Gross floor area* (ft²);
- 2nd Largest property use type;
- 2nd Largest property use - *Gross floor area* (ft²);
- 3rd Largest property use type;
- 3rd Largest property use type - *Gross floor area* (ft²);
- Year built;
- Occupancy;
- Property notes;
- Property data administrator;
- Property data administrator - Email;
- Last modified date - Property;
- Last modified date - Electric meters;
- Last modified date - Gas meters;
- Last modified date - Nonelectric nongas energy meters;
- Local standard ID(s) Washington state building standard;
- Data center - Energy estimates applied;
- Electricity use - Grid purchase and generated from on-site renewable systems (kWh);
- Electricity use - Grid purchase (kWh);

- Electricity use - Generated from on-site renewable systems and used on-site (kWh);
- Natural gas use (therms);
- Fuel oil #1 use (kBtu);
- Fuel oil #2 use (kBtu);
- Fuel oil #4 use (kBtu);
- Fuel oil #5 and #6 use (kBtu);
- Diesel #2 use (kBtu);
- Kerosene use (kBtu);
- Propane use (kBtu);
- District steam use (kBtu);
- District hot water use (kBtu);
- District chilled water use (kBtu);
- Coal - Anthracite use (kBtu);
- Coal - Bituminous use (kBtu);
- Coke use (kBtu);
- Wood use (kBtu);
- Other use (kBtu);
- Default values;
- Temporary values;
- Estimated data flag - Electricity (grid purchase);
- Estimated data flag - Natural gas;
- Alert - Data center does not have an IT meter;
- Alert - *Gross floor area* is 0 ft²;
- Alert - Property has no uses;
- Data quality checker - Date run;
- Data quality checker run - ?;
- Alert - Energy meter has less than 12 full calendar months of data;
- Alert - Energy meter has gaps;
- Alert - Energy meter has overlaps;
- Alert - Energy - No meters selected for metrics;
- Alert - Energy meter has single entry more than 65 days;
- Estimated values - Energy;
- Energy Star score;
- National median *site energy* use (kBtu);
- *Site energy* use (kBtu);
- *Site EUI* (kBtu/ft²);
- *Weather normalized site energy* use (kBtu);
- *Weather normalized site EUI* (kBtu/ft²);
- *Weather normalized site electricity* (kWh);
- *Weather normalized site electricity intensity* (kWh/ft²);
- *Weather normalized site natural gas use* (therms);
- *Weather normalized site natural gas intensity* (therms/ft²) energy current date;
- Electricity use - Generated from on-site renewable systems (kWh);
- Electricity use - Generated from on-site renewable systems and exported (kWh);
- Electricity Use - Grid purchase and generated from on-site renewable systems (kBtu);
- Electricity use - Grid purchase (kBtu);
- Electricity use - Generated from on-site renewable systems and used on site (kBtu);
- Natural gas use (kBtu);

- Percent of total electricity generated from on-site renewable systems;
- Cooling degree days (CDD) (°F);
- Heating degree days (HDD) (°F);
- Weather station name;
- Weather station ID.

Y6.4 Energy Audit Forms (Form D). Not applicable for *Tier 2 covered buildings*.

Form E. Not adopted.

Y6.5 Normative Annex X, Investment Criteria Tool (Form F). Not applicable for *Tier 2 covered buildings*.

Y6.6 Documentation of a building of historic significance (Form G). Not applicable for *Tier 2 covered buildings*.

Y6.7 Application for exemption certificate (Form H). Apply for an exemption certificate by submitting the following documentation in the form specified by the AHJ. The application must include the following:

1. *Building* identification:
 - a. Washington state *building* ID;
 - b. County;
 - c. County parcel number(s);
 - d. Portfolio manager property ID number;
 - e. Property name;
 - f. Parent property name;
 - g. Address 1 (street);
 - h. Address 2;
 - i. City;
 - j. State;
 - k. Postal code.
2. Contact information:
 - a. *Building* owner name(s);
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State/Province;
 - g. Country;
 - h. Postal code;
 - i. Telephone number;
 - j. Email address.
3. *Building* information:
 - a. Primary *building* activity type from Table 7-1, or a description of the (~~nonlisted~~) nontarget *building* type;
 - b. *Building* gross floor area;
 - c. *Building* gross conditioned floor area.
4. Reason for exemption: Based on exemptions listed in Section Y4.1(b). A list all of documents enclosed and any facts in support of this application. Provide at least two of the acceptable documents listed below:
 - a. Municipal or county records;
 - b. Documents from a *qualified person*;
 - c. Construction permit;
 - d. Certificate of occupancy or application for certificate of occupancy;
 - e. Demolition permit;

f. Financial statements such as statement of assets; liabilities, capital, and surplus, statement of revenue and expenses; or statement of cash flow;

g. A letter from the *building owner* stating facts and explaining financial hardships;

h. Other documentation approved by the AHJ.

5. Signature and statement of *building owner* stating that the authorized representative of the *building* affirm and attest to the accuracy, truthfulness, and completeness of the statements of material fact provided in this form.

Y6.8 Grouped Buildings Compliance with Standard 100 (Form J).

1. Grouped buildings identification:

a. Washington state grouped buildings ID;

b. County;

c. County parcel number(s);

d. Portfolio manager property ID number;

e. Property name;

f. Parent property name;

g. Address 1 (street);

h. Address 2;

i. City;

j. State;

k. Postal code.

2. Contact information:

a. Grouped buildings owner name(s);

b. Contact name;

c. Address 1 (street);

d. Address 2;

e. City;

f. State/province;

g. Country;

h. Postal code;

i. Telephone number;

j. Email address.

3. Qualified person:

a. Qualified person name;

b. Address 1 (street);

c. Address 2;

d. City;

e. State;

f. Postal code;

g. Telephone number;

h. Email address;

i. Licensed, certified (select all that apply):

i. Licensure; or

ii. Certifying authority.

4. Energy manager (if different than the qualified person):

a. Energy manager name;

b. Address 1 (street);

c. Address 2;

d. City;

e. State/province;

f. Postal code;

g. Country;

h. Telephone number;

i. Email address.

5. Decarbonization plan author, where applicable:

- a. Company name;
- b. Contact name;
- c. Address 1 (street);
- d. Address 2;
- e. City;
- f. State;
- g. Postal code;
- h. Telephone number;
- i. Email address.

6. This compliance report is for:

- a. Grouped buildings that meet the EUI_t ;
 - b. Grouped buildings that meet the investment criteria prior to the compliance date;
 - c. Grouped buildings that will meet the EUI_t through conditional compliance;
 - d. Grouped buildings that will meet the investment criteria through conditional compliance;
 - e. Annual reporting for conditional compliance;
 - f. Progress reporting for decarbonization plan;
 - g. Completion reporting.
7. Summary data:
- a. Energy use intensity target (EUI_t) (kBtu/ft²/yr) based on completed Section Z6.2 Form B;

Note: Baseline WNEUI for grouped buildings that will meet investment criteria through conditional compliance.

- b. Measured site EUI (kBtu/ft²) for the compliance year for grouped buildings based on Section Z6.3 Form C;
- c. Grouped buildings without an energy target;

Notes:

- 1. Predicted site EUI for grouped buildings that will meet the EUI_t or investment criteria through conditional compliance.
- 2. Grouped buildings unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site EUI as calculated by the Energy Star portfolio manager account and reported on Form C.

- d. Grouped buildings measured weather normalized site EUI (kBtu/ft²) for the compliance year based on Section Z6.3 Form C;
- e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this grouped buildings from Section Z6.3 Form C;
- f. Grouped buildings applying for conditional compliance through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:

- Baseline EUI_t ;
- Projected EUI_t ;

Note: Not applicable to decarbonization plan.

- g. Grouped buildings applying for conditional compliance through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:

- Baseline total kBtu;
- Projected total kBtu;
- Projected savings total kBtu;

Note: Not applicable to decarbonization plan.

- 8. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for Tier 1 covered buildings, Section Y3.2 for Tier 2 covered buildings, and for campuses participating in the decarbonization plan by

July 1, 2030, for buildings not covered, but connected to the district energy system? Yes No

• Upload energy management plan as specified by the AHJ.

9. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for Tier 1 covered buildings, Section Y3.2 for Tier 2 covered buildings, and for campuses participating in the decarbonization plan by July 1, 2030, for buildings not covered, but connected to the district energy system? Yes No

• Upload operation and maintenance implementation documentation as specified by the AHJ.

10. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Section Z6.4 Form D.

11. Have all EEMs required by Section 8 been implemented? Yes No

12. Have the requirements of Section 9 been completed? Yes

No

13. We state that these grouped buildings comply with ANSI/ASHRAE/IES Standard 100 as amended by the AHJ to conform with RCW 19.27A.210:

a. Signature of grouped buildings owner:

• Date:

b. Signature of qualified energy manager or qualified person:

• Date:

c. Signature of energy manager:

• Date:

d. Signature of authority having jurisdiction:

• Conditional or final compliance:

• Date:

((Y3)) Y7. Section 7—Tables as modified by Washington state.

See Normative Annex Z - Washington State Reporting Requirements for:

• **Table 7-1 Building Activity Types/Activities**

• **Table 7-2a Building Activity Site Energy Targets (EUI_{t1}) (I-P Units)**

• **Table 7-3 Building Operating Shifts Normalization Factor**

• **Table 7-4 Building Activity Type Definitions Table**

NEW SECTION

WAC 194-50-170 Normative Annex W—Washington state participating campus district energy system decarbonization plan general compliance and reporting requirements—This is a normative annex and is part of the district energy systems decarbonization requirements of this standard.

W1. Building owner notifications to the AHJ.

W1.1 Notification to the AHJ by participating campus owners with a district energy system. By June 30, 2024, owner or owner's designated representative of a *state campus district energy system* shall notify the AHJ that they are developing a *decarbonization plan*. Designated representatives of a *campus district energy system* may submit to the AHJ a request to opt-in to the *decarbonization plan* process. *Partici-*

participating campuses must comply with all of the *decarbonization plan* requirements in accordance with Normative Annex W.

Provide the following information to the AHJ:

For *participating campus*:

- State agency name or owner organization name;
- Agency or owner organization mailing address;
- *Campus* name;
- *Campus* owner name;
- Main point of contact: Name, email, phone;
- *District energy system* utility name and whether they are publicly or privately owned.

For each *building* connected to the *district energy system*:

- *Building* name and associated *gross floor area (GFA)*;
- Address;
- Parcel number;
- Commerce *building* ID - where applicable.

W2. AHJ reporting.

W2.1 Summary report. The AHJ must provide a summary report on the *decarbonization plans* required to decarbonize *district energy systems* in accordance with the clean buildings performance standard (CBPS) and Normative Annex W to the Governor and the appropriate committees of the legislature by December 1, 2025. The AHJ's report may include *campuses* that fail to submit a *decarbonization plan* or fail to comply with the requirements, including the implementation schedule defined within the plan.

W3. Washington state reporting requirements for participating campus district energy systems.

W3.1 General compliance.

W3.1.1 District energy system decarbonization plan requirements: By June 30, 2025, the owner of a *participating campus* must develop a *district energy system decarbonization plan* to provide a strategy for up to 15 years and submit it to the AHJ. The AHJ may approve a *decarbonization plan* that is based on an implementation schedule longer than 15 years.

The *decarbonization plan* must include:

1. **Decarbonization:** Mechanisms to replace fossil fuels in the *district energy system* heating plants to provide 100 percent of the *campus* design load, including a schedule for replacement:
 - a. A *campus* with a *district energy system* providing cooling only shall evaluate:
 - i. Addition of a *district energy system* heating plant, in compliance with Normative Annex W;
 - ii. Mechanisms to replace fossil fuels of the heating systems at the building-level;
 - b. A *campus* with a *district energy system* providing cooling only may extend compliance schedule in accordance with Section W3.2, where decarbonization of the *campus* heating system is pursued in accordance with Section W3.1.1(1) (a);

Exceptions to W3.1.1(1):

1. Fossil fuel or electric resistance sources may account for a maximum of 10 percent of:
 - a. A *district energy system* heating plant's annual output; or
 - b. Building-level heating system output when complying in accordance with Section W3.1.1(1) (b).

2. Decommissioning of the *district energy system* heating plant is an acceptable alternative if a life cycle cost analysis demonstrates implementation of decarbonized heating systems at the building-level saves more energy and is more cost-effective over the life of the measure, in accordance with Normative Annex X. If decarbonizing by decommissioning the *district energy system* heating plant, provide the following:

a. *Decarbonization plan* representing implementation of decarbonized heating systems at the building-level in lieu of decarbonization of the *district energy system's* heating plant, in accordance with Normative Annex W.

b. Life cycle cost analysis (LCCA), evaluating implementation of decarbonized heating systems at the building-level vs. decarbonization of the *district energy system* heating plant, in accordance with Normative Annex W.

c. Evaluation of potential beneficial and cost-effective use of existing distribution system.

2. **Waste heat and cooling:** An evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;

3. **Expansion:** An examination of opportunities to add *buildings* or other facilities to the *district energy system* once it is decarbonized, a strategy to incentivize growth of a decarbonized system, and requirements for facilities joining the system;

4. **CBPS performance metric:** An evaluation, prioritization, and scheduled plan for meeting the requirements of Sections 4.1 and 4.3 for the *campus*.

a. When a *decarbonization plan* is fully implemented, the *campus* shall meet the requirements of Section 4.3.

5. **CBPS EMP and O&M program:** Compliance with the requirements of Section 4.2 in accordance with the compliance schedule of Z3.2, Y3.2, and W3.2 as applicable for all *buildings* connected to the *campus*. The requirements of Section 4.2 shall apply to all *buildings* connected to the *campus*.

W3.1.2 Recommended district energy system decarbonization plan considerations: *Participating campuses* are encouraged to include the following considerations in a *decarbonization plan*:

1. Distribution network upgrades;
2. On-site energy storage facilities;
3. Space cooling for residential facilities;
4. Labor and workforce, including state registered apprenticeship utilization;
5. Options for public-private partnerships;
6. Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

W3.1.3 Utility engagement: *Participating campuses* must consult with the electric utility and the natural gas utility serving the site of the system during *decarbonization plan* development.

W3.2 Compliance Schedule. *Participating campuses* must:

1. **Develop decarbonization plan:** Begin developing a *decarbonization plan* by June 30, 2024, in accordance with the reporting requirements of Section W1.1.

2. **Final decarbonization plan:** Submit a final *decarbonization plan* to the AHJ by June 30, 2025, in accordance with the reporting requirements of Sections W3.1.1 and W4.1.

3. Energy management plan and operations and maintenance program:

Submit EMP and O&M in accordance with compliance schedule in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and by July 1, 2030, for *buildings not covered*, connected to the *district energy system*.

4. Decarbonization plan progress reports: Every five years after June 30, 2025, until full implementation of the *decarbonization plan* and compliance with the standard has been met, *decarbonization plans* must be resubmitted by July 1st, along with a progress report including revisions to the implementation of the *decarbonization plan*, to the *AHJ* in accordance with Section W4.2. A *campus* with a *district energy system* providing cooling only, which does not decarbonize their heating systems, is required to submit completion reporting in lieu of progress reporting by July 1, 2030.

5. Completion reporting: Upon full implementation of *decarbonization plan* and compliance with the standard, submit completion report by July 1, 2040, or the alternatively approved *decarbonization plan* completion date to the *AHJ*, in accordance with Sections W4.3 through W4.5, as applicable. A *campus* with a *district energy system* providing cooling only, which does not decarbonize their heating systems, shall submit completion reporting by July 1, 2030, or the alternatively approved *decarbonization plan* completion date to the *AHJ*, in accordance with Sections W4.3 through W4.5, as applicable.

W3.2.1 Decarbonization plan review and evaluation: Upon submittal to the *AHJ*, *decarbonization plans* will be reviewed and approved by the *AHJ* in accordance with Normative Annex W. The *AHJ* may ask for a *decarbonization plan* to be revised and resubmitted if it does not meet standards as determined by the *AHJ*.

W4. Performance standard compliance reporting through decarbonization plan.

W4.1 Decarbonization plan reporting. *Participating campus* owners must provide a final *decarbonization plan*.

- *Decarbonization plan*;
- Form J;
- Form K;
- Form B;
- Form C;
- Form D, as applicable;
- Form F, as applicable.

W4.2 Decarbonization plan progress reporting. *Participating campus* owners must provide status updates and revised *decarbonization plans* until *decarbonization plan* is fully implemented. A minimum of one energy management plan (EMP) must be completed and the operations and maintenance program (O&M) must be implemented for the *campus*.

- Revised *decarbonization plan*;
- Status updates;
- Identify any revisions to *decarbonization plan*;
- Form J;
- Form K;
- Form B;
- Form C;
- Form D, as applicable and if revised;
- Form F, as applicable and if revised.

W4.3 Documentation of exempt buildings connected to a district energy system. There are no exemptions for a whole *campus*. *Participating campus* owners seeking approval of *building* exemption shall submit to the AHJ Form H, "Application for Exemption Certificate," in accordance with Section Z6.7 for *Tier 1 covered buildings* or Section Y6.7 for *Tier 2 covered buildings*.

W4.4 Campus that meets the EUI_t through the decarbonization plan. *Participating campus* owners must provide the following documentation to verify that the *campus weather normalized EUI* is less than the *campus EUI_t* and that a minimum of one energy management plan (EMP) must be completed and the operations and maintenance program (O&M) must be implemented for the *campus*.

- *Decarbonization plan*;
- Form J;
- Form K;
- Form B;
- Form C;
- Form F, when complying with the *decarbonization plan* through decommissioning in accordance with Section W3.1.1 Exception 2.

W4.5 Campus that meets the investment criteria through the decarbonization plan. *Participating campus* owners must provide the following documentation to verify that the *campus* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The cost-effectiveness criteria does not apply to the decarbonization of the *district energy system* heating plant. The energy management plan (EMP) must be completed and the operations and maintenance program (O&M) must be implemented for the *campus*, and all *EEMs* must be installed and commissioned, prior to the approved *decarbonization plan* implementation schedule.

- *Decarbonization plan*;
- Form J;
- Form K;
- Form B;
- Form C;
- Form D;
- Form F.

W5. Assessment of administrative penalties.

W5.1 Issuing NOVC. The AHJ may issue a NOVC in accordance with Sections Z5 and Y5, when a *building owner* has failed to submit a *decarbonization plan*, approved by the AHJ, and has not met the requirements of this standard. Approved *decarbonization plans* extend Normative Annexes Z and Y compliance deadlines to the schedule specified in the approved *decarbonization plan*. Progress reporting submitted in accordance with Section W4.2, is required to maintain deadline extension and avoid penalty.

W6. Compliance forms.

W6.1 Grouped Buildings Compliance with Standard 100 (Form J).

Note: Grouped Buildings Compliance with Standard 100 (Form J) is used instead of Form A for *grouped buildings*.

1. *Grouped buildings* identification:
 - a. Washington state *grouped buildings* ID;
 - b. County;

- c. County parcel number(s);
- d. Portfolio manager property ID number;
- e. Property name;
- f. Parent property name;
- g. Address 1 (street);
- h. Address 2;
- i. City;
- j. State;
- k. Postal code.
- 2. Contact information:
 - a. *Grouped buildings owner name(s)*;
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State/province;
 - g. Country;
 - h. Postal code;
 - i. Telephone number;
 - j. Email address.
- 3. *Qualified person*:
 - a. *Qualified person name*;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State;
 - f. Postal code;
 - g. Telephone number;
 - h. Email address;
 - i. Licensed, certified (select all that apply):
 - i. Licensure; or
 - ii. Certifying authority.
- 4. *Energy manager* (if different than the *qualified person*):
 - a. *Energy manager name*;
 - b. Address 1 (street);
 - c. Address 2;
 - d. City;
 - e. State/province;
 - f. Postal code;
 - g. Country;
 - h. Telephone number;
 - i. Email address.
- 5. *Decarbonization plan author*, where applicable:
 - a. Company name;
 - b. Contact name;
 - c. Address 1 (street);
 - d. Address 2;
 - e. City;
 - f. State;
 - g. Postal code;
 - h. Telephone number;
 - i. Email address.
- 6. This compliance report is for:
 - a. *Grouped buildings* that meets the EUI_t ;
 - b. *Grouped buildings* that meets the investment criteria prior to the compliance date;

- c. *Grouped buildings* that will meet the EUI_t through *conditional compliance*;
- d. *Grouped buildings* that will meet the investment criteria through *conditional compliance*;
- e. Annual reporting for *conditional compliance*;
- f. Progress reporting for *decarbonization plan*;
- g. Completion reporting.
7. Summary data:
- a. *Energy use intensity target* (EUI_t) (kBtu/ft²/yr) based on completed Section Z6.2 Form B;
- Note:** *Baseline WNEUI* for *grouped buildings* that will meet investment criteria through *conditional compliance*.
- b. Measured site *EUI* (kBtu/ft²) for the compliance year for *grouped buildings* based on Section Z6.3 Form C;
- c. *Grouped buildings* without an energy target;
- Notes:**
1. Predicted site *EUI* for *grouped buildings* that will meet the EUI_t or investment criteria through *conditional compliance*.
 2. *Grouped buildings* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.
- d. *Grouped buildings* measured *weather normalized site EUI* (kBtu/ft²) for the compliance year based on Section Z6.3 Form C;
- e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *grouped buildings* from Section Z6.3 Form C;
- f. *Grouped buildings* applying for *conditional compliance* through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:
- *Baseline EUI*;
 - *Projected EUI*;
- Note:** Not applicable to *decarbonization plan*.
- g. *Grouped buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:
- *Baseline total kBtu*;
 - *Projected total kBtu*;
 - *Projected savings total kBtu*;
- Note:** Not applicable to *decarbonization plan*.
8. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [] Yes [] No
- Upload energy management plan as specified by the AHJ.
9. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [] Yes [] No
- Upload operation and maintenance implementation documentation as specified by the AHJ.
10. Date the audit and economic evaluation was completed (N/A if none required).
- Upload audit reports as specified by Section Z6.4 Form D.
11. Have all *EEMs* required by Section 8 been implemented? [] Yes [] No

12. Have the requirements of Section 9 been completed? [] Yes
[] No

13. We state that these *grouped buildings* comply with ANSI/ASHRAE/IES Standard 100 as amended by the AHJ to conform with RCW 19.27A.210:

- a. Signature of *grouped buildings owner*:
 - Date:
- b. Signature of *qualified person*:
 - Date:
- c. Signature of *energy manager*:
 - Date:
- d. Signature of *authority having jurisdiction*:
 - Conditional or final compliance:
 - Date:

W6.2 Building activity and energy use intensity target (EUI_t) (Form B). See Section Z6.2.

W6.3 Energy use intensity calculations (Form C). See Section Z6.3.

W6.4 End use analysis requirements. *Building owners* shall demonstrate compliance with Form D by providing the documentation required by Section Z6.4.1 for all *Tier 1 covered buildings* of *campuses* pursuing compliance through the investment criteria.

W6.5 Normative Annex X, "Investment Criteria," Tool (Form F). See Section Z6.5 for all *Tier 1 covered buildings* of *campuses* pursuing compliance through the investment criteria.

W6.6 Documentation of a building of historic significance (Form G). See Section Z6.6.

W6.7 Application for exemption certificate (Form H). See Section Z6.7 for *Tier 1 covered buildings* or Section Y6.7 for *Tier 2 covered buildings*.

W6.8 Decarbonization plan reporting requirements (decarbonization plan content outline) (Form K).

1. **This decarbonization plan report is for:**

- a. Final *decarbonization plan* submittal [] Yes [] No
- b. Progress reporting [] Yes [] No
- c. Completion reporting [] Yes [] No

2. **Decarbonization project scope of work:**

- a. Summary of existing *district energy system* and *campus* layout including:
 - i. List of all *buildings* served by the *district energy system*;
 - ii. List of all *buildings* served by the *district energy system* heating and/or cooling plant, peak load;
 - iii. Description of current *district energy system* including, but not limited to, heating and cooling system type(s), configuration(s), output capacity(ies), thermal distribution loop(s);
 - iv. Energy monitoring (*benchmarking*):
 - Identification of current *benchmarking* configuration:
 - *Campus* [] Yes [] No
 - *Connected building* [] Yes [] No
 - *Campus-level* [] Yes [] No
 - v. *Energy use intensity target (EUI_t)* (kBtu/ft²/yr) based on completed Section Z6.2;

Form B Note: *Baseline WNEUI for decarbonization plans* that will meet investment criteria through *conditional compliance*.

- vi. Measured site *EUI* (kBtu/ft²) for the identified *benchmarking* configuration at time of *decarbonization plan* submittal based on Section Z6.3 Form C;
- b. Proposed decarbonized *district energy system* and *campus* layout including:
- i. List of all *buildings* to be served by the *district energy system*;
 - ii. List of all *buildings* to be served by the *district energy system* heating plant, peak load;
 - iii. List of all *buildings* to be served by the *district energy system* cooling plant, peak load;
 - iv. Description of proposed *district energy system* including, but not limited to, heating and cooling system type(s), configuration(s), output capacity(ies), thermal distribution loop(s);
 - An inventory and evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;
 - An inventory and evaluation of expanding *district energy system* to other *buildings*;
 - v. Identification of heating plant backup type, fuel source, capacity;
 - vi. Identification of proposed *energy efficiency measures (EEMs)* required to meet the requirements of the standard;
- c. Proposed *building* performance metric:
- i. Compliance pathway:
 - *EUI_t* [] Yes [] No
 - Investment criteria - (include within progress report) [] Yes [] No
 - Plans for Level 2 energy audit, on *Tier 1 covered buildings*
 - Plans for LCCA
 - ii. Energy monitoring (*benchmarking*):
 - Identification of proposed *benchmarking* configuration:
 - *Campus* [] Yes [] No
 - *Connected building* [] Yes [] No
 - *Campus-level* [] Yes [] No
 - Proposed *energy use intensity target (EUI_t)* (kBtu/ft²/yr) developed in accordance with the standard;
 - Projected site *EUI* (kBtu/ft²) for the identified *benchmarking* configuration after implementation of *decarbonization plan* based on Section Z6.3 Form C;
 - Form D documenting proposed *energy efficiency measures (EEMs)*;
 - Form F documenting the life cycle cost analysis if pursuing the investment criteria of the standard;
 - d. Proposed metering configuration:
 - i. Shall include metering to measure *district energy system* heating and/or cooling plant input to individual *buildings*;
 - ii. Shall be configured in a manner to measure proposed *benchmarking* configuration;
 - iii. Shall include independent end use metering of *district energy system* backup heating plant.
- 3. Recommended district energy system decarbonization plan considerations:** *Participating campuses* are encouraged to include the following considerations in a *decarbonization plan*:
- a. Distribution network upgrades;
 - b. On-site energy storage facilities;
 - c. Space cooling for residential facilities;

d. Labor and workforce, including state registered apprenticeship utilization;

e. Options for public-private partnerships;

f. Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

4. **Utility engagement:** Narrative of steps taken including the date range of communications, for *participating campuses* consultation with the electric utility and the natural gas utility serving the site of the system during *decarbonization plan* development.

5. **Proposed project timeline shall provide implementation details and dates for:**

a. Energy management plan and operations and maintenance program, implemented in accordance with Section W3.1.1(5);

b. *Energy efficiency measures (EEMs)* required to meet the standard;

c. All phases of *district energy system decarbonization plan*;

i. *Decarbonization plan* shall determine implementation schedule, project timeline, compliance schedule;

6. **Other considerations:**

a. Communication engagement including, but not limited to, occupants, utilities, funders, and public;

b. Are funding mechanisms in place? [] Yes [] No

c. Are there cost projections in place? [] Yes [] No

i. What are your current/updated estimated costs? _____

ii. What are your current expended costs? _____

d. Changes to plan required to meet changes in codes, laws, and standards including any future reductions in EUI_t .

WSR 24-16-044
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
 [Filed July 30, 2024, 10:32 a.m., effective August 30, 2024]

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

Purpose: The department of social and health services (department) is proposing new rules to implement the establishment of a state-funded guardianship and conservatorship assistance program in alignment with the 2022 adoption of chapter 11.130 RCW by adding new sections in chapter 388-106 WAC. These sections include WAC 388-106-2100 through 388-106-2165. The rules describe eligibility for the guardianship and conservatorship assistance program, the package of services provided for individuals who are referred by acute care hospitals who have been found unable to consent to services due to a qualifying neuro-cognitive disorder, and the contractor payments for services. The rules will describe services, duration, and payments.

Citation of Rules Affected by this Order: New WAC 388-106-2100, 388-106-2105, 388-106-2110, 388-106-2115, 388-106-2120, 388-106-2125, 388-106-2130, 388-106-2135, 388-106-2140, 388-106-2145, 388-106-2150, 388-106-2155, 388-106-2160, and 388-106-2165.

Statutory Authority for Adoption: RCW 43.17.060, 43.20B.030, and 74.08.090.

Adopted under notice filed as WSR 24-12-057 on June 3, 2024.

A final cost-benefit analysis is available by contacting Sarah Tremblay, P.O. Box 45600, Olympia, WA 98504, phone 564-999-1032, email sarah.tremblay@dshs.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 14, Amended 0, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 0, Repealed 0.

Date Adopted: July 30, 2024.

Lisa N. H. Yanagida
Chief of Staff

SHS-5031.5

NEW SECTION

WAC 388-106-2100 What is the home and community services guardianship and conservatorship assistance program? (1) Subject to available state only funds, the department of social and health services

(DSHS) pays for certain fees and costs for professional guardianship and conservatorship services for eligible persons as described in WAC 388-106-2110.

(2) The amounts paid and which services and costs are covered are determined by DSHS in its sole discretion and are contained in contracts with certified professional guardians and conservators (CPGCs).

(3) Subject to available funds, and in its sole discretion, DSHS may file petitions for guardianship with a Washington state superior court for certain patients occupying beds in acute care hospitals who no longer require inpatient hospital care or who require assistance in accessing or maintaining long-term support and services (LTSS) services due to the person's inability to give consent.

NEW SECTION

WAC 388-106-2105 Definitions. (1) "**Aging and long-term support administration**" or "**AL TSA**" means an administration within DSHS.

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

(3) "**Contractor**" means a certified professional guardian and conservator who has met contractor eligibility criteria and has executed a contract with DSHS to provide guardianship and conservatorship services through the state funded home and community services guardianship and conservatorship assistance program.

(4) "**Court order**" means any judgment, decree, instruction, or order of a Washington state superior court, a court of comparable jurisdiction of an Indian tribe, another state, or country.

(5) "**Decision-making assistance**" means support for an individual with diminished decision-making ability in making decisions affecting health, safety, or to manage financial affairs. Assistance includes, without limitation, acting as a representative payee, fiduciary, an attorney-in-fact, a trustee, or a certified professional guardian or conservator.

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

(7) "**Due diligence**" means the acute care hospital has adequately investigated whether a family member or friend would be able and willing to serve as a lay guardian, and, if not, has contacted agencies and individuals providing professional guardianship and conservatorship services, has submitted a referral to the statewide guardianship listserv managed by the office of public guardianship (OPG) through the administrative office of the courts (AOC), and at least 14 days have elapsed without identification of a potential professional guardian for nomination.

(8) "**Estate Recovery**" means the state's process for recapturing the cost of long-term care services, related hospital, and prescription drug services from a recipient's estate. Federal and state laws allow states to recover state-funded services and certain medicaid costs.

(9) "**Guardian**" or "**Conservator**" means a professional individual, agency, or a corporate fiduciary (such as a nonprofit corporation or bank trust department) appointed by a court to assist and protect an individual who the court has determined requires assistance in managing their own affairs.

(10) **"Home and community services"** or **"HCS"** means a division within the DSHS aging and long-term support administration.

(11) **"LTSS"** means long-term support and services under the home and community services division.

(12) **"Neuro-cognitive disorder"** means a primary diagnosis of dementia, Alzheimer's, Parkinson's, Huntington's, traumatic brain injury, or stroke which results in the individual's lack of decision-making capacity impacting accessibility for long-term care benefits.

(13) **"Notice of department decisions"** means a generated written notice provided to an individual client or their legal representative or both identifying them of:

(a) The action taken by DSHS that impacts the individual client's benefits;

(b) The reason DSHS took said action;

(c) The legal authority to take said action;

(d) Date of the notice;

(e) Effective date of the action taken;

(f) Department representative contact information;

(g) Hearing rights; and

(h) Information about continued benefits, if any.

(14) **"Overpayment"** means any payment or benefit to a recipient or to a vendor in excess of that to which is entitled by law, rule, or contract, including amounts in dispute as outlined in chapter 41.05A RCW.

(15) **"Participation"** means the portion of the client's responsibility or financial obligation paid by the client to the provider to cover part or all of their cost of care.

(16) **"Private pay"** means the status for any period of time in which a client is ineligible for medicaid-funded LTSS and must use their own personal resources to pay for their services.

(17) **"Program hold"** means an intervention taken by DSHS to place future payment authorizations on hold whenever an approved state funded guardianship and conservatorship assistance program recipient is identified as financially ineligible for medicaid LTSS per chapter WAC 182-513-1315 (1)-(3). Under a program hold, a recipient's state funded guardianship and conservatorship assistance program slot can be held for up to 90 days from date of financial ineligibility discovery.

(18) **"Program recipient"** means an individual meeting eligibility criteria for inclusion into the state funded home and community services guardianship and conservatorship assistance program.

(19) **"Program slot"** means a program vacancy based on timeframe of needed resources as designated by "tier 1" and "tier 2". A tier 1 program slot is a slot with a maximum service benefit of up to 12 months duration. A tier 2 program slot is a continuous slot for individuals not required to pay participation towards their cost of care based on financial thresholds per WAC 182-513-1315 (1)-(3) or individuals who are not United States citizens.

(20) **"Provider one"** means the invoice processing system used by DSHS to process and pay some social service providers and contractors who provide care or services to medicaid clients.

(21) **"Provisional approval"** means the process of allowing clients a conditional approval for accessing the state funded guardianship and conservatorship assistance program under medicaid long-term services and supports (LTSS), without having to wait for the full functional and financial medicaid eligibility determination.

(22) **"Split appointment"** means when two or more individuals are appointed to serve as either a guardian, a conservator, co-guardians,

or co-conservators on a single case appointed under chapter 11.130 RCW.

(23) **"Successor guardian or conservator"** means a successor or replacement guardian or conservator appointed by the court to act on behalf of an individual subject to either guardianship, conservatorship, or both if the existing guardian or conservator resigns, dies, becomes incapacitated, is determined no longer qualified to serve, declines to serve the individual, or due to noncompliance with court reporting requirements or duties.

(24) **"Termination"** means the final termination order of a preestablished guardianship or conservatorship judicial matter or both which negates the previous orders of case establishment. Such an order restores the individual's civil rights and decision-making authority. A termination is completed through a judicial process by which the court determines that a preestablished guardianship or conservatorship matter or both no longer meets judicial grounds under RCW 11.130.265, that termination would be in the best interest of the adult based on a change in functionality or circumstances, or that less restrictive alternative protective arrangement is available to meet the needs of the individual.

(25) **"The certified professional guardian and conservator review board"** or **"CPGCRB"** means the regulatory board tasked by the administrative offices of the court (AOC) to oversee the statutory and regulatory requirements and to investigate guardian and conservator complaints of certified professional guardians and conservators (CPGCs) statewide.

(26) **"The guardianship or conservatorship"** means the establishment of a guardianship or conservatorship matter from the date of appointment of a guardian or conservator agent, not from the date of original petition.

(27) **"Tier 1"** means a one-year contract term for state-funded guardianship and conservatorship services under the state funded guardianship and conservatorship assistance program.

(28) **"Tier 2"** means an ongoing, renewable contract term for state-funded guardianship and conservatorship services under the state funded guardianship and conservatorship assistance program:

(a) When an individual is determined to:

(i) Not have financial ability to pay monthly guardianship or conservatorship fees through alternative participation reduction procedures due to lack of or limited income; or

(ii) Be a noncitizen approved for long-term care through the state-funded long-term care services program for noncitizens under WAC 182-507-0125.

(b) When starting the 13th month from the original appointment date, a contractor will be paid a monthly rate of \$235.00, or a medic-aid aligned guardianship or conservatorship monthly rate, whichever is greater, for a tier 2 client.

NEW SECTION

WAC 388-106-2110 Eligibility criteria. (1) To be eligible to participate as a contractor in the program a person must:

(a) Hold certification as a professional guardian and conservator approved by the state of Washington supreme court;

(b) Be in good standing with the certified professional guardian and conservator review board (CPGCRB);

(c) Have sufficient insurance coverage to meet DSHS contract requirements;

(d) Hold a program contract with DSHS; and

(e) Comply with the requirements of the program as described in this chapter.

(2) To be eligible to participate as a recipient in the program a person must:

(a) Meet long-term care services and supports (LTSS) medicaid functional eligibility requirements in chapter 388-106 WAC and financial eligibility requirements in WAC 182-513-1315 (1)-(3) or be determined provisionally approved;

(b) Not have financial resources to pay for guardianship services, fees, or costs from their estate;

(c) Have a qualifying neuro-cognitive diagnosis as defined in WAC 388-106-2105;

(d) At the time of referral and acceptance into the program, be occupying an acute care hospital bed, and not be in a restricted subgroup including current occupancy in a bed readiness program, skilled nursing facility, inpatient rehabilitation, inpatient mental health, emergency department, long-term acute care hospital bed, facility bed under observation status, or in a facility bed under a single bed certification pursuant to a cause under chapter 71.05 RCW;

(e) At the time of referral, no longer requires an inpatient level of care at an acute care hospital;

(f) Likely requires the appointment of a guardian or conservator to be able to access and maintain long-term services and support; and

(g) Not have a professional or lay guardian or conservator willing to accept nomination.

(3) To remain eligible to participate as a recipient in the program a person must:

(a) Remain functionally and financially eligible for DSHS LTSS benefits; and

(b) Receive a DSHS LTSS service.

NEW SECTION

WAC 388-106-2115 Referral process. (1) An acute care hospital may submit a referral to home and community services under the following circumstances:

(a) Acute care hospital clinicians have determined that the person likely needs a guardian or conservator;

(b) The acute care hospital has a good faith belief that the person meets the eligibility requirements to participate in the program;

(c) The acute care hospital has documented due diligence in attempting to identify a proposed guardian or conservator;

(d) The acute care hospital has submitted a long-term care medicaid application to DSHS on behalf of the person;

(e) The acute care hospital provides complete referral documents as required by DSHS; and

(f) The acute care hospital has, or will file, a petition for guardianship or conservatorship.

(2) DSHS, in its sole discretion, and subject to available funds, may waive the requirement of subsection (f) of this section and file a

petition for guardianship or conservatorship or both instead of the referring acute care hospital.

NEW SECTION

WAC 388-106-2120 Acceptance into the program. (1) Within available resources, home and community services will accept a person into the guardianship and conservatorship assistance program if DSHS determines that the person meets the eligibility requirements, the referral packet is complete, and there is a program slot available at the time of acceptance.

(2) DSHS prioritizes acceptance into the program on a first-come, first-served basis determined by the date DSHS receives a complete referral packet and DSHS completes an eligibility determination for the person.

(3) If there is not an appropriate program slot available for an eligible person, DSHS will put them on the waitlist for the determined tier slot. Placement on the waitlist does not guarantee that a person will be accepted into the program.

(4) Waitlist priority is determined based on a first-come basis utilizing the date DSHS receives a complete referral packet and DSHS completes an eligibility determination for the person.

(5) In the event that a person is found eligible for a tier 2 slot, but at the time of acceptance only a tier 1 slot is available, DSHS will accept the person into the tier 1 slot while simultaneously placing the person on the waitlist for a tier 2 slot. Acceptance into the tier 2 waitlist does not guarantee that a person will be accepted into the program under a tier 2 slot designation.

(6) Once a person is accepted into a program slot, DSHS makes a referral to all program contracted certified professional guardians and conservators for consideration of acceptance of nomination. DSHS has the sole discretion to remove a person from the program if after two months of initial contractor referral, no program contracted certified professional guardian or conservator agrees to accept the case for nomination by the court.

(7) Removal from the guardianship and conservatorship assistance program in no way affects the person's ability to be rereferred and reconsidered for inclusion onto the guardianship and conservatorship assistance program at a future date.

NEW SECTION

WAC 388-106-2125 Reconsideration of acceptance determination. A referring acute care hospital may request that DSHS reconsider its decision to accept a person onto the guardianship and conservatorship assistance program. A request for reconsideration must be supported by the referring acute care hospital submission of supplemental documentation to support the person's eligibility. An acute care hospital does not have a right to an administrative hearing to contest any department decision made under this chapter.

NEW SECTION

WAC 388-106-2130 Notice of department decisions. DSHS will provide an applicant or participant in the program, and their guardian or conservator as applicable, with written notice about department decisions about eligibility for acceptance onto, or continuation on, the program.

NEW SECTION

WAC 388-106-2135 Appeal of acceptance determination or discontinuation of program participation. The person who is the subject of a referral for acceptance into or a recipient of services under the guardianship and conservatorship assistance program may request an administrative hearing to contest a department decision that they are not eligible for acceptance or continuation in the program. The person does not have a right to a hearing to contest the adequacy of the services, costs covered, or the amounts paid to the contracted guardian or conservator.

NEW SECTION

WAC 388-106-2140 Overpayment. If DSHS or the guardian or conservator discovers that the person's estate has available and adequate resources to pay for guardianship fees or costs, the payments made under this program on behalf of the client are overpayments to the extent a court determines that the person's estate is able to pay for guardianship fees and costs paid for by the state funded guardianship and conservatorship assistance program.

NEW SECTION

WAC 388-106-2145 Program hold and reinstatement or forfeiture of program participation. If a client ceases to remain financially eligible as required by WAC 182-513-1315 (1)-(3) while occupying a program slot, their program slot can be held for up to a maximum of 90 days from the date it is discovered the client is overresourced. This process is referred to as a "program hold". In the event that a client becomes financially reeligible for LTSS medicaid as outlined in WAC 182-513-1315 (1)-(3) within the designated 90-day hold period, they will be reinstated to their program slot for the remaining portion of the originally approved tier slot term; however, if at the end of the designated 90-day hold period, the client continues to be financially ineligible for the program, DSHS terminates their eligibility for the program.

NEW SECTION

WAC 388-106-2150 Estate recovery. Services provided under this program are exempt from estate recovery as outlined in WAC 182-527-2742.

NEW SECTION

WAC 388-106-2155 Exception to rule (ETR). Services provided under this program are exempt from the exception to rule process in WAC 388-440-0001.

NEW SECTION

WAC 388-106-2160 Personal needs allowance increase or participation reduction. Services provided under this program are paid by state only funds. While DSHS is paying for services under this contract for a client, there will be no reduction in the amount a client must pay towards client responsibility to account for costs and fees associated with establishing and maintaining guardianship or conservatorship as outlined in WAC 182-513-1380 and 388-79A-005.

NEW SECTION

WAC 388-106-2165 Split appointment. This program only pays for guardianship and conservatorship services of one contractor per case. In the event that the court orders a split appointment amongst multiple contracted providers, DSHS will only pay the guardian.

WSR 24-16-045

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 30, 2024, 11:15 a.m., effective November 1, 2024]

Effective Date of Rule: November 1, 2024.

Purpose: Acute care and psychiatric hospital facility fees. The department of health (department) is adopting amendments to WAC 246-320-199 and 246-322-990 to update fees for acute care hospitals licensed under chapter 246-320 WAC and private psychiatric hospitals licensed under chapter 246-322 WAC. The department is adopting updates to rules regarding acute care and private psychiatric hospital fees to address funding needs and to clarify and standardize language.

The updated fees are necessary to adequately fund the hospital inspection, investigation, and licensing programs to protect patients. RCW 43.70.250 requires that fees must cover regulatory program expenses which necessitates the program(s) to be self-funding and changes to rules are the only way to make fee adjustments. Critical access hospitals have a reduced fee to align with the department's commitment to equity. Psychiatric hospitals have a reduction in their fee after the initial fee update that will help balance the current shortfalls and long-term needs. The adopted fees will address the backlog costs and the necessary reserve amounts. The department will continue to monitor the finances and propose fee adjustments as needed.

Citation of Rules Affected by this Order: Amending WAC 246-320-199 and 246-322-990.

Statutory Authority for Adoption: RCW 43.70.110 and 43.70.250.

Adopted under notice filed as WSR 24-11-118 on May 21, 2024.

Changes Other than Editing from Proposed to Adopted Version: WAC 246-320-199 added a footnote to clarify that critical access is a federal designation.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 30, 2024.

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

OTS-5414.3

AMENDATORY SECTION (Amending WSR 19-16-049, filed 7/30/19, effective 10/1/19)

WAC 246-320-199 Fees. This section establishes the initial licensure and annual fees for hospitals licensed under chapter 70.41 RCW. The license must be renewed every three years.

- (1) Applicants and licensees shall submit to the department:
 - (a) An initial license fee (~~(of two hundred twenty dollars)~~) for each bed space within the authorized bed capacity for the hospital;
 - (b) An annual fee (~~(of two hundred twenty dollars)~~) for each bed space within the authorized bed capacity of the hospital by November 30th of the year.
- (2) As used in this section, a bed space:
 - (a) Includes all bed spaces in rooms complying with physical plant and movable equipment requirements of this chapter for (~~(twenty-four)~~) 24-hour assigned patient care;
 - (b) Includes level 2 and 3 bassinet spaces;
 - (c) Includes bed spaces assigned for less than (~~(twenty-four)~~) 24-hour patient use as part of the licensed bed capacity when:
 - (i) Physical plant requirements of this chapter are met without movable equipment; and
 - (ii) The hospital currently possesses the required movable equipment and certifies this fact to the department.
 - (d) Excludes all normal infant bassinets;
 - (e) Excludes beds banked as authorized by certificate of need under chapter 70.38 RCW.
- (3) A licensee shall submit to the department a late fee (~~(in the amount of one hundred dollars per day)~~) whenever the annual (~~(use)~~) fee is not paid by November 30th. The total late fee will not exceed (~~(twelve hundred dollars)~~) \$1,200.
- (4) An applicant may request a refund for initial licensure as follows:
 - (a) Two-thirds of the initial fee paid after the department has received an application and not conducted an on-site survey or provided technical assistance; or
 - (b) One-third of the initial fee paid after the department has received an application and conducted either an on-site survey or provided technical assistance but not issued a license.
- (5) The following fees will be charged:

<u>Fee Type</u>	<u>Acute Care - Critical Access*</u> <u>Fee</u>	<u>Acute Care Fee</u>
<u>Initial Licensure Fee per bed</u>	<u>\$380.00</u>	<u>\$505.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$380.00</u>	<u>\$505.00</u>
<u>Late Fee per day</u>	<u>\$100.00</u>	<u>\$100.00</u>

* Federal designation.

OTS-5415.2

AMENDATORY SECTION (Amending WSR 21-11-107, filed 5/19/21, effective 7/1/21)

WAC 246-322-990 Private psychiatric hospital fees. This section establishes the initial licensure and annual renewal fees for private psychiatric hospitals licensed under chapter 71.12 RCW.

(1) Applicants and licensees shall:

(a) Submit to the department an initial licensure fee (~~(of four hundred ninety-five dollars)~~) for each bed space within the licensed bed capacity of the hospital;

(b) Submit to the department an annual renewal fee (~~(of four hundred ninety-five dollars)~~) for each bed space within the licensed bed capacity of the hospital to the department;

(c) Include all bed spaces and rooms complying with physical plant and movable equipment requirements of this chapter for (~~(twenty-four)~~) 24-hour assigned patient rooms;

(d) Include bed spaces assigned for less than (~~(twenty-four)~~) 24-hour patient use as part of the licensed bed capacity when:

(i) Physical plant requirements of this chapter are met without movable equipment; and

(ii) The private psychiatric hospital currently possesses the required movable equipment and certifies this fact to the department.

(e) Limit licensed bed spaces as required under chapter 70.38 RCW;

(f) Submit applications for bed additions to the department for review and approval under chapter 70.38 RCW subsequent to department establishment of the private psychiatric hospital's licensed bed capacity;

(g) Set up (~~(twenty-four)~~) 24-hour assigned patient beds only within the licensed bed capacity approved by the department.

(2) Refunds. The department shall refund fees paid by the applicant for initial licensure if:

(a) The department has received the application but has not conducted an on-site survey or provided technical assistance, the department will refund two-thirds of the fees paid, less a (~~(fifty-dollar)~~) refund processing fee.

(b) The department has received the application and has conducted an on-site survey or provided technical assistance, the department will refund one-third of the fees paid, less a (~~(fifty-dollar)~~) refund processing fee.

(c) The department will not refund fees if:

(i) The department has performed more than one on-site visit for any purpose;

(ii) One year has elapsed since an initial licensure application is received by the department, and the department has not issued the license because the applicant has failed to complete the requirements for licensure; or

(iii) The amount to be refunded as calculated by (a) or (b) of this subsection is (~~(ten-dollars)~~) \$10 or less.

(3) Between November 1, 2024, and October 31, 2025, the following fees will apply:

Fee Type	Fee
<u>Initial Licensure Fee per bed</u>	<u>\$1,700.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$1,700.00</u>
<u>Refund Processing Fee</u>	<u>\$50.00</u>

(4) On and after November 1, 2025, the following fees apply:

Fee Type	Fee
<u>Initial Licensure Fee per bed</u>	<u>\$1,450.00</u>
<u>Renewal Licensure Fee per bed</u>	<u>\$1,450.00</u>
<u>Refund Processing Fee</u>	<u>\$50.00</u>

WSR 24-16-056
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-07—Filed July 31, 2024, 7:25 a.m., effective August 31, 2024]

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

Purpose: The purpose of the amendment(s) to WAC 220-415-100 Cougar hunting seasons and regulations, are to add language around the mortality counting period of April 1 - March 31 to subsection (4)(a) and to remove the sunset clause on the 20 percent cap in subsection (3).

Citation of Rules Affected by this Order: Amending WAC 220-415-100.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020 77.04.055, 77.08.030, 77.15.240, 77.15.280, and 77.15.410.

Other Authority: RCW 77.04.012, 77.04.020, 77.04.055, 77.08.030, 77.15.240, 77.15.280, and 77.15.410.

Adopted under notice filed as WSR 24-10-080 on April 30, 2024.

Changes Other than Editing from Proposed to Adopted Version: At the fish and wildlife commission (commission) hearing on July 19, 2024, the commission directed department of fish and wildlife staff to edit the proposed language by removing this sentence: "This section will sunset at the end of the 2024-2025 season." and adding this sentence: "The counting of mortalities will commence on April 1 and conclude on March 31 of the following year."

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

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

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

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

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

Date Adopted: July 19, 2024.

Barbara Baker
Commission Chair

OTS-5393.4

AMENDATORY SECTION (Amending WSR 22-16-031, filed 7/26/22, effective 8/26/22)

WAC 220-415-100 Cougar hunting seasons and regulations. (1) As used in this section and in the context of general cougar hunting seasons, (~~"harvest guideline" means the estimated allowable harvest; the actual harvest may be less than or more than the harvest guideline~~) "cap" is based on the best available estimate of cougar density and

growth rate. Currently those parameters are estimated at 2.3 cougars per 100 square kilometers and 13 percent intrinsic growth rate. The cap includes all known human-related independent-aged cougar mortality (including harvested cougars, cougars killed in response to conflicts, and any other form of human-caused cougar mortality).

(2) ~~((Early))~~ General cougar season is September 1st to ~~((December 31st, late general cougar season is January 1st to April 30th of the following year))~~ March 31st. Hunters can use any legal weapon to hunt cougars.

~~((Harvest guidelines:~~

~~-(Implied density in parentheses))~~ (3) In PMUs that reach the 13 percent cap prior to the recreational hunting season starting, the cap will be increased to 20 percent of the population to provide hunting opportunity in those PMUs. When all known human-related independent-aged cougar mortalities in those PMUs meet or exceed 20 percent of the population, the season shall close in those PMUs. Additionally, if opened, the season shall close within 72 hours of that number being reached.

Cap:

Population Management Unit (PMU)	Hunt Area	((Harvest Guideline)) 13 percent Cap	20 percent
1	GMU 101	((7-11(2.6))) 8	13
2	GMU 105	((4(3.72))) 2	3
3	GMUs 108, 111	((9-11(3.63))) 6	8
4	GMU 113	((4-5(1.91))) 5	8
5	GMU 117	((11-13(3.57))) 7	11
6	GMU 121	((9-11(3.65)*)) 6	8
7	GMUs 124, 127, 130	((7-9(2.15))) 8	12
8	GMUs 133, 136, 139, 142, 248, 254, 260, 262, 266, 269, 272, 278, 284, 290, 330, 334, 371, 372, 373, 379, 381	None	None
9(**)	GMUs 149, 154, 162, 163	((7-9(3.56)*)) 4	5
10(**)	GMUs 145, 166, 175, 178	((6-7(3.51))) 5	7
11(**)	GMUs 169, 172, 181, 186	((5-6(3.68))) 3	5
12	GMU 203	((4-5(1.91))) 5	8
13	GMU 204	((6-8(2.17))) 7	11
14	GMUs 209, 215	((3-4(1.91))) 4	6
15	GMUs 218, 231	((4-5(1.91))) 5	8
16	GMU 224	((2(1.91))) 2	4
17	GMUs 233, 239	((4-5(2.42))) 4	6
18	GMUs 242, 243	((5-6(2.28))) 5	8
19	GMUs 244, 246, 247	((4-6(1.91))) 6	9
20	GMUs 245, 250	((4-6(1.91))) 6	9
21	GMUs 249, 251	((4-6(1.91))) 6	9
22	GMUs 328, 329, 335	((8-10(2.79))) 7	10
23	GMUs 336, 340, 342, 346	((9-11(3.61))) 6	9
24	GMUs 352, 356, 360, 364, 368	((7-9(2.9))) 6	9
25	GMUs 382, 388	((3(1.91))) 3	5
26	GMU 407	None	None
27	GMUs 418, 426, 437	((10-13(1.91))) 13	20
28	GMUs 448, 450	((8-11(1.91))) 11	17

Population Management Unit (PMU)	Hunt Area	((Harvest Guideline)) <u>13 percent Cap</u>	<u>20 percent</u>
29	GMU 454	None	<u>None</u>
30	GMU 460	((4-6 (1.91))) <u>6</u>	<u>9</u>
31	GMUs 466, 485, 490	((2-3 (1.91))) <u>3</u>	<u>4</u>
32	GMUs 501, 504, 506, 530	((6-9 (1.91))) <u>9</u>	<u>13</u>
33	GMUs 503, 505, 520, 550	((5-7 (1.91))) <u>7</u>	<u>11</u>
34	GMUs 510, 513	((3 (1.91))) <u>3</u>	<u>5</u>
35	GMU 516	((3-4 (1.91))) <u>4</u>	<u>6</u>
36	GMUs 524, 554, 556	((3 (1.91))) <u>3</u>	<u>4</u>
37	GMU 560	((4-5 (1.91))) <u>5</u>	<u>8</u>
38	GMU 564	((1 (1.91))) <u>1</u>	<u>2</u>
39	GMU 568	((3 (2.74))) <u>2</u>	<u>4</u>
40	GMU 572	((2-3 (1.91))) <u>3</u>	<u>5</u>
41	GMUs 574, 578	((5-6 (2.82))) <u>4</u>	<u>6</u>
42	GMUs 601, 602, 603, 612	((4-6 (1.91))) <u>6</u>	<u>9</u>
43	GMUs 607, 615	((3-4 (1.91))) <u>4</u>	<u>6</u>
44	GMUs 618, 636, 638	((3-5 (1.91))) <u>5</u>	<u>7</u>
45	GMUs 621, 624, 627, 633	None	<u>None</u>
46	GMUs 642, 648, 651	((6-8 (2.18))) <u>7</u>	<u>11</u>
47	GMUs 652, 666	None	<u>None</u>
48	GMUs 653, 654	((4-5 (1.91))) <u>5</u>	<u>8</u>
49	GMUs 658, 660, 663, 672, 673, 681, 684, 699	((8-11 (1.91))) <u>11</u>	<u>16</u>
50	GMU 667	((6-7 (3.48))) <u>4</u>	<u>6</u>

~~((* Adjusted to stay within realistic density.~~

~~** A second cougar may be harvested in the hunt area with the purchase of a second cougar transport tag.)~~

~~(a) In hunt areas with a ((harvest guideline)) cap, the cougar ((late)) hunting season ((may)) shall close ((on or after January 1st)) in one or more ((GMUs)) PMUs if cougar ((harvest)) mortality meets or exceeds the ((guideline)) cap.~~

~~(b) In hunt areas with a ((harvest guideline, starting January 1st)) cap, cougar hunters may hunt cougar ((from January 1st)) until the hunt area ((harvest guideline)) cap has been met, and the department has notified licensed cougar hunters by posting the hunt area closure on the department's website and on the toll-free cougar hunting hotline, or ((April 30th)) March 31st, whichever occurs first.~~

~~((3) Harvest guideline) (4) Cap system:~~

~~(a) ((All cougar of the appropriate age class killed by licensed hunters during the early and late hunting seasons, shall be counted toward the harvest guideline.)) The cap includes all known human-related independent-aged cougar mortality (including harvested cougars, cougars killed in response to conflicts, and any other form of known human-caused cougar mortality). The counting of mortalities will commence on April 1st and conclude on March 31st of the following year.~~

~~(b) Individual problem cougar will continue to be killed on an as-needed basis utilizing depredation permits, landowner kill permits, and WDFW depredation authority regardless of ((harvest guidelines)) cap.~~

~~(c) It is each cougar hunter's responsibility to verify if the cougar ((late)) hunting season is open or closed in hunt areas with a~~

~~((harvest guideline))~~ cap. Cougar hunters can verify if the season is open or closed by calling the toll-free cougar hunting hotline or visiting the department's website.

~~((4))~~ (d) The department may close hunting in any PMU prior to the cap being reached, upon consideration of factors such as disease, suspected additional mortality, or any other issue affecting the cougar population.

(5) Cougar hunting season requirements and special restrictions.

(a) A valid big game hunting license which includes cougar as a species option is required to hunt cougar.

(b) The statewide bag limit is one cougar per license year statewide ~~((and one additional cougar per license year may only be harvested from the following PMUs 9, 10, and 11));~~ excluding removals authorized under WAC 220-440-030. One cougar transport tag is included with a big game hunting license that has cougar as a species option. ~~((A second cougar transport tag must be purchased to take a second cougar in PMUs 9, 10, and 11; which are comprised of the following GMUs: 145, 149, 154, 162, 163, 166, 169, 172, 175, 178, 181, and 186. Hunters may only purchase the second transport tag after having purchased a license which includes cougar as a species option.))~~ It is unlawful to kill or possess spotted cougar kittens or adult cougars accompanied by spotted kittens.

(c) The use of dogs to hunt cougar is prohibited; except by a commission authorized permit (WAC 220-440-030 and 220-412-130).

(d) Any person who takes a cougar must comply with the notification and sealing requirements in WAC 220-400-050.

(e) A special cougar permit is required to hunt cougar in GMU 485.

WSR 24-16-058

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed July 31, 2024, 7:46 a.m., effective August 31, 2024]

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

Purpose: Drinking water state revolving fund (DWARF) loan program, chapter 246-296 WAC. The department of health (department) is adopting rule amendments to incorporate the federal requirements of the Bipartisan Infrastructure Law (BIL) - P.L. 117-58 - Bipartisan Infrastructure Investment and Jobs Act. The adopted rules redefine the definition of a disadvantaged community and change the state revolving fund priority point system for project rating and ranking proportionate with need.

Citation of Rules Affected by this Order: Amending WAC 246-296-020, 246-296-050, 246-296-100, and 246-296-130.

Statutory Authority for Adoption: RCW 70A.125.160 Federal Safe Drinking Water Act.

Adopted under notice filed as WSR 24-11-106 on May 17, 2024.

Changes Other than Editing from Proposed to Adopted Version: The following clarifying change was made to the proposed rule as a result of a suggestion received during the public comment period. In the second sentence of WAC 246-296-020(8), which is the definition of "Disadvantaged community," the department added the words "but not limited to" after "including" and replaced the word "and" with "or." This change clarifies that the list of indicators that will be used in determining areas that will qualify as disadvantaged communities is not exhaustive in nature.

A final cost-benefit analysis is available by contacting Yesenia Efremova, P.O. Box 47824, Olympia, WA 98504-7824, phone 360-236-3449, TTY 711, email kseniya.efremova@doh.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 4, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

Date Adopted: July 31, 2024.

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

OTS-5304.3

AMENDATORY SECTION (Amending WSR 22-07-025, filed 3/9/22, effective 4/9/22)

WAC 246-296-020 Definitions, abbreviations, and acronyms. The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

~~((1))~~ ~~("Affordability" means a community's ability, on a per household basis, to pay for rate increases that result from a DWARF loan project.~~

~~((2))~~ **"Application"** means the DWARF loan request form provided by the department.

~~((3))~~ **(2) "Application package"** means the DWARF loan application form(s), requirements, terms of assistance, and related information created by the department.

~~((4))~~ **(3) "Borrower"** means the person that has legal and financial responsibility for the DWARF loan.

~~((5))~~ **(4) "Capitalization grant"** means an award by EPA of funds to a state for the DWARF and other purposes as authorized in Section 1452 of the SWARD.

~~((6))~~ **(5) "Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

~~((7))~~ **(6) "Default"** means failure to meet a financial obligation such as a DWARF loan payment.

~~((8))~~ **(7) "Department"** means the Washington state department of health.

~~((9))~~ **(8) "Disadvantaged community"** means ~~((the))~~ a qualifying service area of a ((proposed)) project serving residential connections within a public water system ((where the project will result in:

~~((a) Water rates that are more than one and one-half percent of the MHI of the service area; or~~

~~((b) Restructuring, when one or more public water systems are having financial difficulties))~~ that is disproportionately impacted by economic, health, and environmental burdens. Potential qualifying areas will be assessed by indicators established in state guidance including, but not limited to: Population served, social vulnerability, environmental health disparities, or economic hardship. A service area of a project serving residential connections within a public water system owned and operated by a federally recognized tribe is considered a disadvantaged community.

~~((10))~~ **(9) "DWARF (drinking water state revolving fund)"** means the program that meets the requirements of RCW 70A.125.160 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

~~((11))~~ **(10) "DWARF loan"** means an agreement between the department and the borrower in which the DWARF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWARF loan fee to the DWARF.

~~((12))~~ (11) "**DWARF loan fee**" means a nonrefundable fee that is charged on all DWARF loans, including DWARF loans for which all or part of the principal is forgiven.

~~((13))~~ (12) "**Ecology**" means the Washington state department of ecology.

~~((14))~~ (13) "**Eligible public water system**" means a Group A community public water system, either privately or publicly owned, or a nonprofit Group A noncommunity public water system.

~~((15))~~ (14) "**Emergency**" means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

~~((16))~~ (15) "**EPA**" means the United States Environmental Protection Agency.

~~((17))~~ (16) "**Green project**" means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

~~((18))~~ (17) "**Group A public water system**" is defined and referenced under WAC 246-290-020.

~~((19))~~ (18) "**Group B public water system**" means a public water system that is not a Group A public water system and is defined and referenced under WAC 246-291-005.

~~((20))~~ (19) "**Individual water supply system**" means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-family residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

~~((21))~~ (20) "**IUP (intended use plan)**" means the federally required document prepared each year by the department identifying the intended uses of the DWARF funds and describing how those uses support the DWARF goals.

~~((22))~~ (21) "**Loan closeout**" means a loan agreement is complete when the loan is repaid in full.

~~((23) "**MHI (median household income)**" means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.~~

~~(24))~~ (22) "**Multiple benefit**" means projects that address more than one type of health risk.

~~((25))~~ (23) "**Municipality**" means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

~~((26))~~ (24) "**NEPA**" means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

~~((27))~~ (25) "**Nonprofit organization**" means an entity that has a federal tax exempt status identification number.

~~((28))~~ (26) "**Owner**" means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

~~((29))~~ (27) "**Person**" means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

~~((30))~~ (28) "**Principal forgiveness**" means that a reduction of a percentage of the total loan amount is not required to be paid back by the borrower. Principal forgiveness is applied when the project is complete.

~~((31))~~ (29) "**Project report**" means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

~~((32))~~ (30) "**Public water system**" is defined and referenced under WAC 246-290-020.

~~((33))~~ (31) "**Receivership**" means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

~~((34))~~ (32) "**Regional benefit**" means project improvements that affect more than one public water system.

~~((35))~~ (33) "**Restructuring**" means changing public water system ownership including, but not limited to:

- (a) Consolidation of two or more existing public water systems into a single public water system;
- (b) Transfer of ownership; or
- (c) Receivership.

~~((36))~~ (34) "**SWARD (Safe Drinking Water Act)**" means Public Law 93-523, including all amendments.

~~((37))~~ (35) "**SEPA**" means the State Environmental Policy Act under chapter 43.21C RCW.

~~((38))~~ (36) "**Set-aside**" means the use of a portion of DWARF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SWARD, to fund new programs, and for other drinking water program activities.

~~((39))~~ (37) "**SERP (state environmental review process)**" means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

~~((40))~~ (38) "**Surface water**" means a body of water open to the atmosphere and subject to surface runoff.

~~((41))~~ (39) "**Sustainable**" means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

~~((42))~~ (40) "**SWSMP (small water system management program)**" means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

~~((43))~~ (41) "**System capacity**" means a public water system's operational, technical, managerial, and financial capability to achieve

and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

~~((44))~~ (42) **"Transfer of ownership"** means to change legal ownership of a public water system from one person to another.

~~((45))~~ (43) **"Water right"** means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((46))~~ (44) **"WFI (water facilities inventory)"** means a department form summarizing a public water system's characteristics.

~~((47))~~ (45) **"WSP (water system plan)"** means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

WAC 246-296-050 DWARF loan terms. (1) The department may approve a DWARF loan for a project that will not serve a disadvantaged community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate at or below market interest rates for a maximum of ~~((twenty))~~ 20 years from project completion.

(2) The department may approve a DWARF loan for a project ~~((s))~~ that will serve a disadvantaged ~~((communities))~~ community:

(a) That partially or fully forgives the principal amount of the loan; or

(b) At an interest rate set at or below market interest rates for up to ~~((thirty))~~ 30 years, as long as the DWARF loan does not exceed the useful life of the project ~~((+~~

~~((b))~~ That qualifies for principal forgiveness for up to fifty percent of the principal DWARF loan amount; or

~~((c))~~ That qualifies for principal forgiveness for up to seventy-five percent of the principal DWARF loan amount for an emergency loan).

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWARF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

- WAC 246-296-100 DWARF loan eligibility and application requirements.** To be eligible for a DWARF loan, an applicant shall:
- (1) Document that the public water system has the system capacity to stay in compliance with applicable federal, state, and local drinking water requirements, unless:
 - (a) The funding will bring the public water system into compliance; and
 - (b) The owner of the public water system agrees to reasonable and appropriate changes to stay in compliance.
 - (2) ~~((Before))~~ Except when applying for a DWARF loan((7)) that addresses lead service line identification or lead service line replacements, that applicant shall have a current department-approved WSP or SWSMP that:
 - (a) Includes the proposed project; and
 - (b) Addresses any difficulties with system capacity;
 - (3) Comply with federal, state, and local drinking water requirements or a variance under WAC 246-290-060, unless the DWARF loan will fund projects that result in public water system compliance;
 - (4) Comply with any department or EPA orders;
 - (5) Install a source meter on each source if meters are not already installed;
 - (6) Install service meters on all service connections if meters are not already installed within the project area, unless:
 - (a) The project is for a transient noncommunity public water system;
 - (b) The project is for a mobile home park with a source or master meter;
 - (c) The project is for an apartment building or complex with a source or master meter; or
 - (d) The department determines that installing meters is:
 - (i) Prohibitive for the DWARF project as a whole; and
 - (ii) Waiving the meter requirement is necessary to award a DWARF loan for a project to resolve high priority public health problems.
 - (7) Have no outstanding fees or penalties owed to the department.
 - (8) Provide documentation that the project has sufficient water rights as determined by ecology.
 - (9) Comply with the requirements of WAC 246-296-120(1).

AMENDATORY SECTION (Amending WSR 16-14-086, filed 7/5/16, effective 8/5/16)

- WAC 246-296-130 Project priority rating and ranking criteria.** The department shall, at a minimum, consider the following to assign points, and rate and rank proposed projects:
- (1) Criteria for risk categories and points based on:
 - (a) Type and significance of public health problems the project will resolve;
 - (b) If the project is needed to bring the public water system into compliance with federal, state, and local drinking water requirements; and
 - (c) Current compliance status (~~(; and~~

~~(d) Affordability on a per household basis, determined by comparing the community's average water rate to the MHI in the community's service area, for a community public water system).~~

(2) Additional points based on the type of project being proposed(~~(r)~~) if the project:

(a) Is ready to proceed to construction;

(b) Completes projects previously funded by DWARF grants or loans;

(c) Is to consolidate or restructure ((a)) multiple public water systems;

~~((b))~~ (d) Creates a sustainable regional public health benefit;

~~((c) Has multiple benefits that are sustainable;~~

~~(d) Is consistent with the Growth Management Act;~~

~~(e) Is financially sustainable;~~ (e) Is a water main replacement project that coincides with other infrastructure projects;

(f) Qualifies as a green project; or

(g) Serves a disadvantaged community(~~(r) or~~

~~(h) Results in service meters on existing services not currently metered).~~

WSR 24-16-061

PERMANENT RULES

DEPARTMENT OF COMMERCE

[Filed July 31, 2024, 9:07 a.m., effective August 31, 2024]

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

Purpose: RCW 43.19.648 requires that all state agencies and local governments, to the extent practicable as determined by rules adopted pursuant to RCW 43.325.080, satisfy 100 percent of their fuel usage for operating publicly owned vessels, vehicles, and construction equipment from electricity or biofuel. Rules for state agencies were initially adopted in 2013 and are specified in WAC 194-28-070, while the corresponding rules for local governments were initially adopted in 2015 and are written in WAC 194-29-070. In reviewing these rules, the department of commerce (commerce) found an inconsistency in the rule language concerning routine charging in the field for covered vehicles. The purpose of these final rules is to update the rule language in WAC 194-28-070 for state agency vehicles so that it is more consistent with the rules for local governments in WAC 194-29-070. Commerce has developed final rules to update guidance in WAC 194-28-070 (1)(a)(ii) to match the more recent language in WAC 194-29-070 (1)(a) defining what charging requirements for new electric or hybrid vehicles in state government fleets is considered to be practicable as these entities work to meet the goals in RCW 43.19.648.

Citation of Rules Affected by this Order: Amending WAC 194-28-070.

Statutory Authority for Adoption: RCW 43.325.080.

Adopted under notice filed as WSR 24-11-042 on May 9, 2024.

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

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

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

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

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

Date Adopted: July 31, 2024.

Amanda Hathaway
Rules Coordinator

OTS-5412.1

AMENDATORY SECTION (Amending WSR 13-10-016, filed 4/22/13, effective 5/23/13)

WAC 194-28-070 Compliance evaluation. RCW 43.325.080 requires the department to specify how agency efforts to meet the goals set forth in RCW 43.19.648(1) will be evaluated. In so doing, the depart-

ment will consider the following criteria in determining whether state agencies have, to the extent practicable, satisfied (~~one hundred~~) 100 percent of fuel usage for operating vessels, vehicles, and construction equipment from electricity or biofuel, effective June 1, 2015:

(1) Vehicle electrification.

(a) It is considered practicable to procure a PHEV and PEV light-duty vehicle, light-duty truck, or medium-duty passenger vehicle when the following criteria are met:

(i) The vehicle is due for replacement (~~(7)~~);

(ii) (~~The anticipated driving range or use would not require battery charging in the field on a routine basis~~) Charging requirements can be met during routine use or through fleet management strategies; and

(iii) The lifecycle cost is within five percent of an equivalent HEV based on anticipated length of service.

(b) Agencies are encouraged to pursue electrification in additional vehicle classes as opportunities emerge.

(c) Per RCW 43.19.648(5), agencies are to install EVSE capable of charging PEVs and PHEVs in each of the state's fleet parking and maintenance facilities, to the extent practicable, by December 31, 2015. The department is not charged with monitoring or reporting on compliance with this law, but agencies need to show progress in this area for electricity to be a feasible fuel source at these locations.

(d) Under the federal Energy Independence and Security Act of 2007, the U.S. Department of Energy (USDOE) is responsible for rule-making to determine the extent to which alternative fuel credits recognize electricity used by HEVs and PHEVs in state vehicle fleets subject to the federal Energy Policy Act of 1992. The department will utilize the USDOE rule when crediting compliance for these vehicles.

(2) Biofuels.

(a) Biodiesel: Unless otherwise limited by law, it is considered practicable for agencies to:

(i) Use a minimum of (~~twenty~~) 20 percent biodiesel-blend fuel (B20) on an annualized basis when purchasing fuel through the state procurement system.

(ii) Make good faith efforts to identify sources and procure a minimum of B20 when purchasing fuel on a retail basis.

(b) Ethanol: It is considered practicable for agencies with "flex-fuel" vehicles capable of using either high-blend ethanol fuel (E85) or regular gasoline to make good faith efforts to identify sources and procure E85 when purchasing fuel on a retail basis if the price of E85 is at least (~~twenty~~) 20 percent less than regular gasoline.

(c) Renewable Natural Gas: It is considered practicable for agencies considering acquisition of natural gas-fueled vehicles to actively assess opportunities to procure renewable natural gas as the primary fuel.

(3) Alternate fuels.

Compressed natural gas, liquefied natural gas, or propane may be substituted for electricity or biofuel if the department determines that electricity and biofuel are not reasonably available. If an agency believes electricity and biofuels are not reasonably available to fuel a specific vehicle, vessel, or construction equipment, the agency must submit a request for such a determination to the department by July 1 of the year prior to the agency's anticipated procurement on a

form provided by the department. Such a request may be made as part of the agency's annual reporting under WAC 194-28-080.

WSR 24-16-064
PERMANENT RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 31, 2024, 11:42 a.m., effective August 31, 2024]

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

Purpose: The purpose of these rule changes conducted through expedited rule making is to make a uniform housekeeping change throughout rules of Title 314 WAC for the use of the acronym "LCB" to designate the liquor and cannabis board, and to update outdated occurrences of the name "liquor control board" where it still remains. This rule making will bring the name of the board current with the replacement of "liquor control board" throughout Title 314 WAC.

Citation of Rules Affected by this Order: Amending WAC
314-07-010, 314-07-035, 314-07-055, 314-10-010, 314-10-060,
314-10-090, 314-10-100, 314-10-110, 314-11-065, 314-11-095,
314-17-060, 314-19-015, 314-19-020, 314-20-018, 314-20-050,
314-20-140, 314-21-005, 314-21-015, 314-21-025, 314-24-070,
314-24-115, 314-24-150, 314-24-175, 314-31-005, 314-34-020,
314-36-060, 314-42-010, 314-42-020, 314-42-095, 314-42-115,
314-52-005, 314-52-015, 314-68-040, 314-68-050, 314-72-020,
314-12-215, 314-23-021, 314-23-022, 314-23-041, 314-24-265,
314-29-010, 314-42-001, 314-55-018, 314-55-050, 314-55-055,
314-55-075, 314-55-077, 314-55-092, 314-55-104, 314-55-107,
314-55-115, 314-55-135, 314-55-137, 314-55-140, 314-55-155,
314-55-160, 314-55-165, 314-55-185, 314-55-200, 314-55-210,
314-55-220, 314-55-225, 314-55-230, 314-55-310, 314-55-410,
314-55-415, 314-55-417, 314-55-508, 314-55-523, 314-60-010,
314-60-015, 314-60-025, 314-60-070, 314-60-080, 314-60-085,
314-60-090, 314-60-100, and 314-60-110.

Statutory Authority for Adoption: RCW 66.08.030.

Other Authority: 2SSB 5052 (chapter 70, Laws of 2015).

Adopted under notice filed as WSR 24-11-037 on May 8, 2024.

Changes Other than Editing from Proposed to Adopted Version: The following rule sections were removed from this expedited rule-making project because they are under possible amendment in other current rule-making projects: WAC 314-29-038, 314-55-010, 314-55-073, 314-55-083, 314-55-085, 314-55-087, 314-55-089, 314-55-097, 314-55-0995, 314-55-103, 314-55-1035, 314-55-106, 314-55-108, and 314-55-109.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 34, Repealed 0.

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 44, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 78, Repealed 0.

Date Adopted: July 31, 2024.

David Postman
Chair

OTS-5318.1

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-07-010 Definitions. Following are definitions for the purpose of this title. Other definitions are in WAC 314-01-005 and RCW 66.08.010.

(1) "Applicant" or "liquor license applicant" means any person or business entity who is considered by the board as a true party of interest in a liquor license or permit application, as outlined in WAC 314-07-035.

(2) "Building" means a stationary structure with floor to ceiling solid walls and a roof. A food truck is not a "building."

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs, advertising, etc.

(4) "Financier" means any person or entity who has made or will make an investment in the licensed business of more than (~~ten thousand dollars~~) \$10,000. A "financier" can be someone who provides money as a gift, someone who loans money to the business and expects to be paid back the amount of the loan without interest, or someone who invests money into the business expecting a percentage of the profits, but accepts the risk that there may not be a full return on the investment. These persons or entities shall submit appropriate investigation level "financier" financial documents.

(5) "Licensee" or "liquor licensee" means any person or entity that holds a liquor license or permit, or any person or entity who is a true party of interest in a liquor license or permit, as outlined in WAC 314-07-035.

(6) "Public institution" means a public college or university. (See WAC 314-07-020 regarding the liquor (~~control~~) and cannabis board notifying public institutions of liquor license applications.)

AMENDATORY SECTION (Amending WSR 17-12-030, filed 5/31/17, effective 7/1/17)

WAC 314-07-035 What persons or entities have to qualify for a liquor license? Per RCW 66.24.010(1), a liquor license must be issued in the name(s) of the true party(ies) of interest.

(1) **True parties of interest** - For purposes of this title, "true party of interest" means:

True party of interest	Persons to be qualified
Sole proprietorship	Sole proprietor and spouse.
General partnership	All partners and spouses.
Limited partnership, limited liability partnership, or limited liability limited partnership	<ul style="list-style-type: none"> • All general partners and spouses; • All limited partners that have more than 10((%)) <u>percent</u> interest in the partnership and their spouses.

True party of interest	Persons to be qualified
Limited liability company	<ul style="list-style-type: none"> • All members (or persons with equivalent title) with more than 10((%)) percent interest in the LLC and spouses. (Note: In order for the liquor ((control)) and cannabis board to identify the persons to be qualified, we will need to know all parties that have an interest in the limited liability company or have a pending interest.) • All managers (or persons with equivalent title) and their spouses.
Privately held corporation	<ul style="list-style-type: none"> • All corporate officers (or persons with equivalent title) and their spouses. • All stockholders (or persons with equivalent title) and their spouses who hold more than 10((%)) percent of the issued or outstanding stock. (Note: In order for the liquor ((control)) and cannabis board to identify the persons to be qualified, we will need to know all parties who have been issued or will be issued corporate stock.)
Publicly held corporation	All corporate officers (or persons with equivalent title).
Multi-level ownership structures	The liquor ((control)) and cannabis board will review each entity to determine which individuals are to qualify according to the guidelines in this rule.
Any entity	<p>Any person who is in receipt of, or has the right to receive, more than ((ten)) 10 percent of the gross or net sales from the licensed business during any full or partial calendar or fiscal year. For the purposes of this chapter:</p> <ul style="list-style-type: none"> • "Gross sales" includes the entire gross receipts from all sales and services made in, upon, or from the licensed business. • "Net sales" means gross sales minus cost of goods sold.

(2) For purposes of this section, "true party of interest" does not mean:

(a) A person or entity receiving reasonable payment for rent (as determined by the board) on a fixed or percentage basis under a bona fide lease or rental obligation, unless the lessor or property manager exercises control over or participates in the management of the business.

(b) A person who receives a bonus as an employee, if: The employee is on a fixed wage or salary and the bonus is not more than (~~twenty-five~~) 25 percent of the employee's prebonus annual compensation; or the bonus is based on a written incentive/bonus program that is not out of the ordinary for the services rendered.

(c) A person or entity contracting with the applicant(s) to sell the property, unless the contract holder exercises control over or participates in the management of the licensed business.

(d) A person or entity receiving payment of franchise fees on a fixed or percentage basis under a bona fide franchise agreement, unless the person or entity receiving payment of franchise fees exercises control over or participates in the management of the licensed business.

(e) A 401K, IRA, or nonfamilial trust.

(3) **Financiers** - The board may conduct a financial investigation of financiers.

(4) **Persons who exercise control of business** - The board may conduct an investigation of any person or entity who exercises any control over the applicant's business operations.

In cases where there is an entity who is in control of the day-to-day business operation (other than the owner) because of an agreement between the owner and the operator, the operating party becomes a true party of interest. The operator must meet all the qualifications of any other true party of interest and if approved, must be the licensee. The owner may be required to be named on the license as a party of interest based on the terms of the agreement, but will not normally be required to meet all the qualifications of a true party of interest.

(5) The board reserves the right to investigate any person or entity in a liquor license application or current liquor license where hidden ownership or misrepresentation of fact is suspected.

(6) For purposes of this section, a person or entity who takes more than (~~ten~~) 10 percent of the profits and/or exercises control over the licensed business in a given agreement may be named on the license as a party of interest per this rule. Examples of this are lease, operating plan, concession or management agreement.

OTS-5319.1

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-010 General—Liquor (~~control~~) and cannabis board responsibilities. (1) The liquor (~~control~~) and cannabis board shall regulate all sales and distribution of tobacco products pursuant to chapter 507, Laws of 1993. The liquor (~~control~~) and cannabis board shall report all tobacco enforcement activity in a manner agreed by the department of health and the liquor (~~control~~) and cannabis board on a quarterly basis or as set forth in the interagency agreement.

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-060 Persons under 18 years old attempting to purchase/obtaining tobacco products. (1) Any person whom a peace officer or enforcement officer has reasonable grounds to believe is under 18 years of age who purchases or attempts to purchase, or attempts to obtain or obtains tobacco products may be detained for a reasonable period of time and in such a reasonable manner as is necessary to determine the person's true identity and date of birth. A person under 18 years of age who is cited for attempting to purchase or purchasing tobacco products is subject to a fine as set by chapter 7.80 RCW or participation in a smoking cessation program or both.

~~((a))~~ This provision does not apply to a person under the age of 18 who, with parental authorization, is participating in a controlled purchase as a part of a liquor ~~((control))~~ and cannabis board, law enforcement, or local health department activity.

(2) Tobacco products possessed by persons under the age of ~~((eighteen))~~ 18 years are considered contraband and may be seized by an enforcement officer as defined in RCW 7.80.040.

AMENDATORY SECTION (Amending WSR 08-20-109, filed 9/30/08, effective 10/31/08)

WAC 314-10-100 How may cigarette sampling activity be conducted?

(1) The cigarette sampler's license entitles the licensee, and employees or agents of the licensee, to distribute samples at any lawful location in the state during the term of the license. The person engaged in sampling shall carry the Class T1 or T2 license or a copy of the license at all times and produce same at the request of an enforcement officer as defined in RCW 7.80.040.

(2) No person may distribute or offer to distribute samples in a public place. This prohibition does not apply to:

(a) An area to which persons under 18 years of age are denied admission,

(b) A store or concession to which a cigarette retailers license has been issued, or

(c) At or adjacent to a production, repair or outdoor construction site or facility.

(3) Notwithstanding subsection (2) of this section, no person may distribute or offer to distribute samples within or on a public street, sidewalk, or park that is within 500 feet of a playground, school, or other facility where that facility is being used primarily by persons under 18 years of age for recreational, educational or other purposes.

(4) Class T1 and T2 licensees shall provide the board, ~~((forty-five))~~ 45 days prior to a sampling event, the locations, dates and times sampling activities will take place.

(5) All T1 and T2 licensees must provide to the liquor ~~((control))~~ and cannabis board, in a format prescribed by the board, a listing of the location, date, hours and quantities of cigarettes distributed in the state for the previous six months.

(a) A report for the period covering January 1st through June 30th of each year is due by no later than July 31st of each year.

(b) A report for the period covering July 1st through December 31st is due by no later than January 30th of the immediately following year.

(c) The board may take administrative action against any cigarette sampler who fails to submit the required reports.

AMENDATORY SECTION (Amending WSR 93-23-016, filed 11/5/93, effective 12/6/93)

WAC 314-10-110 Penalties, suspension notices, posting or advertising of—Other closing notices prohibited. (1) The liquor (~~and~~) and cannabis board may suspend or revoke a retailer's or sampler's license for violation of the board's administrative rules governing tobacco. Further, the board may impose a monetary penalty in lieu of license suspension for violation of said rules not covered by statute.

(2) Licensees are required to maintain compliance with all tobacco laws and regulations during any period of suspension. Whenever the board shall suspend the license of any licensee, the board shall on the date the suspension becomes effective cause to be posted in a conspicuous place on or about the licensed premises a notice in a form to be prescribed by the board, stating that the license or licenses have been suspended by order of board because of violation of the Washington state laws or the regulations.

(3) During the period of suspension:

(a) No person shall remove, alter, cover, or in any way disturb the posted notice(s) of suspension;

(b) No person shall place, permit or allow to be placed in, at, or upon the licensed premises, any notice or statement of reasons or purpose indicating that the premises have been closed or that sale of tobacco products has been discontinued for any reason other than as stated in the notice of suspension; Provided Further, That the prohibition of this subsection shall apply to any nearby or adjacent property, such as a parking lot area that is owned by or under the control of the licensee.

(c) Neither the licensee nor his/her or its employees shall advertise, either by newspaper, radio, television, handbill, brochure, flyer or by any means whatever, that the licensed premises are closed or discontinuing the sale of tobacco products for any reason(s) other than those stated in the board's suspension notices.

(4) A tobacco licensee may operate the business during the period of suspension provided there is no sale or distribution of tobacco products.

OTS-5320.1

AMENDATORY SECTION (Amending WSR 22-19-035, filed 9/14/22, effective 10/15/22)

WAC 314-11-065 Types of liquor allowed on a licensed premises.

(1) Licensees may only possess and allow persons to consume or possess the type of liquor permitted by the type of liquor license held on the premises; except:

- (a) Under authority of a banquet permit (see chapter 314-18 WAC);
- (b) Restaurant licensees may allow patrons to bring wine into the premises for consumption with a meal;
- (c) Beer and/or wine restaurant or tavern licensees may keep spirituous liquor on the premises for use in the manufacture of food products, provided that:
 - (i) All food products manufactured contain one percent or less of alcohol by weight (per RCW 66.12.160);
 - (ii) Customers are made aware that the food products contain liquor; and
 - (iii) The beer and/or wine restaurant or tavern licensee notifies the local liquor (~~control~~) and cannabis board enforcement office in writing before they bring spirituous liquor on the premises;
- (d) Under the authority of a special occasion license; and
- (e) Licensees with an endorsement under WAC 314-20-350, 314-24-350, or 314-28-350 may keep other types of liquor on the premises to provide contract packaging services consistent with RCW 66.24.248.

(2) For on-premises liquor licenses, the licensee or employees may not permit the removal of liquor in an open container from the licensed premises, except:

- (a) Liquor brought on a licensed premises under authority of a banquet permit may be resealed in its original container and removed at the end of the banquet permit function;
- (b) Per RCW 66.24.320 and 66.24.400, wine that is sold with a meal may be recorked or resealed and removed from the premises;
- (c) Liquor purchased by registered guests for consumption inside a hotel or motel room may be resealed in its original container and removed from the hotel or motel premises by the guest; and
- (d) Liquor removed from a licensed premises that holds a caterer's endorsement, for the purpose of catering an approved event.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-11-095 What records am I required to keep regarding my licensed premises? Licensees are responsible to keep records that clearly reflect all financial transactions and the financial condition of the business.

(1) All industry members and retailers shall keep and maintain the following records on their premises for a three-year period and the records must be made available for inspection if requested by an employee of the liquor (~~control~~) and cannabis board, or by a person appointed in writing by the board for the purposes of administering or enforcing any provisions of Title 66 RCW or Title 314 WAC:

- (a) Purchase invoices and supporting documents, to include the items and/or services purchased, from whom the items were purchased, and the date of purchase;

(b) Bank statements and canceled checks for any accounts relating to the licensed business;

(c) Accounting and tax records related to the licensed business and each true party of interest in the liquor license;

(d) Records of all financial transactions related to the licensed business, including contracts and/or agreements for services performed or received that relate to the licensed business;

(e) Records of all items, services, and moneys' worth furnished to and received by a retailer and of all items, services, and moneys' worth provided to a retailer and purchased by a retailer at fair market value;

(f) Records of all industry member financial ownership or interests in a retailer and of all retailer financial ownership interests in an industry member; and

(g) Business entertainment records of industry members or their employees who provide either food, beverages, transportation, tickets or admission fees for or at athletic events or for other forms of entertainment to retail licensees and/or their employees.

(2) See additional rules for recordkeeping requirements specific to breweries and wineries: WAC 314-20-015(2), 314-20-050, 314-24-100, and 314-24-150 (as now or hereafter amended).

OTS-5321.1

AMENDATORY SECTION (Amending WSR 16-23-122, filed 11/21/16, effective 12/22/16)

WAC 314-12-215 Alcohol impact areas—Definition—Guidelines. (1)

What is an alcohol impact area?

(a) An alcohol impact area is a geographic area located within a city, town or county, and that is adversely affected by chronic public inebriation or illegal activity associated with liquor sales or consumption.

(b) The board may place special conditions or restrictions upon off-premises sales privileges, liquor products, applicants, license assumptions or licensees that sell liquor for off-premises consumption (see subsection (3) of this section).

(c) The board applies a unique investigative and review process when evaluating liquor license applications, license assumptions or renewals for businesses located in an alcohol impact area.

(2) **How is an alcohol impact area formed?** A local authority (that is, a city, town or county) must first designate an alcohol impact area by ordinance and make good faith efforts for at least six months to mitigate the effects of chronic public inebriation with such ordinance before petitioning the board to recognize an alcohol impact area. The board must recognize an alcohol impact area before any unique review process, condition or restriction described in this rule may be applied. A local authority must meet certain conditions to achieve board recognition of an alcohol impact area.

(a) The geographic area of an alcohol impact area must not include the entire geographic area under the jurisdiction of a local authority. However, when a local authority designates a street as a

boundary, the board encourages that the local authority include both sides of the street for greater effectiveness.

(b) The local authority ordinance must explain the rationale of the proposed boundaries, and describe the boundaries in such a way that:

(i) The board can determine which liquor licensees are in the proposed alcohol impact area; and

(ii) The boundaries are understandable to the public at large.

(c) A local authority must:

(i) Submit findings of fact that demonstrate a need for an alcohol impact area and how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate a pervasive pattern of public intoxication or public consumption of liquor as documented in: Crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records, community group petitions, public testimony or testimony by current or former chronic public inebriates.

(d) **Minimum requirements for an alcohol impact area petition packet:**

(i) Litter/trash survey and documented results. A litter/trash survey must be conducted within the proposed alcohol impact area boundaries for at least a four week period. Litter/trash surveys must be completed a minimum of twice a week. Use a GIS data map, or similar tool, to point out the "hot spots" of heavy alcohol consumption based on the litter/trash survey. Provide a list of alcohol products found in the litter/trash survey.

(ii) Photographic evidence of litter and drinking in public.

(iii) Law enforcement testimonial(s). Law enforcement testimonial must be from at least one law enforcement officer who frequently works within the proposed alcohol impact area boundaries. A testimonial must discuss the impact of high alcohol content or volume products within the proposed alcohol impact area boundaries and how implementation of an alcohol impact area would benefit the community.

(iv) Letters of support submitted by neighborhood councils, local agencies, schools or universities, business associations, fire departments, local businesses, or private citizens in the community.

(v) Crime statistics and police reports. Crime statistics and police reports must show the statistics for alcohol-related criminal activity within the proposed alcohol impact area boundaries, and must show evidence linking specific products with chronic public inebriation activity.

(e) After reviewing the alcohol impact area petition packet, the board may request supplemental materials to prove the necessity of an alcohol impact area. The supplemental materials may include:

(i) Additional testimonials submitted by citizens who would be directly affected by the proposed alcohol impact area.

(ii) Emergency medical response data. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of medical emergency care.

(iii) Sanitation reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area boundaries creates an abnormally high amount of sanitation problems.

(iv) Detoxification reports. This information must provide evidence that chronic inebriation within the proposed alcohol impact area requires an abnormally high amount of detoxification services.

(f) Submit documentation that demonstrates a local authority's past good faith efforts to control the problem through voluntary measures (see subsection (4) of this section). The voluntary compliance report must:

(i) Provide an executive summary of the results of the voluntary compliance period;

(ii) Provide evidence of the local authorities' efforts to control the problem through voluntary measures; and

(iii) Explain why the voluntary measures were not effective and how mandatory restrictions will help address the problem.

(g) Request additional conditions or restrictions and explain how the conditions or restrictions will reduce chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(3) What conditions or restrictions may the board recognize for an alcohol impact area?

(a) Restrictions may include, but are not limited to:

(i) Limitations on business hours of operation for off-premises liquor sales;

(ii) Restrictions on off-premises sale of certain liquor products within an alcohol impact area; and

(iii) Restrictions on container sizes available for off-premises sale.

(b) The board has adopted a standardized list of products that will be banned in alcohol impact areas. The list can be found on the ((~~WSLCB~~)) LCB website. The list contains products that are banned in the majority of current alcohol impact areas. Requests for additional product restrictions (for example, prohibition of sale of certain liquor products or container sizes) must originate from a local authority's law enforcement agency or public health authority, whereas restrictions affecting business operations (for example, hours of operation) may originate from a local authority's law enforcement agency, public authority or governing body. Product restrictions must be reasonably linked to problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriates; litter pick-up; or other statistically documented evidence.

(c) After the board has recognized an alcohol impact area the local authority may request the board approve additional products to their banned products list provided that the products are reasonably linked to the problems associated with chronic public inebriation or illegal activity. Reasonable links include, but are not limited to: Police, fire or emergency medical response statistics; photographic evidence; law enforcement, citizen or medical-provider testimonial; testimony by current or former chronic public inebriates; litter pick-up; or other statistically documented evidence.

(d) A local authority may propose the removal of a condition, restriction or product from its alcohol impact area's restricted product

list provided that a local authority demonstrates its reason (such as, a product is no longer produced or bottled) to the board in writing.

(4) What types of voluntary efforts must a local authority attempt before the board will recognize an alcohol impact area?

(a) A local authority must notify all off-premises sales licensees in a proposed alcohol impact area that:

(i) Behavior associated with liquor sales and associated illegal activity is impacting chronic public inebriation; and

(ii) Existing voluntary options are available to them to remedy the problem.

(b) A local authority's efforts must include additional voluntary actions. Examples include, but are not limited to:

(i) Collaborative actions with neighborhood citizens, community groups or business organizations to promote business practices that reduce chronic public inebriation;

(ii) Attempts to achieve voluntary agreements with off-premises sales licensees to promote public welfare, health, peace or safety;

(iii) Requesting licensees to voluntarily discontinue selling products that are considered contributing to the problem;

(iv) Distribution of educational materials to chronic public ~~((inebriants [inebriates]))~~ inebriates or licensees;

(v) Detoxification services;

(vi) Business incentives to discourage the sale of problem products; or

(vii) Change in land use ordinances.

(c) A local authority must implement these voluntary agreements for at least six months before a local authority may present documentation to the board that voluntary efforts failed to adequately mitigate the effects of chronic public inebriation and need augmentation.

(5) What will the board do once it recognizes an alcohol impact area?

(a) The board will notify, in a timely manner, the appropriate liquor distributors of the product restrictions.

(b) The board will notify, in a timely manner, all off-premises sales licensees in a proposed or existing alcohol impact area whenever the board recognizes, or recognizes changes to, an alcohol impact area (see subsection (7) of this section).

(6) What is the review process for liquor license applications, license assumptions, and renewals inside an alcohol impact area?

(a) When the board receives an application for a new liquor license or a license assumption that includes an off-premises sales privilege, the board will establish an extended time period of ~~((sixty))~~ 60 calendar days for a local authority to comment upon the application.

(i) A local authority may, and is encouraged to, submit comment before the end of a comment period. A local authority may request an extension of a comment period when unusual circumstances, which must be explained in the request, require additional time for comment.

(ii) A local authority will notify a licensee or applicant when a local authority requests the board to extend a ~~((sixty))~~ 60-day comment period.

(b) For renewals, the board will notify a local authority at least ~~((ninety))~~ 90 calendar days before a current license expires. The same requirements in (a)(i) and (ii) of this subsection apply to the ~~((ninety))~~ 90-day comment period for problem renewals. For the purposes of this section, a problem renewal means a licensee, a li-

censed business or a licensed location with a documented history of noncompliance or illegal activity.

(7) When and for how long will an alcohol impact area be in effect, and may an alcohol impact area be changed?

(a) An alcohol impact area takes effect on the day that the board passes a resolution to recognize an alcohol impact area. However, product prohibitions take effect no less than ~~((thirty))~~ 30 calendar days after the board passes such resolution in order to give retailers and distributors sufficient time to remove products from their inventories.

(b) An alcohol impact area remains in effect until:

(i) A local authority repeals the enabling ordinance that defines an alcohol impact area;

(ii) A local authority requests that the board revoke its recognition of an alcohol impact area;

(iii) The board repeals its recognition of an alcohol impact area of its own initiative and following a public hearing; or

(iv) A local authority fails to comply with subsection (8) of this section.

(c) A local authority may petition the board to modify an alcohol impact area's geographic boundaries, repeal or modify an existing condition or restriction, or create a new condition or restriction. The board may agree to do so provided that a local authority shows good cause and submits supporting documentation as contained in subsections (2) and (3) of this section.

(d) Prohibition of a new product added to an existing prohibited products list takes effect no sooner than ~~((thirty))~~ 30 calendar days following the board's recognition of a modified prohibited products list.

(8) Reporting requirements and five-year assessments.

(a) A year after the implementation of the alcohol impact area a local authority shall submit a report to the board that clearly demonstrates the intended effectiveness of an alcohol impact area's conditions or restrictions. The report is due no later than ~~((sixty))~~ 60 calendar days following the first anniversary of the implementation of the alcohol impact area. The report must include the same categories of information and statistics that were originally used to request the alcohol impact area.

(b) The board will conduct an assessment of an alcohol impact area once every five years following the fifth, ~~((tenth, fifteenth))~~ 10th, 15th, et cetera, anniversary of the board's recognition of the alcohol impact area. The five-year assessment process is as follows:

(i) Within ~~((twenty))~~ 20 calendar days of receiving a local authority's fifth, ~~((tenth, fifteenth))~~ 10th, 15th, et cetera, report, the board shall notify affected parties of the upcoming assessment, whereupon an affected party has ~~((twenty))~~ 20 calendar days to comment upon, or petition the board to discontinue its recognition of, an alcohol impact area (see (d) of this subsection). Affected parties may include, but are not limited to: Liquor licensees, citizens or neighboring local authorities.

(ii) An affected party may submit a written request for one ~~((twenty))~~ 20 calendar-day extension of the comment/petition period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the initial ~~((twenty))~~ 20-day deadline.

(iii) The board will complete an assessment within (~~sixty~~) 60 calendar days following the close of the final comment/petition period.

(c) An assessment shall include an analysis of:

(i) The same categories of information and statistics that were originally used to request the alcohol impact area; and

(ii) Comments or petitions submitted by affected parties.

An assessment may also include modifications that a local authority must make to an alcohol impact area as required by the board, or the board's reasons for revoking recognition of an alcohol impact area.

(d) To successfully petition the board to discontinue its recognition of an alcohol impact area, an affected party must:

(i) Submit findings of fact that demonstrate how chronic public inebriation or illegal activity associated with liquor sales or consumption within a proposed alcohol impact area does not or no longer:

(A) Contributes to the deterioration of the general quality of life within an alcohol impact area; or

(B) Threatens the welfare, health, peace or safety of an alcohol impact area's visitors or occupants;

(ii) Submit findings of fact that demonstrate the absence of a pervasive pattern of public intoxication or public consumption of liquor as documented in crime statistics, police reports, emergency medical response data, detoxification reports, sanitation reports, public health records or similar records; and

(iii) Demonstrate how the absence of conditions or restrictions will affect chronic public inebriation or illegal activity associated with off-premises sales or liquor consumption (see subsection (3) of this section).

(e) An affected party may submit a written request for one (~~twenty~~) 20-day extension of the comment period, which the board may grant provided that an affected party provides sufficient reason why he or she is unable to meet the (~~twenty~~) 20-day deadline.

OTS-5322.1

AMENDATORY SECTION (Amending WSR 10-12-124, filed 6/2/10, effective 7/3/10)

WAC 314-17-060 What are the course standards, course content, and other requirements for class 12 or 13 training programs? Class 12 and 13 training courses shall have the standards and requirements as stipulated in RCW 66.20.320 and in this section.

(1) **Subjects.** Each class 12 or 13 training course and accompanying workbook shall include:

(a) Those subjects listed in RCW 66.20.320;

(b) Washington state liquor laws and regulations;

(c) Employment of persons under (~~twenty-one~~) 21 years of age;

(d) Legal hours of liquor sale and service;

(e) Prohibited conduct by patrons and employees;

(f) Required signs at retail licensed premises;

(g) Minimum lighting requirements; and

(h) Administrative and criminal sanctions against liquor licensees and permit holders, including permit suspension for delinquent child support payment.

(2) **Administrative materials.** Before beginning a class 12 or 13 training course, each student shall receive:

(a) An enrollment agreement that clearly states the obligations of a trainer and a student, refund policies, and procedures to terminate enrollment;

(b) A statement that says, "If you have questions, comments or complaints about the program, please contact the Liquor (~~Control~~) and Cannabis Board," and includes the appropriate board contact information; and

(c) A notice that students must complete the entire training course before taking the standardized exam.

(3) A provider or trainer is prohibited from stating or implying that the state of Washington, the board or any other state agency endorses or recommends one provider's program over another's program.

(4) **Student evaluation of training course.** A student evaluation for each in-person or online training course is required. A trainer shall provide a separate course evaluation form to each student enrolled in an in-person training course, and a form shall include the board's contact information.

(5) **Exams.** Exams shall be administered following each class 12 or 13 training course.

(a) An exam must demonstrate a student's familiarity with all of the subjects listed in subsection (1) of this section.

(b) A student may not refer to any written, video or online material, or have an in-person or online discussion with another person, during an exam. However, a trainer may allow a student to use an interpreter.

(c) The standardized exam shall have a minimum passing grade of (~~eighty~~) 80 percent unless otherwise stipulated from the board.

(6) **Online training courses.** Effective December 1, 2010, the board allows class 12 and 13 online training courses subject to additional requirements.

(a) A provider must take extra measures to ensure the identity of each student. Extra measures include obtaining the log-in and log-off times (see WAC 314-17-085). Other ways to prevent fraudulent test taking may include, but are not limited to:

(i) Allowing a student to access an examination only once per training course;

(ii) Discontinuing an examination if it stays idle for (~~thirty~~) 30 minutes or more or if another program is accessed; or

(iii) Asking each student personal identifying questions.

(b) A trainer shall be available to answer questions during standard business hours via the internet, telephone or some other method.

(7) **Length of class.** Excluding exam time, a class 12 training course shall be at least three hours in length, and a class 13 training course shall be at least one hour in length.

(8) **Presentation method.** A presentation method may be in-class or online.

(9) **Student workbook.**

(a) A student workbook must contain accurate, current, and complete information.

(b) A provider must update student workbooks and other training course material within (~~thirty~~) 30 calendar days following:

- (i) The effective date of a new applicable state law or regulation; or
- (ii) Receipt of new or updated information from the board.
- (c) The board may establish additional workbook standards or requirements as the board deems necessary.

OTS-5323.1

AMENDATORY SECTION (Amending WSR 12-24-091, filed 12/5/12, effective 1/5/13)

WAC 314-19-015 What are the reporting and tax payment requirements? (1) The required beer and/or wine tax reports must be:

- (a) On a form furnished by the board or in a format approved by the board;
 - (b) Filed every month, including months with no activity or taxes due. A winery or wine certificate of approval holder with total taxable sales of wine in Washington state of (~~six thousand~~) 6,000 gallons or less during the calendar year may elect to file annually;
 - (c) Submitted, with the tax due, to the board on or before the (~~twentieth~~) 20th day of the month following the end of the reporting period, for the previous reporting period (for example, a monthly report listing transactions for the month of January is due by February 20; an annual report listing transactions for 2012 is due by January 20, 2013). When the twentieth day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and
 - (d) Filed separately for each type of liquor license or permit held.
- (2) Wineries, wine certificate of approval holders and wine shippers who elect to file annually:
- (a) Must have taxable sales of wine in Washington state of (~~six thousand~~) 6,000 gallons or less during the calendar year;
 - (b) New licensees who anticipate taxable sales of wine in Washington state of less than (~~six thousand~~) 6,000 gallons must request by notifying the liquor (~~control~~) and cannabis board within (~~thirty~~) 30 days of license issuance that they would like to file annually;
 - (c) May only change reporting frequency (to annual filing or off annual filing) at the beginning of a calendar year, effective month must be January;
 - (d) Are required to file multiple reports in the event of a mid-year tax rate change (for example, the tax rate changes June 1st; annual filer will submit two reports. One for January 1st through May 31st and one for June 1st through December 31st. Both are due January 20th following the end of the reporting period);
 - (e) Must submit a report the month following the month the license has been discontinued or business closed (for example, annual filer closes business/discontinued license May 25th, report is due June 20th).

Type of Licensee	Tax Payment Requirements
(3) Washington beer and/or wine distributor	<p>(a) Distributors must pay taxes on all beer and/or wine received during the preceding calendar month, including samples received at no charge (see WAC 314-64-080 and 314-64-090 for more information). The total tax due (per barrel for beer and per liter for wine) is to be paid by the first distributor to receive the product and must be included with the monthly report.</p> <p>(b) Distributors do not pay taxes on beer and/or wine received from another in-state licensed distributor who has already paid the Washington state tax on the product.</p> <p>(c) Distributors may claim a tax refund or credit, provided that they have paid the taxes prior to claiming the credit, for the following (see WAC 314-19-030 for information on claiming a tax refund or credit):</p> <p>(i) Shipments exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(ii) Sales to any military reservation in Washington state;</p> <p>(iii) Product that is deemed unsalable due to freight damage, product quality, or other causes that occurred prior to receipt by the distributor, subject to the following conditions:</p> <p>(A) The unsalable product must be destroyed within the state of Washington (per RCW 66.24.305);</p> <p>(B) The licensee must notify their local liquor enforcement officer in advance for destruction of more than ((fifty)) 50 cases of wine or ((two hundred)) 200 cases of beer;</p> <p>(C) The licensee must report the destroyed product on the next required monthly report;</p> <p>(D) The licensee must keep records showing the reason for the destruction and an inventory of products destroyed. These records must be kept on the licensed premises and available for inspection by board employees for a period of two years; and</p> <p>(E) The licensee must provide documentation from the freight company with the report if they are claiming a credit due to freight damage.</p>
(4) Washington beer and/or wine importers	<p>Importers must pay taxes on samples received during the preceding calendar month, as follows:</p> <p>(a) If the samples are used by the importer within the state of Washington, the importer must pay the tax.</p> <p>(b) If samples are provided to a distributor, the distributor must pay the tax.</p>
(5) Domestic breweries, microbreweries, and domestic wineries	<p>(a) Domestic breweries, microbreweries, and domestic wineries must list production for the current reporting period only. The brewery that the domestic brewery/brand owner contracts with is required to include any products they produce for the brand owner in their production count.</p> <p>(b) Domestic breweries, microbreweries, and domestic wineries must pay taxes on beer and/or wine that is:</p> <p>(i) Sold at retail on the licensed premises (or shipped to additional winery locations as authorized by RCW 66.24.170(4)), including retail sales to out-of-state residents;</p>

Type of Licensee	Tax Payment Requirements
	<p>(ii) Sold to retail licensees;</p> <p>(iii) Furnished as samples to retail licensees as authorized by RCW 66.28.040, WAC 314-64-080, and 314-64-090 (does not include samples provided to distributors);</p> <p>(iv) Provided as donations to qualifying 501 (c)(3) or (6) nonprofit organizations per RCW 66.28.040 or to the Washington wine commission per RCW 66.12.180 and 66.24.210;</p> <p>(v) Received via an interplant transfer if used as outlined in above subsections (i), (ii), (iii), or (iv);</p> <p>(vi) Sold at farmers markets as authorized by RCW 66.24.170(5), 66.24.240(4) and/or 66.24.244(5); or</p> <p>(vii) Wine that has been shipped out-of-state as nontax paid export and returned to Washington state if used as outlined in (b)(i), (ii), (iii), (iv), or (vi) of this subsection.</p> <p>(c) Domestic breweries, microbreweries, and domestic wineries do not pay tax on beer and/or wine that is:</p> <p>(i) Sold to or furnished as samples to distributors;</p> <p>(ii) Shipped out of a particular location for an interplant transfer;</p> <p>(iii) Exported directly to a point outside the state of Washington, including sales to interstate common carriers;</p> <p>(iv) Sold to any military reservation in Washington state; or</p> <p>(v) Provided as a tasting on the brewery or winery premises or at additional winery locations at no charge, as authorized by RCW 66.24.170(4). See WAC 314-19-010(3) for the definition of "tastings."</p>
(6) Domestic brewery —Brand owners	<p>(a) Domestic brewery-brand owners must file a report showing the quantity of all beer sold or delivered to each licensed beer distributor, or beer exported directly to a point outside the state of Washington, during the preceding reporting period.</p> <p>(b) Domestic brewery-brand owners are not responsible for the tax on beer that is contract produced.</p>
(7) Out-of-state beer and/or wine certificate of approval holders	<p>(a) Certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples, during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder:</p> <p>(i) On samples shipped to licensed agents, and</p> <p>(ii) On donations to the Washington wine commission per RCW 66.12.180 and 66.24.210 or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
(8) Out-of-state United States beer and/or wine certificate of approval holders with a direct shipping to Washington retailer endorsement	<p>(a) Certificate of approval holders with this endorsement must file an addendum report showing the quantity of beer and/or wine sold or delivered to each licensed retailer, including samples, during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on beer and/or wine sold or delivered to retail licensees and on sales to nonprofit charitable associations.</p>

Type of Licensee	Tax Payment Requirements
(9) Out-of-state United States wine certificate of approval holders with a direct shipping to consumers endorsement	<p>(a) A certificate of approval holder with this endorsement must report the total quantity of wine sold to consumers in Washington state during the preceding reporting period.</p> <p>(b) Tax is due from the certificate of approval holder on wine sold or delivered to Washington state residents.</p>
(10) Authorized representative certificate of approval holders--((U.S.)) United States and/or foreign produced beer or wine	<p>(a) Authorized representative certificate of approval holders must file a report showing the quantity of all beer and/or wine sold or delivered to each licensed beer or wine distributor or importer, including samples. They must list the brewery and/or winery that they represent and that had shipments into Washington state during the preceding month.</p> <p>(b) Tax is due from the authorized representative beer and/or wine certificate of approval holders only on samples shipped to licensed agents, directly to retailers per WAC 314-64-080 and 314-64-090, donations to the Washington wine commission per RCW 66.12.180 and 66.24.210, or to 501 (c)(3) nonprofit charitable associations within Washington state per RCW 66.28.040.</p>
(11) Public house licensees	Public house licensees must pay taxes on all sales of their own product during the preceding calendar month.
(12) Retailer with an endorsement allowing receipt of direct shipment of beer or wine from a United States brewery, microbrewery, or winery	A Washington retailer who receives shipments directly from a United States brewery, microbrewery, or winery, outside Washington, must file a report showing the quantity of beer and wine received by direct shipment from each licensed beer or wine producer, including samples, during the preceding month.
(13) Wine shipper permit holder	<p>(a) An out-of-state winery must file a report showing the total quantity of wine sold or delivered to consumers during the preceding reporting period.</p> <p>(b) Pay the tax due for sales of wine to Washington state residents.</p>

AMENDATORY SECTION (Amending WSR 14-12-101, filed 6/4/14, effective 7/5/14)

WAC 314-19-020 What if a licensee doesn't report or pay the taxes due, or reports or pays late? The board may take the following actions against a licensee or permit holder in order to collect any of the reports or taxes due that are outlined in this title.

(1) Suspension or revocation of license	<p>(a) Failure to make a report and/or pay the taxes in the manner and dates outlined in this chapter will be sufficient ground for the board to suspend or revoke a liquor license, wine shipper permit, or certificate of approval (per RCW 66.08.150, 66.24.010, 66.24.120, 66.24.206, 66.20.370, 66.20.380, and 66.24.270).</p> <p>(b) The suspension will remain in effect until all missing reports and/or taxes have been filed with the board (see WAC 314-19-010(1) for the definition of "missing").</p>
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<p>(2) Penalties</p>	<p>A penalty of two percent per month will be assessed on any tax payments postmarked after the ((twentieth)) 20th day of the month following the reporting period of the transactions (per the reporting requirements outlined in WAC 314-19-015, RCW 66.24.290, and 66.24.210). When the ((twentieth)) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the Washington state liquor ((control)) and cannabis board, or designee, will be used to determine if penalties are to be assessed.</p>
<p>(3) Surety bond requirements</p>	<p>(a) What is a surety bond? A "surety bond" is a type of insurance policy that guarantees beer and/or wine tax payment to the state. The surety bond must be:</p> <ul style="list-style-type: none"> (i) Executed by a surety company authorized to do business in the state of Washington; (ii) On a form and in an amount acceptable to the board; (iii) Payable to the Washington state liquor ((control)) and cannabis board; and (iv) Conditioned that the licensee will pay the taxes and penalties levied by RCW 66.24.210 and/or 66.24.290. <p>(v) As an option to obtaining a surety bond, a licensee may create an assignment of savings account for the board in the same amount as required for a surety bond. Requests for this option must be submitted in writing to the board's financial division.</p> <p>(b) When will the board require a surety bond? The board may require a surety bond from a Washington beer and/or wine distributor, domestic microbrewery, domestic brewery, public house, domestic winery, wine shipper, or a beer or wine certificate of approval holder that has a direct shipment privilege. If any of the following occur, the board may require the licensee or permit holder to obtain a surety bond or assignment of savings account, within ((twenty-one)) 21 days after an administrative violation notice is issued:</p> <ul style="list-style-type: none"> (i) A report or tax payment is missing, as defined in WAC 314-19-010, for two or more consecutive months; or (ii) A report or tax payment is missing, as defined in WAC 314-19-010, two or more times within a two year period. <p>(c) What will happen if the licensee does not acquire the surety bond or savings account? Failure to meet the bonding or savings account requirements outlined in subsections (a) and (b) of this rule may result in immediate suspension of license privileges until all missing reports are filed and late taxes have been paid and the surety bond is acquired or the savings account is established.</p> <p>(d) In what amount and for how long will the board require a surety bond? The amount of a surety bond or savings account required by this chapter must be either \$3,000, or the total of the highest four months' worth of tax liability for the previous ((twelve)) 12 month period, whichever is greater.</p> <ul style="list-style-type: none"> (i) The licensee or permit holder must maintain the bond for at least two years. After the two year period the licensee or permit holder may request an exemption as outlined in subsection (f) of this rule.

(ii) Surety bond and savings account amounts may be reviewed annually and compared to the last ~~((twelve))~~ 12 months' tax liability of the licensee. If the current bond or savings account amount does not meet the requirements outlined in this section, the licensee or permit holder will be required to increase the bond amount or amount on deposit within ~~((twenty-one))~~ 21 days.

(e) What action will the board take when a licensee or permit holder holds a surety bond and does not pay taxes due or pays late? If a licensee or permit holder holds a surety bond or savings account, the board will immediately start the process to collect overdue taxes from the surety company or assigned account. If the exact amount of taxes due is not known due to missing reports, the board will estimate the taxes due based on previous production, receipts, and/or sales.

(f) Can a licensee or permit holder request an exemption to the surety bond or savings account requirement? A licensee or permit holder may make a written request to the board's financial division for an exemption from the surety bond or assignment of savings account requirements. The board will grant an exemption once the following criteria are met:

(i) The licensee or permit holder has filed reports and paid applicable taxes to the board for at least two years immediately prior to the exemption request; and

(ii) There have been no late or missing reports or tax payments during the previous two years.

(iii) In order to remain exempt from the surety bond or assignment of savings account requirements, the licensee must continue to meet the tax reporting and payment requirements outlined in this title (outlined in WAC 314-19-015, RCW 66.24.206, 66.24.210, 66.24.270, 66.24.290, and 66.24.580).

OTS-5324.1

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-20-018 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell sealed bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least 42 inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-20-050 Beer distributors—Importers—Brewers—Records—Preservation. (1) Breweries, microbreweries, beer certificate of approval holders, and beer distributors must keep beer accounts separate and independent from other accounts and maintain proper records in a form approved by the board, showing all transactions in beer.

(2) Breweries, microbreweries, beer distributors, and beer importers must in case of beer exported or beer sold, transferred or shipped to another distributor, preserve all bills of lading or other evidence of shipment for a period of three years after such exportation, and must in the case of sales to retailers preserve all sales slips and keep the same on file in the office of the wholesaler for at least three years after each sale.

(3) Each brewery, beer distributor, and beer importer may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the

Washington state liquor (~~(control)~~) and cannabis board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(4) If the brewery, beer distributor, or beer importer keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(5) The provisions contained in subsections (3) and (4) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 04-24-097, filed 12/1/04, effective 1/1/05)

WAC 314-20-140 Beer importers—Certain duties. No beer importer shall import or transport or cause to be transported into the state of Washington any brand of beer manufactured within or outside of the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the brewer manufacturing such beer or United States foreign importer of such beer, has obtained from the Washington state liquor (~~(control)~~) and cannabis board a certificate of approval as provided in section 23-F of the Washington State Liquor Act (RCW 66.24.270).

OTS-5326.1

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-005 What is an in-house controlled purchase program?

(1) Per RCW 66.44.290, an in-house controlled purchase program is a program that allows retail liquor licensees to use (~~eighteen, nineteen, or twenty~~) 18, 19, or 20 year old persons to attempt to purchase alcohol for the purpose of evaluating the licensee's training program regarding the sale of liquor to persons under (~~twenty-one~~) 21 years of age.

(2) The licensee's controlled purchase program must meet the requirements of RCW 66.44.290, WAC 314-21-015, and 314-21-025.

(3) Per RCW 66.44.290, violations occurring under an in-house controlled purchase program may not be used for criminal prosecution or administrative action by the liquor (~~control~~) and cannabis board.

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-015 How can liquor licensees receive approval to conduct an in-house controlled purchase program? A retail liquor licensee must receive prior written approval from the liquor (~~control~~) and cannabis board's enforcement and education division before conducting an in-house controlled purchase program.

(1) The board's approval will be based on the licensee submitting a written plan that meets the requirements outlined in RCW 66.44.290 and chapter 314-21 WAC.

(2) It will take up to (~~twenty~~) 20 days for the licensee to receive written approval from the liquor (~~control~~) and cannabis board's enforcement and education division once the licensee submits a properly completed written request, therefore the licensee must submit his/her request in writing to the board's enforcement and education division at least (~~twenty~~) 20 working days prior to the first controlled purchase program.

(3) The written request must contain:

(a) The location(s) at which the licensee would like to conduct controlled purchase programs.

(b) The name and contact telephone number(s) of the person who will be on the premises supervising the control purchased program, who must be at least (~~twenty-one~~) 21 years of age.

(c) The licensee's written procedures for their in-house controlled purchase program, which must address all of the guidelines in WAC 314-21-025.

AMENDATORY SECTION (Amending WSR 02-11-030, filed 5/7/02, effective 6/7/02)

WAC 314-21-025 What are the guidelines for controlled purchase programs? A retail liquor licensee may conduct an in-house controlled purchase program under the following conditions:

(1) The licensee must keep a statement on file signed by the licensee and each employee indicating that the employee has received training regarding the sale of liquor to persons under (~~twenty-one~~)

21 years of age. Restaurant, tavern, or sports/entertainment facility licensees must keep on file either such a statement for each employee or a copy of the employee's mandatory alcohol server training permit. These records must be maintained on the licensed premises, available for inspection by the board, unless otherwise approved in writing by the liquor (~~(control)~~) and cannabis board's enforcement and education division.

(2) During an in-house controlled purchase program, the person supervising the program must possess:

(a) The licensee's controlled purchase program procedures,

(b) The board's written approval of the in-house controlled purchase program, and

(c) Valid identification (see WAC 314-11-025 for a list of acceptable identification).

(3) The persons participating in the in-house controlled purchase program must be at least (~~(eighteen)~~) 18 years of age.

(4) The persons participating in the in-house controlled purchase program may not use fraudulent identification and should not be deceptively mature in appearance.

(5) The licensee must ensure that two photos are taken of the persons participating in the in-house controlled purchase program on the day of the program. One photo must be full face and one photo must show the employee from head to toe. These photos must be maintained on the licensed premises, available for inspection by the board.

(6) If persons participating in the in-house controlled purchase program are paid for their time, the compensation of such persons may not be based on the number of successful purchases made during the course of the in-house controlled purchase program.

(7) The licensee must have written procedures that ensure any liquor purchased by an (~~(eighteen, nineteen, or twenty)~~) 18, 19, or 20 year old person during an in-house controlled purchase program is adequately secured by the licensee or an employee who is at least (~~(twenty-one)~~) 21 years of age immediately following an occurrence of any purchase.

(8) Per RCW 66.44.290, the licensee must provide his/her employees a written description of the employer's in-house controlled purchase program, which must include a notice of action an employer may take as a consequence of an employee's failure to comply with the employer's policies regarding the sale of alcohol during an in-house controlled purchase program.

(9) Per RCW 66.44.290, a licensee may not terminate an employee solely for a first-time failure to comply with the licensee's policies regarding the sale of alcohol during an in-house controlled purchase program.

(10) If a licensee's controlled purchase program fails to meet any of the requirements of RCW 66.44.290, WAC 314-21-015, or 314-21-025, the board may revoke its approval to conduct in-house controlled purchase programs. The licensee may reapply for approval to conduct in-house controlled purchase programs not less than one year following the board's revocation of approval.

OTS-5325.1

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-021 What are the monthly reporting and payment requirements for a spirits distributor license? (1) A spirits distributor must submit monthly sales reports and payments to the board.

(2) The required monthly sales reports must be:

(a) Filed electronically or on a form furnished by the board;

(b) Filed every month, including months with no activity or payment due;

(c) Submitted, with any payment due to the board on or before the (~~twentieth~~) 20th day of each month for the previous month (for example, a report listing transactions for the month of January is due by February 20th). When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(3) Electronic payments will be considered received on the date they post in the ((~~WSLCB~~)) LCB receiving account.

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-022 What if a distributor licensee fails to report or pay, or reports or pays late? (1) Failure of a spirits distributor licensee to submit monthly reports and payment to the board as required in WAC 314-23-021(1) will be sufficient grounds for the board to suspend or revoke the liquor license.

(2) A penalty of two percent per month will be assessed on any payments postmarked or posted in the ((~~WSLCB~~)) LCB receiving account if paying electronically after the (~~twentieth~~) 20th day of the month following the month of sale. When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the report and payment must be postmarked or posted in the ((~~WSLCB~~)) LCB receiving account if paying electronically no later than the next postal business day.

Absent a postmark, and if not paying electronically, the date received at the ((~~WSLCB~~)) LCB will be used to determine if penalties are to be assessed.

(3) Electronic payments will be considered received on the date they post in the ((~~WSLCB~~)) LCB receiving account.

AMENDATORY SECTION (Amending WSR 19-21-002, filed 10/2/19, effective 1/1/20)

WAC 314-23-041 What are the monthly reporting requirements for a spirits certificate of approval licensee? (1) A spirits certificate of approval licensee must submit monthly reports to the board.

(2) The required monthly reports must be:

(a) Filed electronically or on a form furnished by the board;

(b) Filed every month, including months with no activity;

(c) Submitted on or before the (~~twentieth~~) 20th day of each month, for the previous month (for example, a report listing transactions for the month of January is due by February 20th). When the (~~twentieth~~) 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day; and

(d) Filed separately for each liquor license held.

(3) Absent a postmark, the date received at the (~~WSLCB~~) LCB will be used to determine timeliness.

OTS-5327.1

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-070 Domestic wineries—Purchase and use of bulk wines, brandy or wine spirits—Import permit required—Records—Wine returned to Washington. (1) Domestic wineries may purchase and/or receive under federal bond from any holder of a domestic winery license, holder of the fruit and/or wine distillery license provided in RCW 66.24.140, or out-of-state holder of a federal winery or fruit distillery basic permit, bulk wine, brandy or bulk wine spirits manufactured or produced by such holder, and use the same in the manufacture or production of wines: Provided, That every domestic winery which imports wine, brandy or wine spirits manufactured outside the state of Washington for use as authorized in this section must first be in possession of a permit issued by the board, in accordance with RCW 66.20.010(5) of the Washington State Liquor Act. Applications for such permits must be submitted to the board in writing. Such permits expire at the end of the board's fiscal year, and are subject to renewal at that time upon written request and remittance of said annual fee. Wine manufactured or produced from one kind of fruit or berry may not receive wine, brandy or wine spirits manufactured or produced from another kind of fruit or berry. Such brandy or wine spirits so purchased shall be used exclusively and only for the purpose of adding wine spirits to wines. In those cases where the holder of a domestic winery license shall also hold such fruit and/or wine distillery license, then, and in such cases, such domestic winery may use brandy or wine spirits manufactured or produced under such distillery license as a wine spirits addition in the manufacture or production of wine by such holder of the domestic winery license.

(2) Any domestic winery using wine, brandy or wine spirits as provided in subsection (1) of this section, shall make and file with the board, not later than the (~~tenth~~) 10th day of each month upon forms prescribed and furnished by the board, a report showing all transactions of such domestic winery in the purchase and/or use of wine, brandy or wine spirits as provided in said subsection (1) of this section, and shall retain one copy of such report in its own files, and shall keep and preserve for a period of not less than two years any bills of lading or other documents supporting such report. One copy of the bill of lading covering such sale and shipment to a

domestic winery is to be forwarded to the board by the shipping winery or fruit distillery, at the time of such shipment.

(3) A domestic winery may ship Washington wine out of and may return such wine to Washington state for ultimate sale. The following conditions apply:

(a) The wine is produced and bottled in Washington by a licensed winery.

(b) The export shall be from the licensed winery and returned to the same entity, a licensed wine distributor or bonded wine warehouse.

(c) The returned wine must not have been altered in any way, with the exception of sparkling wine.

(d) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must comply with tax collection and tracking requirements initiated by the liquor (~~(control)~~) and cannabis board.

(e) A domestic winery, a licensed wine distributor, or bonded wine warehouse directly receiving previously exported Washington wine must keep on file for audit purposes clear source records (shipping documents, etc.) with reporting documents. Records need to indicate what wine was returned to the state that was previously reported as an export (including number of cases and gallons).

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-115 Wine importers—Requirements. (1) Principal office: Each wine importer shall keep the board informed at all times of the location of the principal office required by the Washington State Liquor Act and shall, not less than (~~(thirty)~~) 30 days prior thereto notify the board in writing of any change in the location of such office.

(2) Warehouses: Wine importers maintaining warehouses at which wine imported by such importer is stored shall have the location approved by the board.

(3) Certain duties: No wine importer shall import or transport or cause to be transported into the state of Washington any brand of wine manufactured within the United States but outside the state of Washington, unless such importer shall have first filed with the board a notice of his intention so to do, and shall have ascertained from the board that the winery manufacturing such wine has obtained from the Washington state liquor (~~(control)~~) and cannabis board a certificate of approval as provided in the Washington State Liquor Act (section 10, chapter 21, Laws of 1969 ex. sess.).

AMENDATORY SECTION (Amending WSR 10-01-090, filed 12/16/09, effective 1/16/10)

WAC 314-24-150 Wine records—Preservation. (1) Every domestic winery, wine distributor, wine certificate of approval holder, wine shipper permit holder, and wine importer shall keep wine accounts separate from other accounts, and maintain proper records in a form approved by the board showing all transactions in wine.

(2) Every domestic winery, wine distributor, and wine importer, shall, in the case of sales of wine within the state, keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, in the office of the domestic winery, wine distributor or wine importer for at least three years after each sale.

(3) Every domestic winery, wine distributor, and wine importer, shall, in the case of wine exported from the state, keep and preserve all bills of lading and other evidence of shipment in the office of the domestic winery, wine distributor, or wine importer for at least three years after each shipment.

(4) Both the shipping and receiving licensees and permittees, as the case may be, shall keep and preserve all invoices, bills of lading, sales slips, and other evidence of sale, transfer or shipment in their respective offices for at least three years after each sale, transfer or shipment.

(5) Licensees and permittees may maintain microfilm records containing reproductions (including microfiche) of any record, document, or report if first approved by the board. Request for approval shall be directed to the financial division of the Washington state liquor (~~control~~) and cannabis board and must include the following information:

- (a) Records proposed to be reproduced.
- (b) Reproduction process.
- (c) Manner of preserving the reproduction.
- (d) Facilities provided for examining or viewing such reproduction.

If the request is approved, the licensee or permittee shall provide for the examining, viewing, and reproduction of such records the same as if they were the original records.

(6) If the licensee or permittee keeps records within an automated data processing (ADP) system, the system must include a method for producing legible records that will provide the same information required of that type of record within this section. The ADP system is acceptable if it complies with the following guidelines:

(a) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

(b) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

(c) Has available a full description of the ADP portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

(7) The provisions contained in subsections (5) and (6) of this section do not eliminate the requirement to maintain source documents, but they do allow the source documents to be maintained in some other location.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-24-175 Farmer's market beer and wine sampling. (1) To conduct beer and wine tasting at a farmer's market, the following criteria must be met:

(a) The farmer's market must be authorized to allow breweries, microbreweries, and wineries to sell bottled wine and/or beer at retail.

(b) The farmer's market must hold an endorsement to allow sampling of beer and wine or both.

(c) A brewery, microbrewery, or winery offering samples at a farmer's market must have an endorsement from the board to sell beer or wine of its own production at a farmer's market (see RCW 66.24.170, 66.24.240, and 66.24.244).

(d) No more than three breweries, microbreweries, or wineries combined may offer samples at a qualifying farmer's market per day.

(e) A brewery, microbrewery, or winery may advertise that it offers samples only at its designated booth, stall, or anywhere within the farmer's market.

(2) Samples of beer or wine may be offered only under the following conditions:

(a) Each sample must be two ounces or less, up to a total of two ounces per customer per day.

(b) Beer and wine samples are to be conducted at the booth or stall of the brewery, microbrewery, or winery with a barrier at least 42 inches in height, where licensees are able to observe and control customers participating in the samples. The barriers may be moveable (an example would be ropes and stanchions).

(c) A brewery, microbrewery, or winery must have food available for customers to consume while sampling beer or wine, or must be adjacent to a vendor offering prepared food.

(d) Customers must remain in the designated sampling area while sampling beer or wine.

(e) Brewery, microbrewery, or winery employees serving beer or wine during sampling events must hold a valid MAST permit.

(f) The brewery, microbrewery, or winery is required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling must be included.

(g) The farmer's market is also required to send a list of scheduled beer and wine samplings to the liquor (~~control~~) and cannabis board at MIWenforce@lcb.wa.gov at the beginning of each month. The date for each beer and wine sampling, and the names of the brewery, microbrewery, and winery providing the samples must be included.

(h) The farmer's market is required to provide a sketch to the licensing division of the area where beer and wine samples will be conducted and to any adjacent food booths.

AMENDATORY SECTION (Amending WSR 18-02-006, filed 12/20/17, effective 1/20/18)

WAC 314-24-265 Defining wine of a winery's own production. A domestic winery holding a valid license in both Washington and Oregon may market and distribute wine produced in Oregon utilizing their

Washington winery license as the premises for transactions if the following conditions are met:

(1) The licensee must request approval from the ((WSLCB)) LCB to market and retail their Oregon wine at their Washington winery premises. Approval will be granted based on the documentation that demonstrates compliance with this regulation.

(2) The licensee must demonstrate a valid Oregon winery license and that the underlying ownership of the Oregon winery license is identical to the Washington winery license.

(3) Both the Washington and Oregon wineries must manufacture wine within the same TTB authorized appellation. Only wine from cross border appellations will be approved.

(4) Oregon wine to be marketed and/or sold in Washington must have the appropriate taxes paid (RCW 66.24.210).

OTS-5328.2

AMENDATORY SECTION (Amending WSR 18-21-115, filed 10/17/18, effective 11/17/18)

WAC 314-29-010 What options does a licensee or permit holder have once he/she receives a notice of an administrative violation?

(1) A licensee or a mandatory alcohol server training permit holder has ((~~twenty~~)) 20 days from receipt of the notice to:

- (a) Accept the recommended penalty; or
- (b) Request a settlement conference in writing; or
- (c) Request an administrative hearing in writing.

A response must be submitted on a form provided by the agency.

(2) What happens if a licensee or mandatory alcohol server training permit holder does not respond to the administrative violation notice within ((~~twenty~~)) 20 days?

(a) If a licensee or permit holder does not respond to the administrative violation notice within ((~~twenty~~)) 20 days, the recommended suspension penalty will go into effect. After ((~~twenty~~)) 20 days and up to ((~~thirty~~)) 30 days from the date of the administrative violation notice, and if the violation includes a monetary penalty, the licensee may pay a ((~~twenty-five~~)) 25 percent fee in addition to the recommended penalty in lieu of suspension.

(b) If the penalty does not include a suspension, the licensee must pay a ((~~twenty-five~~)) 25 percent late fee in addition to the recommended penalty. The recommended penalty plus the late fee must be received within ((~~thirty~~)) 30 days of the violation notice issue date.

(c) When a licensee fails to submit payment of monetary fine proceedings, provisions to collect shall take effect immediately or other actions such as revocation, will be instituted as deemed appropriate by the ((WSLCB)) LCB.

(d) An attempt to advise the debtor of the existence of the debt, and ((~~twenty-five~~)) 25 percent late fee per (b) of this subsection, will be made notifying that the debt may be assigned to a collection agency for collection if the debt is not paid, and at least ((~~thirty~~)) 30 days have elapsed from the time notice was attempted.

(e) Licensees failing to respond to an administrative violation notice or having outstanding fines shall not be eligible to renew their liquor license.

(f) Failure to address monetary penalties for two or more administrative violations notices in a two-year period will result in license cancellation.

(3) What are the procedures when a licensee or mandatory alcohol server training permit holder requests a settlement conference?

(a) If the licensee or permit holder requests a settlement conference, the hearing examiner or captain will contact the licensee or permit holder to discuss the violation.

(b) Both the licensee or permit holder and the hearing examiner or captain will discuss the circumstances surrounding the charge, the recommended penalty, and any aggravating or mitigating factors.

(c) If a compromise is reached, the hearing examiner or captain will prepare a compromise settlement agreement. The hearing examiner or captain will forward the compromise settlement agreement, authorized by both parties, to the board for approval.

(i) If the board approves the compromise, a copy of the signed settlement agreement will be sent to the licensee or permit holder, and will become part of the licensing history.

(ii) If the board does not approve the compromise, the licensee or permit holder will be notified of the decision. The licensee or permit holder will be given the option to renegotiate with the hearing examiner or captain, of accepting the originally recommended penalty, or of requesting an administrative hearing on the charges.

(d) If the licensee or permit holder and the hearing examiner or captain cannot reach agreement on a settlement proposal, the licensee may accept the originally recommended penalty, or the hearing examiner or captain will forward a request for an administrative hearing to the board's hearings coordinator.

OTS-5329.1

AMENDATORY SECTION (Amending WSR 12-18-002, filed 8/23/12, effective 9/23/12)

WAC 314-31-005 Liquor compliance checks. (1) The Washington state liquor (~~((control))~~) and cannabis board authorizes enforcement officers and investigative aides working with enforcement officers to conduct liquor compliance checks at any location where alcohol is sold, served or provided.

(2) Investigative aides working at the direction of enforcement officers during a liquor compliance check are considered agents of the Washington state liquor (~~((control))~~) and cannabis board.

(3) Violations involving a licensee, its employee, or a member of the public that result from a liquor compliance check are subject to criminal arrest and/or administrative action by the liquor (~~((control))~~) and cannabis board.

OTS-5330.1

AMENDATORY SECTION (Amending WSR 10-01-089, filed 12/16/09, effective 1/16/10)

WAC 314-34-020 Information about cigarette and/or tobacco products license suspensions. (1) On the date a cigarette and/or tobacco products license suspension goes into effect, a liquor enforcement officer will post a suspension notice in a conspicuous place on or about the licensed premises. This notice will state that the license has been suspended by order of the liquor (~~control~~) and cannabis board due to a violation of a cigarette or tobacco products law or rule.

(2) During the period of cigarette and/or tobacco products license suspension, the licensee and employees:

(a) Are required to maintain compliance with all applicable cigarette and tobacco products laws and rules;

(b) May not remove, alter, or cover the posted suspension notice, and may not permit another person to do so;

(c) May not place or permit the placement of any statement on the licensed premises indicating that the premises have been closed for any reason other than as stated in the suspension notice;

(d) May not advertise by any means that the licensed premises is closed for any reason other than as stated in the liquor (~~control~~) and cannabis board's suspension notice.

(3) During the period of cigarette and tobacco products license suspension:

(a) A retail cigarette and/or tobacco products licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

(b) A cigarette wholesaler and tobacco products distributor licensee may operate his/her business provided there is no sale, delivery, removal, or receipt of cigarette and tobacco products.

OTS-5331.1

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-36-060 Public storage warehouses. (1) No public storage warehouse shall accept, receive, or store or otherwise handle any spirits, beer, or wine, without first obtaining from the Washington state liquor (~~control~~) and cannabis board a letter of authorization.

(2) No consumption of spirits, beer, or wine, is allowed at public storage warehouses.

OTS-5332.1

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-42-001 Board operations and procedure. This section details the general course and method by which the operations of the board are channeled and determined in addition to the other functions and procedures of the board as provided in Title 314 WAC.

(1) The "Washington state liquor and cannabis board" or "board" pursuant to RCW 66.08.012 and 66.08.014, consists of three members appointed by the governor, with the consent of the senate, for staggered terms of six years. Where appropriate, the term "board" also refers to the staff and employees of the Washington state liquor and cannabis board.

(2) The board delegates certain administrative functions to an administrative director appointed by the board as provided in WAC 314-42-010.

(3) Pursuant to the requirements of the Open Public Meetings Act, chapter 42.30 RCW all determinations and business of the board will be made and conducted in meetings open to the public, except matters exempt from the act under RCW 42.30.140 or properly conducted in executive session pursuant to RCW 42.30.110.

(a) The board holds regular meetings as published with the office of the code reviser in the *Washington State Register* per RCW 42.30.075 and as published on the board's website at lcb.wa.gov. For scheduling purposes, it is the board's intent to schedule petitions, take public testimony, conduct rule making activities, and adopt resolutions at its regular board meetings as published in the *Washington State Register* and posted on the (~~WSLCB~~) LCB website.

(b) Occasionally the board may deem it necessary to cancel meetings or conduct business at times other than as published in the *Washington State Register*. For these occasions, stakeholder notification will occur as provided in the Open Public Meetings Act, chapter 42.30 RCW.

AMENDATORY SECTION (Amending WSR 12-17-006, filed 8/1/12, effective 9/1/12)

WAC 314-42-010 Liquor (~~control~~) and cannabis board administrative director. (1) The purpose of this rule is to ensure efficient and consistent administration of the liquor (~~control~~) and cannabis board through the delegation of certain administrative functions to an administrative director. The delegation of administrative functions by the board, as provided for in this section, does not alter the board's statutory responsibility to administer Title 66 RCW.

(2) The administrative director will be appointed by, and serve at the pleasure of, the board, and will perform his/her duties under the general control, management, and supervision of the board.

(3) The following duties are delegated by the board to the administrative director:

(a) Appointing authority as defined by WAC 356-05-040, 356-30-007, and 356-34-011 for all liquor (~~control~~) and cannabis board employees, with the exception of the director and staff of the policy, legislative, and media relations division as described in subsection (4) (e) and staff that report directly to the board members;

- (b) Authorize expenditures of funds from the board approved internal budget;
 - (c) Purchase, lease, contract, or otherwise acquire any goods, services, and products within the board approved internal budget;
 - (d) Approve uncontested licenses and permits (this authority may be further delegated);
 - (e) Assign duties, coordinate agency operations, and establish performance standards and timelines;
 - (f) Approve disbursements of excess funds from the liquor revolving fund; and
 - (g) Perform other duties of a routine administrative nature identified by the board.
- (4) The following duties will not be delegated and will remain functions of the board:
- (a) Final approval of agency-wide and division budgets as prepared by the administrative director;
 - (b) Revocation or suspension of a license or permit;
 - (c) Appeals of administrative actions taken against liquor and tobacco licensees;
 - (d) Approval of contested liquor license and permit applications; and
 - (e) Direct oversight of the policy, legislative, and media relations division and staff that report directly to the board members, including:
 - (i) Rule making actions,
 - (ii) Approval of agency-request legislative proposals, and
 - (iii) The employment, termination, and discipline of the director and staff of the policy, legislative, and media relations division and staff that report directly to the board members.

AMENDATORY SECTION (Amending WSR 01-11-058, filed 5/11/01, effective 6/11/01)

WAC 314-42-020 Appearance and practice before the board—Who may appear. During an adjudicative proceeding, no person may appear in a representative capacity before the Washington state liquor (~~control~~) and cannabis board or its designated hearing officer other than the following:

- (1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington;
- (2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by our state law; and/or
- (3) A bona fide officer, authorized manager, partner, or full time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

AMENDATORY SECTION (Amending WSR 08-17-056, filed 8/15/08, effective 9/15/08)

WAC 314-42-095 What happens after an administrative hearing?

(1) Following an administrative hearing, the administrative law judge will prepare an initial order and send it to the licensee or permit holder, the assistant attorney general, the board's offices, and any other party to the administrative hearing.

(2) (a) Either the licensee, permit holder, or the assistant attorney general may file a petition for review of the initial order with the liquor (~~(control)~~) and cannabis board within (~~(twenty)~~) 20 days of the date of service of the initial order. With notice to all parties the board may change the time for filing a petition for review of the initial order. The board may extend or shorten the filing time based on a voluntary stipulation of the parties or upon motion of a party that demonstrates a clear and convincing showing of exigent circumstances. The petition for review must:

(i) Specify the portions of the initial order to which exception is taken; and

(ii) Refer to the evidence of record which is relied upon to support the petition.

(b) Within (~~(ten)~~) 10 days after service of the petition for review, any party may file a reply with the liquor (~~(control)~~) and cannabis board and copies of the reply must be mailed to all other parties or their representatives at the time the reply is filed.

(3) The administrative record, the initial order, and any petitions for review and replies filed by the parties will be circulated to the board members for review.

(4) Following this review, the board will enter a final order which is appealable under the provisions of RCW 34.05.510 through 34.05.598 (Washington Administrative Procedure Act). The board may issue a final order that differs from the initial order even though no party has filed a petition for review or reply.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-42-115 Preliminary record in brief adjudicative proceedings.

(1) The preliminary record with respect to a liquor license suspension due to nonpayment of spirits taxes in RCW 66.24.010 shall consist of:

(a) All correspondence from department of revenue requesting missing taxes or reports; and

(b) Request from department of revenue to the liquor (~~(control)~~) and cannabis board requesting suspension of the liquor license.

(2) The preliminary record with respect to a liquor license intent to deny under WAC 314-07-065(2) where the applicant has failed to submit information or documentation shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(3) The preliminary record with respect to a liquor license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(4) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-07-040 shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant(s);

(c) Any interoffice correspondence reporting criminal history of applicant(s); and

(d) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(5) The preliminary record with respect to a special occasion liquor license application (chapter 314-05 WAC) intent to deny where the application was objected to by the local authority wherein the event is scheduled (WAC 314-07-065(7)) shall consist of:

(a) A copy of the special occasion license application and supporting materials;

(b) A copy of the notice sent to the local authority by licensing division staff;

(c) A copy of the objection received from the local authority; and

(d) A copy of any correspondence from the applicant rebutting the objection from the local authority.

(6) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for noncompliance with a support order in accordance with RCW 66.20.085 shall consist of:

(a) A copy of the license suspension certification from the department of social and health services; and

(b) A copy of all documents received from or on behalf of the permit holder rebutting the identification of the server, provider, or trainer.

(7) The preliminary record with respect to suspension of mandatory alcohol server, provider or trainer, for failing to meet the criminal history standards outlined in WAC 314-07-070(1) shall consist of:

(a) A copy of the personal/criminal history statement submitted by the applicant;

(b) Any interoffice correspondence reporting criminal history of applicant; and

(c) Copies of any correspondence submitted by the applicant, permit holder, provider or trainer explaining or rebutting the criminal history findings.

(8) The preliminary record with respect to liquor license suspensions due to nonpayment of beer or wine taxes per WAC 314-19-015 shall consist of:

(a) Copies of any correspondence requesting missing taxes, fees, or penalties when identified after processing reporting form monthly; and

(b) Copies of backup documentation including envelopes showing late filing, corrections on reporting form, and audit findings.

(9) The preliminary record with respect to one-time event denials for private clubs in WAC 314-40-080 shall consist of:

(a) A copy of the written request for a one-time event;

(b) A copy of the written denial including the reason(s) for the denial; and

(c) Copies of all correspondence.

(10) The preliminary record with respect to banquet permit denials in WAC 314-18-030 shall consist of:

(a) The application for a banquet permit;

(b) A copy of the written denial including the reason(s) for denial; and

(c) All correspondence.

(11) The preliminary record with respect to denial of restrictions requested on a nightclub license by a local authority under the provisions in WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(12) The preliminary record with respect to licensing's approval of a request for restrictions on a nightclub license under the provisions of WAC 314-02-039 shall consist of:

(a) A copy of the application report prepared by licensing division staff and the threshold decision by the licensing director or his/her designee;

(b) A copy of all correspondence from the local authority requesting restrictions on the nightclub premises; and

(c) Copies of any correspondence submitted by the nightclub applicant or license holder rebutting the request for restrictions.

(13) The preliminary record with respect to a liquor license suspension due to noncompliance with a support order from the department of social and health services under RCW 66.24.010 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) A copy of the written liquor (~~control~~) and cannabis board suspension order; and

(c) Copies of all correspondence.

(14) The preliminary record with respect to a liquor license suspension due to noncompliance with RCW 74.08.580, electronic benefits cards, per RCW 66.24.013 shall consist of:

(a) The written request from department of social and health services to suspend the liquor license;

(b) The complete investigation from department of social and health services to support the suspension;

(c) A copy of the written liquor (~~control~~) and cannabis board suspension order; and

(d) Copies of all correspondence.

(15) The preliminary records with respect to liquor license suspension due to nonpayment of spirits liquor license fees per RCW 66.24.630 shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(16) The preliminary records with respect to liquor license suspensions due to nonpayment of spirits distributor license fees per RCW 66.24.055 shall consist of:

(a) All correspondence requesting missing fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(17) The preliminary record with respect to tobacco license denials shall consist of:

(a) The license application from business license services;

(b) The personal/criminal history statement submitted by the applicant;

(c) The judicial information system criminal history and division recommendation;

(d) The letter of denial from the liquor (~~control~~) and cannabis board;

(e) The notice of intent to deny statement to the applicant; and

(f) All correspondence.

(18) The preliminary record with respect to a cannabis license intent to deny due to failure or refusal to submit information per WAC 314-55-050(2) shall consist of:

(a) All correspondence between the applicant and the board pertaining to requests for information or documentation; and

(b) A copy of the application report prepared by licensing division staff.

(19) The preliminary record with respect to a cannabis license application intent to deny where the applicant failed to meet the criminal history standards outlined in WAC 314-55-050(4) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) The personal/criminal history statement(s) submitted by the applicant;

(c) Any communication from the Washington state patrol or Federal Bureau of Investigation pertaining to the criminal history of the applicant;

(d) Any interoffice correspondence reporting criminal history of applicant(s); and

(e) Copies of any correspondence submitted by the applicant explaining or rebutting the criminal history findings.

(20) The preliminary record with respect to a cannabis license intent to deny due to denial, suspension, or cancellation of a cannabis license in another jurisdiction per WAC 314-55-050(8) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from any other state or jurisdiction demonstrating the action taken against the applicant.

(21) The preliminary record with respect to a cannabis license intent to deny due to proximity to the perimeter of entities listed in WAC 314-55-050(10) shall consist of:

(a) A copy of the application report prepared by licensing division staff;

(b) Any interoffice correspondence reporting the measurement from the proposed business location to the facility within 1,000 feet;

(c) Documentation of measurement data including Geographic Positioning System (GPS) and related calculations; and

(d) Correspondence from the applicant illustrating alternative measurement data and/or rebuttal of the LCB's measurement data.

(22) The preliminary record with respect to a cannabis license intent to suspension due to nonpayment of cannabis excise taxes per WAC 314-55-050(11) shall consist of:

(a) All correspondence relating to discrepancies in fees and/or penalties when identified after processing reporting forms; and

(b) All backup documentation including envelopes showing late filing, corrections on reporting forms, and audit findings.

(23) The preliminary record with respect to a cannabis license intent to deny due to failure to submit an attestation concerning current tax obligations per WAC 314-55-050(12) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) All correspondence with the applicant related to the request for this information.

(24) The preliminary record with respect to a cannabis license intent to deny due to denial, suspension, or revocation of a liquor license per WAC 314-55-050(13) shall consist of:

(a) A copy of the application report prepared by licensing division staff; and

(b) Documentation from liquor (~~(control)~~) and cannabis board records or any other state demonstrating the action taken against the applicant.

OTS-5333.1

AMENDATORY SECTION (Amending WSR 10-06-122, filed 3/3/10, effective 4/3/10)

WAC 314-52-005 Purpose and application of rules. (1) The liquor (~~(control)~~) and cannabis board regulates alcohol advertising to promote public safety, prevent the misuse of alcohol and reduce youth exposure to alcohol advertising and marketing. These rules provide reasonable regulations as to the kind, character, size, and location of advertising of liquor, as authorized by RCW 66.08.060.

(2) No person engaged in business as a manufacturer, importer, distributor, or retailer of liquor shall publish or disseminate in any media any advertisement of liquor, unless such advertisement is in conformance with these rules.

(3) The board holds each manufacturer, importer, distributor, or retailer of liquor responsible for complying with the advertising rules of the Washington state liquor (~~(control)~~) and cannabis board in any advertising material placed by them or on their behalf by their agents. If desired, advertising may be submitted prior to publication for an advisory opinion by the Washington state liquor (~~(control)~~) and cannabis board, but advisory opinions will be restricted to advertising material submitted by manufacturers, importers, distributors, or retailers of liquor, or their agents.

(4) Liquor advertising materials, defined as institutional or educational advertising in WAC 314-52-015, intended for placement in re-

tail outlets of the Washington state liquor (~~(control)~~) and cannabis board shall be presented to the Washington state liquor (~~(control)~~) and cannabis board for prior approval before placement. All other forms of advertising approved and accepted by the board shall not be prohibited under this rule.

AMENDATORY SECTION (Amending WSR 10-06-122, filed 3/3/10, effective 4/3/10)

- WAC 314-52-015 General.** (1) Institutional advertising shall mean advertising which promotes company or brand name identification, but does not directly solicit purchase or consumption of liquor. Educational advertising shall mean factual information on liquor, its manufacture, history, consumption and methods of ascertaining the quality of various types of liquors. All liquor advertising on products sold in the state of Washington may not contain any statement, picture, or illustration that:
- (a) Is false or misleading;
 - (b) Promotes over consumption;
 - (c) Uses the Washington state liquor (~~(control)~~) and cannabis board's seal or refers to Washington state liquor (~~(control)~~) and cannabis board, except where required by law;
 - (d) Represents the use of liquor has curative or therapeutic effects, if such statement is untrue or tends to create a misleading impression;
 - (e) Implies the consumption of liquor enhances athletic prowess, or any statement, picture, or illustration that refers to any known athlete, if such statement, picture, or illustration implies, or if the reader may reasonably infer, that the use of liquor contributed to any known athlete's athletic achievements;
 - (f) Depicts a child or other person under legal age to consume liquor, or includes:
 - (i) Objects, such as toys or characters, suggesting the presence of a child, or any other depiction designed in any manner to be especially appealing to children or other persons under legal age to consume liquor; or
 - (ii) Is designed in any manner that would be especially appealing to children or other persons under (~~(twenty-one)~~) 21 years of age.
 - (g) Is targeted principally to minors by implying that the consumption of alcoholic beverages is fashionable or the accepted course of behavior for persons under (~~(twenty-one)~~) 21 years of age; or
 - (h) Uses subliminal or similar techniques. "Subliminal or similar techniques" as used in this section, refers to any device or technique that is used to convey, or attempts to convey, a message to a person by means of images or sounds of a very brief nature that cannot be perceived at a normal level of awareness.
- (2) If advertising claims the alcohol product has a curative or therapeutic effect or enhances health or performance, the licensee must:
- (a) Cite the name of the author and date of the research or study supporting the claim; and
 - (b) Provide a copy of this research or study to the board.

OTS-5362.3

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-018 Prohibited practices—Money advances—Contracts—Gifts—Rebates, discounts, and exceptions, etc. (1) No industry member or licensee shall enter into any agreement which causes undue influence over another licensee or industry member. This rule shall not be construed as prohibiting the placing and accepting of orders for the purchase and delivery of cannabis that are made in accordance with usual and common business practice and that are otherwise in compliance with chapter 69.50 RCW and this chapter.

(2) No cannabis producer or processor shall advance and no cannabis licensee shall receive money or moneys' worth under an agreement written or unwritten or by means of any other business practice or arrangement such as:

- (a) Gifts;
- (b) Discounts;
- (c) Loans of money;
- (d) Premiums;
- (e) Rebates;

(f) Free product of any kind except as allowed by WAC 314-55-096 and RCW 69.50.585; or

(g) Treats or services of any nature whatsoever except such services as are authorized in this section and under RCW 69.50.585.

(3) "Industry member" means a licensed cannabis producer, cannabis processor, cannabis retailer, cannabis transportation licensee, cannabis research licensee, their authorized representatives, and including, but not limited to, any affiliates, subsidiaries, officers, partners, financiers, agents, employees, and representatives of any licensee.

(4) Consistent with WAC 314-55-017, no industry member or employee thereof shall sell to any cannabis licensee or solicit from any such licensee any order for any cannabis tied in with, or contingent upon, the licensee's purchase of some other cannabis, or any other merchandise, paraphernalia, property, or service.

(5) If the (~~WSLCB~~) LCB finds in any instance that any licensee has violated this section, then all licensees involved in the violation shall be held equally responsible.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-050 Withdrawal, denial, suspension, or cancellation of a cannabis license application or license. (1) The board has the discretion to withdraw, deny, suspend, or cancel a cannabis license application or license consistent with RCW 69.50.331, for reasons including, but not limited to, the following:

(a) Not meeting the initial or ongoing qualifications, requirements, or both for a specific cannabis license, as outlined in this chapter and chapter 69.50 RCW;

- (b) Not submitting information or documentation requested by the board during the application evaluation process;
- (c) Misrepresenting fact, or not disclosing a material fact to the board during the application process or any review or follow-up review that may occur after a license has been issued;
- (d) Not meeting the background check standards outlined in WAC 314-55-040;
- (e) Not meeting the cannabis law or rule violation history standards outlined in WAC 314-55-045;
- (f) Using funds that cannot be verified for the acquisition, startup and operation of the business, or obtained in a way that violates the law;
- (g) Not allowing the board or its authorized representative access to any place where a licensed activity takes place;
- (h) Not producing any book, record or document required by law or board rule;
- (i) The applicant or licensee has had a cannabis license or medical cannabis license denied, suspended, or canceled in another state or local jurisdiction;
- (j) The city, county, tribal government, or port authority has submitted a substantiated objection to the application or against the premises for which the new or renewed license is requested, as described in RCW 69.50.331 (7) and (10).
- (k) The applicant or licensee has not paid taxes or fees required under chapter 69.50 RCW or did not provide production, processing, inventory, sales and transportation reports or documentation required under this chapter.
- (l) The applicant or licensee did not submit an attestation that they are current in any tax obligations to the Washington state department of revenue.
- (m) The applicant or licensee has been denied a liquor or cannabis license or had a liquor license or cannabis license suspended or revoked in this or any other state.
- (n) The operating plan submitted with the application does not demonstrate that the applicant meets the criteria for licensure.
- (o) The applicant or licensee does not operate their business consistent with the operating plan approved by the board.
- (p) The board determines the issuance of the license will not be in the best interest of the welfare, health, or safety of the people of the state.
- (2) Except as provided in subsection (3) of this section, the board will not issue a new cannabis license if the proposed licensed business is within 1,000 feet of the perimeter of the grounds of any of the facilities listed in (a) through (h) of this subsection. The distance will be measured as the shortest straight line distance from the property line of the proposed building or business location to the property line of the entities listed below:
- (a) Elementary or secondary school;
 - (b) Playground;
 - (c) Recreation center or facility;
 - (d) Child care center;
 - (e) Public park;
 - (f) Public transit center;
 - (g) Library; or
 - (h) Any game arcade (where admission is not restricted to persons age 21 or older).

(3) (a) A city or county may, by local ordinance, permit cannabis businesses licensing within 1,000 feet but not less than 100 feet of the facilities listed in subsection (2) of this section except elementary and secondary schools, and playgrounds.

(b) If an applicant applies for a cannabis license at a location less than 1,000 feet of a recreation center or facility, child care center, public park, public transit center, library, or game arcade, the applicant must provide the ((WSLCB)) LCB with a copy of the local ordinance that describes the distance required by the city or county where the facility will be located.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-055 Cannabis retailer license forfeiture. (1) (a) A cannabis retailer's license is subject to forfeiture if the retailer is not fully operational and open to the public after 12 months of issuance of the license. No cannabis retailer's license is subject to forfeiture within the first nine months of issuance.

(b) Fully operational means the business meets the following criteria for at least 12 consecutive weeks within a 12-month period after issuance of the license:

(i) The business is open to the public for a minimum of five hours a day between the hours of 8:00 a.m. and 12:00 midnight, three days a week;

(ii) The business posts hours of operation outside of the premise in the public view; and

(iii) The business reports monthly sales from the sale of cannabis products and pays applicable taxes.

(2) A cannabis retailer's license will not be subject to forfeiture if the licensee is not able to open a fully operational retail cannabis business based on actions by the city, town, or county with jurisdiction over the licensed business including:

(a) The adoption of a ban or moratorium that prohibits the retail cannabis business from opening; or

(b) The adoption of an ordinance or regulation related to zoning, business licensing, land use, or other regulatory measure that has the effect of preventing a licensee from receiving an occupancy permit from the jurisdiction or which otherwise prevents a licensed cannabis retailer from becoming operational.

(3) Exceptions to license forfeiture.

(a) The board has the sole discretion to grant exceptions to the license forfeiture process if a cannabis retailer licensee experiences circumstances that are out of their control such as a natural disaster.

(b) Sufficient documentation is required to verify any of the exceptions to license forfeiture in this section. Licensees must inform the board if conditions change, such as an adjustment to zoning requirements, changes to a ban or moratorium, or other circumstances that would allow the licensee to operate.

(c) If the underlying condition exempting a cannabis retail license from forfeiture under subsection (2) of this section or (a) of this subsection is removed, then the 12-month time frame to become fully operational and open to the public requirement under subsection

(1) of this section will begin from the time the condition exempting the retail license from forfeiture is removed.

(4) A cannabis retail licensee who receives a notice of license forfeiture under this section from the ((WSLCB)) LCB may request an administrative hearing under chapter 34.05 RCW. A request for a hearing must be made in writing and received by the ((WSLCB)) LCB no later than 20 days after service of the notice. Requests submitted in paper form may be delivered to the ((WSLCB)) LCB in person during normal business hours at 1025 Union Avenue S.E., Olympia, WA 98504, or mailed to the ((WSLCB)) LCB. Mailed appeal requests must be addressed to: ((WSLCB)) LCB, ATTN: Adjudicative Proceedings Coordinator, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, ((WSLCB)) LCB, ATTN: Adjudicative Proceedings Coordinator, 1025 Union Avenue S.E., Olympia, WA 98504.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-075 Cannabis producer license—Privileges, requirements, and fees. (1) (a) A cannabis producer license allows the licensee to produce, harvest, trim, dry, cure, and package cannabis into lots for sale at wholesale to cannabis processor licensees and to other cannabis producer licensees. A cannabis producer may also produce and sell:

(i) Cannabis plants, seed, and plant tissue culture to other cannabis producer licensees;

(ii) Immature cannabis plants or clones and cannabis seeds to members of a registered cooperative, qualifying patients, or designated providers under the conditions provided in this chapter; and

(iii) Immature cannabis plants or clones and cannabis seeds to a licensed cannabis researcher under the conditions provided in this chapter.

(b) Cannabis production must take place within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof, and doors. Outdoor production may take place in nonrigid greenhouses, other structures, or an expanse of open or cleared ground fully enclosed by a physical barrier. To obscure public view of the premises, outdoor production must be enclosed by a sight obscure wall or fence at least eight feet high. Outdoor producers must meet security requirements described in WAC 314-55-083. An outdoor grow must be physically separated at least 20 feet from another licensed outdoor grow. In addition, outdoor grows cannot share common walls or fences.

(2) The application fee for a cannabis producer license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(3) The annual fee for issuance and renewal of a cannabis producer license is \$1,000. The annual fee for issuance and renewal of a cannabis producer license is \$1,381. The ((WSLCB)) LCB will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for criminal history checks.

(4) The application window for cannabis producer licenses is closed. The ((WSLCB)) LCB may reopen the cannabis producer application window at subsequent times when the ((WSLCB)) LCB deems necessary.

(5) Any entity and/or principals within any entity are limited to an interest, as defined in WAC 314-55-035, in no more than three cannabis producer licenses.

(6) The maximum amount of space for cannabis production cannot exceed the amount licensed. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

(a) Tier 1 - Less than 4,000 square feet;

(b) Tier 2 - Four thousand square feet up to 10,000 square feet; and

(c) Tier 3 - Ten thousand square feet up to 30,000 square feet.

(7) The ((WSLCB)) LCB may reduce a licensee's or applicant's square footage designated to plant canopy for the following reasons:

(a) If the amount of square feet of production of all licensees exceeds the maximum square feet the ((WSLCB)) LCB will reduce the allowed square footage by the same percentage.

(b) If 50 percent production space used for plant canopy in the licensee's operating plan is not met by the end of the first year of operation the ((WSLCB)) LCB may reduce the tier of licensure.

(8) If the total amount of square feet of cannabis production exceeds the maximum square feet, the ((WSLCB)) LCB reserves the right to reduce all licensee's production by the same percentage or reduce licensee production by one or more tiers by the same percentage.

(9) The maximum allowed amount of cannabis on a producer's premises at any time is as follows:

(a) Outdoor or greenhouse grows - One and one-quarter of a year's harvest; or

(b) Indoor grows - Six months of their annual harvest.

(10) A producer may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(11) A cannabis producer must make quality assurance test results available to any processor purchasing product. A cannabis producer must label each lot of cannabis with the following information:

(a) Lot number;

(b) UBI number of the producer; and

(c) Weight of the product.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-077 Cannabis processor license—Privileges, requirements, and fees. (1) A cannabis processor license allows the licensee to process, dry, cure, package, and label useable cannabis, cannabis concentrates, and cannabis-infused products for sale at wholesale to cannabis processors and cannabis retailers.

(2) **Application and license fees.**

(a) The application fee for a cannabis processor license is \$250. The applicant is also responsible for paying the fees required by the approved vendor for fingerprint evaluation.

(b) The annual fee for issuance and renewal of a cannabis processor license is \$1,381. The board will conduct random criminal history checks at the time of renewal that will require the licensee to submit fingerprints for evaluation from the approved vendor. The licensee is responsible for all fees required for the criminal history checks.

(c) The application window for cannabis processor licenses is closed. The board may reopen the cannabis processor application window at subsequent times when the board deems necessary.

(3) Any entity and/or principals within any entity are limited to no more than three cannabis processor licenses.

(4) (a) A cannabis processor that makes cannabis-infused solid or liquid product meant to be ingested orally (cannabis edibles) must obtain a cannabis-infused edible endorsement from the department of agriculture as required under chapter 15.125 RCW and rules adopted by the department to implement that chapter (chapter 16-131 WAC). A licensee must allow the board or their designee to conduct physical visits and inspect the processing facility, recipes, and records required under WAC 314-55-087 during normal business hours or at any time of apparent operation without advance notice.

(b) A cannabis processor licensed by the board must ensure cannabis-infused edible processing facilities are constructed, kept, and maintained in a clean and sanitary condition in accordance with rules and as prescribed by the Washington state department of agriculture under chapter 15.125 RCW and rules promulgated to implement chapters 16-131, 16-165 and 16-167 WAC.

(5) (a) A cannabis processor may blend tested useable cannabis from multiple lots into a single package for sale to a cannabis retail licensee so long as the label requirements for each lot used in the blend are met and the percentage by weight of each lot is also included on the label.

(b) A processor may not treat or otherwise adulterate useable cannabis with any organic or nonorganic chemical or other compound whatsoever to alter the color, appearance, weight, or smell of the useable cannabis.

(6) Recipes, product, packaging, and labeling approval.

(a) A cannabis processor licensee must obtain label and packaging approval from the board for all cannabis-infused products meant for oral ingestion prior to offering these items for sale to a cannabis retailer. The cannabis processor licensee must submit a picture of the product, labeling, and packaging to the board for approval. More information on the product, packaging, and label review process is available on the board's website.

(b) All recipes for cannabis-infused products meant for oral ingestion (cannabis edible products) must be approved by the department of agriculture under chapter 16-131 WAC. Licensees must obtain recipe approval from the department of agriculture prior to submitting any cannabis edible products, packages, and labels for review and approval by the board. The recipe for any cannabis-infused solid or liquid products meant to be ingested orally must be kept on file at the cannabis processor's licensed premises and made available for inspection by the board or its designee.

(c) If the board denies a cannabis-infused product for sale in cannabis retail outlets, the cannabis processor licensee may request

an administrative hearing under chapter 34.05 RCW, Administrative Procedure Act.

(7) With the exception of the cannabis, all ingredients used in making cannabis-infused products for oral ingestion must be a commercially manufactured food as defined in WAC 246-215-01115.

(8) Cannabis-infused edible products in solid or liquid form must be homogenized to ensure uniform disbursement of cannabinoids.

(9) A cannabis processor may infuse food or drinks with cannabis, provided that:

(a) The product or products do not require cooking or baking by the consumer;

(b) Coatings applied to the product or products are compliant with the requirements of this chapter;

(c) The product and package design is not similar to commercially available products marketed for consumption by persons under 21 years of age, as defined by WAC 314.55.105 (1)(c).

(10) To reduce the risk to public health, potentially hazardous foods as defined in WAC 246-215-01115 may not be infused with cannabis. Potentially hazardous foods require time-temperature control to keep them safe for human consumption and prevent the growth of pathogenic microorganisms or the production of toxins. Any food that requires refrigeration, freezing, or a hot holding unit to keep it safe for human consumption may not be infused with cannabis.

(11) Other food items that may not be infused with cannabis to be sold in a retail store include:

(a) Any food that has to be acidified to make it shelf stable;

(b) Food items made shelf stable by canning or retorting;

(c) Fruit or vegetable juices (this does not include shelf stable concentrates);

(d) Fruit or vegetable butters;

(e) Pumpkin pies, custard pies, or any pies that contain egg;

(f) Dairy products of any kind such as butter, cheese, ice cream, or milk; and

(g) Dried or cured meats.

(h) Vinegars and oils derived from natural sources may be infused with dried cannabis if all plant material is subsequently removed from the final product. Vinegars and oils may not be infused with any other substance, including herbs and garlic.

(i) Cannabis-infused jams and jellies made from scratch must utilize a standardized recipe in accordance with 21 C.F.R. Part 150, revised as of April 1, 2013.

(12) Consistent with WAC 314-55-104, a cannabis processor may infuse dairy butter or fats derived from natural sources, and use that extraction to prepare allowable cannabis-infused solid or liquid products meant to be ingested orally, but the dairy butter or fats derived from natural sources may not be sold as stand-alone products.

The board may designate other food items that may not be infused with cannabis.

(13) Cannabis processor licensees are allowed to have a maximum of six months of their average useable cannabis and six months average of their total production on their licensed premises at any time.

(14) **Processing service arrangements.** A processing service arrangement is when one processor (processor B) processes useable cannabis or an altered form of useable cannabis (cannabis product) for another licensed processor (processor A) for a fee.

(a) Processor A is the product owner. However, processor B may handle the product under its license as provided in chapter 69.50 RCW

and this chapter. Processor B is not allowed to transfer the product to a retailer and may only possess cannabis or cannabis products received from processor A for the limited purposes of processing it for ultimate transfer back to processor A.

(b) Processing service arrangements must be made on a cash basis only as provided in WAC 314-55-115 and payment for the service and return of the processed product must be made within 30 calendar days of delivery to processor B. Failure to do so as provided by the preceding sentence is a violation of this section and any cannabis or cannabis product involved in the transaction will be subject to seizure and destruction. Payment with any cannabis products, barter, trade, or compensation in any form other than cash for processing service arrangements is prohibited under processing service arrangements.

(c) Each processor that enters into a processing service arrangement must include records for each service arrangement in recordkeeping documents which must be maintained consistent with this chapter.

(15) Cannabis may not be returned by any retail licensee to any processor except as provided in this section.

(a) Every processor must maintain on the licensed premises for a period of five years complete records of all refunds and exchanges made under this section including an inventory of cannabis and cannabis products returned to the processor by any retail licensee.

(b) Cannabis may be returned by a retail licensee in the event a retailer goes out of the business of selling cannabis at retail and a cash refund, as defined by WAC 314-55-115, may be made upon the return of the cannabis or cannabis products, so long as ((WSLCB)) LCB approval is acquired prior to returns and refunds under this subsection.

(c) Cannabis products different from that ordered by a retailer and delivered to the retailer may be returned to a processor and either replaced with cannabis products which were ordered or a cash refund, as defined by WAC 314-55-115, may be made. These incorrect orders must be discovered and corrected within eight days of the date the delivery was made to be eligible for returns and refunds under this subsection.

(d) A cannabis processor may accept returns of products and sample jars from cannabis retailers for destruction, but is not required to provide refunds to the retailer. It is the responsibility of the retailer to ensure the product or sample jar is returned to the processor.

(16) The board may take disciplinary action against any cannabis processor that fails to comply with the provisions of WAC 246-80-021.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-092 Failure to pay excise taxes and late payment of excise taxes. (1) If a cannabis licensee does not submit its payment(s) to the ((WSLCB)) LCB as required in WAC 314-55-089: The licensee is subject to penalties.

Penalties: A penalty of two percent per month will be assessed on the outstanding balance for any payments postmarked after the 20th day of the month following the month of sale. When the 20th day of the month falls on a Saturday, Sunday, or a legal holiday, the filing must be postmarked by the U.S. Postal Service no later than the next postal business day. Absent a postmark, the date received at the ((WSLCB))

LCB or authorized designee, will be used to assess the penalty of two percent per month on the outstanding balance after the 20th day of the month following the month of sale.

(2) Failure to make a report and/or pay the license taxes and/or penalties in the manner and dates outlined in WAC 314-55-089 will be sufficient grounds for the ((WSLCB)) LCB to suspend or revoke a cannabis license.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-104 Cannabis processor license extraction requirements. (1) Processors are limited to the methods, equipment, solvents, gases, and mediums detailed in this section when creating cannabis extracts.

(2) Processors may use the hydrocarbons N-butane, isobutane, propane, or heptane. These solvents must be of at least 99 percent purity and a processor must use them in a professional grade closed loop extraction system designed to recover the solvents, work in an environment with proper ventilation, controlling all sources of ignition where a flammable atmosphere is or may be present.

(3) Processors may use a professional grade closed loop CO₂ gas extraction system where every vessel is rated to a minimum of 600 pounds per square inch. The CO₂ must be of at least 99 percent purity.

(4) Closed loop systems for hydrocarbon or CO₂ extraction systems must be commercially manufactured and bear a permanently affixed and visible serial number.

(5) Certification from a licensed engineer must be provided to the ((WSLCB)) LCB for professional grade closed loop systems used by processors to certify that the system was commercially manufactured, safe for its intended use, and built to codes of recognized and generally accepted good engineering practices, such as:

- (a) The American Society of Mechanical Engineers (ASME);
- (b) American National Standards Institute (ANSI);
- (c) Underwriters Laboratories (UL); or
- (d) The American Society for Testing and Materials (ASTM).

(6) The certification document must contain the signature and stamp of a professional engineer and the serial number of the extraction unit being certified.

(7) Professional grade closed loop systems, and other equipment used must be approved for specific use or the technical report must be approved by the state building code officials prior to use per WAC 51-54A-3800.

(8) Professional closed loop systems, other equipment used, the extraction operation, and facilities must be approved for their use by the local fire code official and meet any required fire, safety, and building code requirements specified in:

- (a) Title 296 WAC;
- (b) Chapters 51-51 and 51-54A WAC;
- (c) National Fire Protection Association (NFPA) standards;
- (d) International Building Code (IBC);
- (e) International Fire Code (IFC); and

(f) Other applicable standards including following all applicable fire, safety, and building codes in processing and the handling and storage of the solvent or gas.

(9) Processors may use heat, screens, presses, steam distillation, ice water, and other methods without employing solvents or gases to create kief, hashish, bubble hash, or infused dairy butter, or oils or fats derived from natural sources, and other extracts.

(10) Under WAC 314-55-077, infused dairy butter and oils or fats derived from natural sources may be used to prepare infused edible products, but they may not be prepared as stand-alone edible products for sale.

(11) Processors may use food grade glycerin, ethanol, and propylene glycol solvents to create extracts. All ethanol must be removed from the extract in a manner to recapture the solvent and ensure that it is not vented into the atmosphere.

(12) Processors creating cannabis extracts must develop standard operating procedures, good manufacturing practices, and a training plan prior to producing extracts for the marketplace. Any person using solvents or gases in a closed looped system to create cannabis extracts must be fully trained on how to use the system, have direct access to applicable material safety data sheets and handle and store the solvents and gases safely.

(13) Parts per million for one gram of finished extract cannot exceed residual solvent or gas levels provided in WAC 314-55-102.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-107 Cannabis product compliance. A cannabis compliant product must meet all requirements in the department of health rules found in chapter 246-70 WAC in addition to all ((~~WSLCB~~)) LCB requirements found in chapter 314-55 WAC.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-135 Discontinue cannabis sales. (1) **Notification:** A licensee must notify the ((~~WSLCB's~~)) LCB's enforcement and education division in writing if the licensee plans to stop doing business for more than 30 days, or if the licensee plans to permanently discontinue cannabis sales.

(2) **Discontinued business: Sale of cannabis inventory and stock after discontinuance of business.** Notwithstanding any other provision of Title 69 RCW or 314 WAC, a producer, processor or retail licensee who permanently discontinues business for any reason shall dispose of the salable inventory and remaining stock to a ((~~WSLCB~~)) LCB approved licensed business at fair market value. Sales below cost are prohibited. The ((~~WSLCB~~)) LCB shall require tax expressed as a percent of the total price of the gross sales as reported on the profit and loss statement in the last published monthly report of the ((~~WSLCB~~)) LCB. In the event of remaining inventory after sale, the licensee shall notify the enforcement and education division of the ((~~WSLCB~~)) LCB. The

enforcement division will establish conditions for destruction or arrange for the removal of product.

(3) **Assumptions: Assumption of license and purchases by licensee of certain cannabis inventory and stock.** In the case of a sale of business with a license, after obtaining the approval of the ((WSLCB)) LCB and under the supervision of a representative of the ((WSLCB)) LCB, the licensee may sell the entire inventory at a negotiated fair market price. Sales below cost are prohibited.

(4) **Evictions.** A licensee must notify the ((WSLCB's)) LCB's enforcement and education division immediately in writing upon notice of eviction from a licensed premises. Conditions to temporarily relocate and secure inventory will be established by the ((WSLCB)) LCB.

(5) **Abandoned cannabis inventory or product.** In the event a licensee abandons any cannabis on the premises, the property owner or their designated representative should notify the enforcement and education division of the ((WSLCB)) LCB. The enforcement division will work with the property owner to arrange for the removal and/or destruction of product. Any sales or distribution of cannabis by an unlicensed person is subject to the criminal provisions of Title 69 RCW.

(6) **Maintaining a licensed location.** Cannabis licenses are associated with a physical location. Persons operating without a ((WSLCB)) LCB approved licensed location to produce, process, or sell cannabis will be discontinued.

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-137 Receiverships. (1) Service and notice.

(a) Any person who files any receivership or trustee action involving any cannabis licensee must serve the board with original notice of the action. Service is accomplished by delivery of the original notice of action to the board through one of the following methods:

(i) Delivery to the board at 1025 Union Avenue S.E., Olympia, WA 98504; or

(ii) Mailed to the board. Mailed notice must be addressed to: ((WSLCB)) LCB, ATTN: Licensing - Receiverships, P.O. Box 43076, Olympia, WA 98504-3076 or, for certified mail, ((WSLCB)) LCB, ATTN: Licensing - Receiverships, 1025 Union Avenue S.E., Olympia, WA 98504; or

(iii) Electronic delivery to the board at licensingappeals@lcb.wa.gov.

(b) The board will find a licensee compliant with this section only if it receives original notice of the action and the receiver is selected consistent with board requirements.

(2) **The role of a receiver when a licensee is placed in receivership.** If a cannabis licensee is placed under receivership, the receiver:

(a) Upon compliance with the requirements listed in this section, the receiver may operate the licensee's business during the receivership period;

(b) The receiver assumes all licensee reporting responsibilities under this chapter including, but not limited to, full responsibility for maintaining records and entries into the traceability system maintained by the board; and

(c) The receiver is required to comply with all applicable laws under chapter 69.50 RCW and rules in this chapter including, but not limited to, the responsibilities of cannabis licensees set forth in WAC 314-55-110.

(d) Failure to abide by the requirements set forth in chapter 69.50 RCW and this chapter as specified in this subsection may result in enforcement action against the license under chapter 69.50 RCW and rules under this chapter and may result in the receiver being disqualified to act as a receiver by the board.

(3) **Who may serve as a receiver.** Any person who meets the requirements of chapter 7.60 RCW and the following additional requirements may serve as a receiver for a cannabis business:

(a) Is currently in good standing on the preapproved receiver list maintained by the board; or

(b) Is approved by the board under the requirements in subsection (5) of this section to serve as a receiver of a cannabis licensee.

(4) **Qualifying for the board's preapproved receiver list.**

(a) The following requirements must be met to qualify for the board's preapproved receiver list:

(i) Submit a complete receiver application with the board;

(ii) Be a Washington state resident for at least six months prior to the application for preapproval as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the board;

and

(v) Disclose any interests the person has in any cannabis licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business entity that are not actively involved in the management of the receivership.

(c) A receiver placed on the preapproved receiver list maintained by the board must annually update all information and disclosures required under this subsection to remain eligible to act as a receiver and be on the preapproved receiver list. Annual updates must be made one calendar year after the date the receiver is approved.

(5) **Appointing a receiver who is not preapproved by the ((WSLCB)) LCB.**

(a) Within two days of filing of any action to appoint a receiver, a proposed receiver must:

(i) Submit a complete application with the board to serve as receiver for the licensee;

(ii) Be a Washington resident for six months prior to appointment as a receiver and maintain residency throughout the term of the receivership;

(iii) Submit to and pass a criminal background check;

(iv) Provide any financial disclosures requested by the ((WSLCB)) LCB; and

(v) Disclose any interest the proposed receiver has in any cannabis licensee(s).

(b) Review and qualification requirements in this subsection only apply to persons or entities actively participating in the management of the receivership and do not apply to spouses of those persons or persons involved in a business entity or fellow members of a business

entity that are not actively involved in the management of the receivership.

(c) If the proposed receiver is denied approval by the board at any time, a substitute receiver may be proposed for board approval. The substitute receiver must provide all information required by this subsection.

(d) If the proposed receiver is not approved by the board at the time the receiver is appointed by the court, the receiver will not be considered compliant with this section, and may be subject to penalty under chapter 69.50 RCW, or as provided in this chapter and may result in the receiver being disqualified to act as a receiver by the board.

(6) Limitations on a person's ability to serve as a receiver.

(a) As operators and controllers of licensed cannabis establishments, receivers are subject to the same limits as licensees or any other person. Those limits include, but are not limited to:

(i) No person serving as a receiver of a licensed cannabis producer or licensed cannabis processor shall have a financial interest in, or simultaneously serve as a receiver for, a licensed cannabis retailer; and

(ii) No person shall serve as a receiver for, or be a true party of interest in, more than five cannabis retail licensees or more than three cannabis producer, processor, or producer/processor licensees at the same time.

(b) If the board determines that a receiver is violating or has violated the restrictions in this subsection, the receiver may be disqualified to act as a receiver by the board.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-140 Death or incapacity of a cannabis licensee. (1)

The appointed guardian, executor, administrator, trustee, or assignee must notify the (~~WSLCB's~~) LCB's licensing and regulation division in the event of the death, incapacity, bankruptcy, or assignment for benefit of creditors of any licensee.

(2) The (~~WSLCB~~) LCB may give the appointed guardian, executor, administrator, trustee, or assignee written approval to continue cannabis sales on the licensed business premises for the duration of the existing license and to renew the license when it expires.

(a) The person must be a resident of the state of Washington.

(b) A criminal background check may be required.

(3) When the matter is resolved by the court, the true party(ies) of interest must apply for a cannabis license for the business.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-155 Advertising requirements and promotional items—Coupons, giveaways, etc. The following provisions apply in addition to the requirements and restrictions in RCW 69.50.369.

(1) **Advertising generally.** The following requirements apply to all advertising by cannabis licensees in Washington state.

(a) All cannabis advertising and labels of useable cannabis, cannabis concentrates, and cannabis-infused products sold in the state of Washington must not contain any statement, or illustration that:

(i) Is false or misleading;

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a child or other person under legal age to consume cannabis, or includes:

(A) The use of objects, such as toys, inflatables, movie characters, cartoon characters suggesting the presence of a child, or any other depiction or image designed in any manner to be likely to be appealing to youth or especially appealing to children or other persons under legal age to consume cannabis; or

(B) Is designed in any manner that would be especially appealing to children or other persons under 21 years of age.

(b) No cannabis licensee shall place or maintain, or cause to be placed or maintained, an advertisement of a cannabis business or cannabis product, including cannabis concentrates, useable cannabis, or cannabis-infused product:

(i) In any form or through any medium whatsoever within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park, library, or a game arcade admission to which it is not restricted to persons aged 21 years or older unless the 1,000 minimum distance requirement has been reduced by ordinance in the local jurisdiction where the licensed retailer is located and the licensed retailer is located within 1,000 feet of a restricted location listed in this paragraph;

(ii) On or in a private vehicle, public transit vehicle, public transit shelter, bus stop, taxi stand, transportation waiting area, train station, airport, or any similar transit-related location;

(c) All advertising for cannabis businesses or cannabis products, regardless of what medium is used, must contain text stating that cannabis products may be purchased or possessed only by persons 21 years of age or older. Examples of language that conforms to this requirement include, but are not limited to: "21+," "for use by persons 21 and over only," etc.

(d) A cannabis licensee may not engage in advertising or marketing that specifically targets persons residing out of the state of Washington.

(2) **Outdoor advertising.** In addition to the requirements for advertising in subsection (1) of this section, the following restrictions and requirements apply to outdoor advertising by cannabis licensees:

(a) Except for the use of billboards as authorized under RCW 69.50.369 and as provided in this section, licensed cannabis retailers may not display any outdoor signage other than two separate signs identifying the retail outlet by the licensee's business name or trade name, stating the location of the business, and identifying the nature of the business. Both signs must be affixed to a building or permanent structure and each sign is limited to 1,600 square inches.

(i) All text on outdoor signs, including billboards, is limited to text that identifies the retail outlet by the licensee's business or trade name, states the location of the business, and identifies the type or nature of the business.

(ii) No outdoor advertising signs, including billboards, may contain depictions of cannabis plants or cannabis products. Logos or art-

work that do not contain depictions of cannabis plants or cannabis products as defined in this section are permissible.

(A) A depiction of a cannabis plant means an image or visual representation of a cannabis leaf, plant, or the likeness thereof that explicitly suggests or represents a cannabis leaf or plant.

(B) A depiction of a cannabis product means an image or visual representation of useable cannabis, cannabis-infused products, or cannabis concentrates, or an image that indicates the presence of a product, such as smoke, etc.

(iii) Stating the location of the business may include information such as the physical address or location, directional information, website address, email address, or phone number of the licensed business.

(iv) Identifying the nature of the business may include information related to the operation of the business, what the business is engaged in, or the goods the business offers for sale.

(v) Double-sided signs or signs with text visible on opposite sides are permissible and count as a single sign so long as the sign is contained in or affixed to a single structure.

(b) No cannabis licensee may use or employ a commercial mascot outside of, and in proximity to, a licensed cannabis business.

(c) Outdoor advertising is prohibited on signs and placards in arenas, stadiums, shopping malls, fairs that receive state allocations, farmers markets, and video game arcades, whether any of the foregoing are open air or enclosed, but not including any such sign or placard located at an adult only facility.

(d) The restrictions in this section and RCW 69.50.369 do not apply to outdoor advertisements at the site of an event to be held at an adult only facility that is placed at such site during the period the facility or enclosed area constitutes an adult only facility, but must not be placed there more than 14 days before the event, and that does not advertise any cannabis product other than by using a brand name, such as the business or trade name or the product brand, to identify the event. Advertising at adult only facilities must not be visible from outside the adult only facility.

(e) A sign affixed to the licensed premises or in the window of a licensed premises indicating the location is open for business, closed for business, the hours of operation, that the licensed location has an ATM inside, or other similar informational signs not related to the products or services of the cannabis business are not considered advertising for the purposes of this section.

(f) "Adopt-a-Highway" signs erected by the Washington state department of transportation under a current valid sponsorship with the department of transportation are not considered advertising for the purposes of this section.

(3) Advertising placed on windows within the premises of a licensed cannabis retail store facing outward must meet the requirements for outdoor advertising as provided in RCW 69.50.369 and this section.

(4) Promotional items such as giveaways, coupons, and distribution of branded or unbranded merchandise are banned. For the purposes of this section, a "giveaway" does not include representative samples of products (edible products and topicals only) carried by a licensed retailer that are not infused with cannabis and are offered to customers on licensed cannabis retail premises for sampling purposes only.

(5) Cannabis retail licensees holding a medical cannabis endorsement may donate product to qualifying patients or designated providers

who hold a valid recognition card. Retail licensees may not advertise "free" or "donated" product.

(6) Except for outdoor advertising under subsection (2) of this section, all advertising must contain the following warnings that must be in type size at least 10 percent of the largest type used in the advertisement:

(a) "This product has intoxicating effects and may be habit forming.";

(b) "Cannabis can impair concentration, coordination, and judgment. Do not operate a vehicle or machinery under the influence of this drug.";

(c) "There may be health risks associated with consumption of this product."; and

(d) "For use only by adults 21 and older. Keep out of the reach of children."

(7) For the purposes of this section, the following definitions apply:

(a) "Adult only facility" means:

(i) A location restricted to persons age 21 and older by the ((WSLCB)) LCB or classified by the ((WSLCB)) LCB as off limits to persons under 21 years of age; or

(ii) A venue restricted to persons age 21 and older and where persons under 21 years of age are prohibited from entering or remaining, including employees and volunteers.

(b) "Billboard" means a permanent off-premises sign in a fixed location used, in whole or in part, for the display of off-site commercial messages with a minimum size of five feet in height by 11 feet in width.

(c) "Off-premises sign" means a sign relating, through its message and content, to a business activity, product, or service not available on the premises upon which the sign is erected.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-160 Objections to cannabis license applications. (1) **How can persons, cities, counties, tribal governments, or port authorities object to the issuance of a cannabis license?** Per RCW 69.50.331, the ((WSLCB)) LCB will notify cities, counties, tribal governments, and port authorities of the following types of cannabis applications. In addition to these entities, any person or group may comment in writing to the ((WSLCB)) LCB regarding an application.

Type of application	Entities the ((WSLCB)) <u>LCB</u> will/may notify
<ul style="list-style-type: none"> Applications for an annual cannabis license at a new location. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

Type of application	Entities the ((WSLCB)) LCB will/may notify
<ul style="list-style-type: none"> Applications to change the class of an existing annual cannabis license. 	
<ul style="list-style-type: none"> Changes of ownership at existing licensed premises. 	<ul style="list-style-type: none"> Cities and counties in which the premises is located will be notified. Tribal governments and port authorities in which the premises is located may be notified.

(2) **What will happen if a person or entity objects to a cannabis license application?** When deciding whether to issue or deny a cannabis license application, the ((WSLCB)) LCB will give substantial weight to input from governmental jurisdictions in which the premises is located based upon chronic illegal activity associated with the applicant's operations of the premises proposed to be licensed or the applicant's operation of any other licensed premises; and other persons or groups. Note: Per RCW 69.50.331, the ((WSLCB)) LCB shall not issue a new cannabis license if any of the following are within 1,000 feet of the premises to be licensed: Any elementary or secondary schools, playgrounds, recreation centers or facilities, child care centers, public parks, public transit centers, libraries, game arcade where admission is not restricted to persons 21 years of age or older.

(a) If the ((WSLCB)) LCB contemplates issuing a license over the objection of a governmental jurisdiction in which the premises is located, the government subdivision may request an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. If the ((WSLCB)) LCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.

(b) If the ((WSLCB)) LCB denies a cannabis license application based on the objection from a governmental jurisdiction, the applicant(s) may either:

(i) Reapply for the license no sooner than one year from the date on the final order of denial; or

(ii) Submit a written request on a form provided by the ((WSLCB)) LCB for an adjudicative hearing under the provisions of the Administrative Procedure Act, chapter 34.05 RCW. The request must be received within 20 days of the date the intent to deny notification was mailed.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-165 Objections to cannabis license renewals. (1) How can local cities, counties, tribal governments, or port authorities object to the renewal of a cannabis license?

(a) The ((WSLCB)) LCB will give governmental jurisdictions approximately 90 days written notice of premises that hold annual cannabis licenses in that jurisdiction that are up for renewal.

(b) Per RCW 69.50.331, if a county, city, tribal government, or port authority wants to object to the renewal of a cannabis license in its jurisdiction, it must submit a letter to the ((WSLCB)) LCB detailing the reason(s) for the objection and a statement of all facts on which the objections are based.

(c) The county, city, tribal government, or port authority may submit a written request to the ((WSLCB)) LCB for an extension for good cause shown.

(d) This letter must be received by the ((WSLCB)) LCB at least 30 days before the cannabis license expires. The objection must state specific reasons and facts that show issuance of the cannabis license at the proposed location or to the applicant business how it will detrimentally impact the safety, health, or welfare of the community.

(e) If the objection is received within 30 days of the expiration date or the licensee has already renewed the license, the objection will be considered as a complaint and possible license revocation may be pursued by the enforcement division.

(f) Objections from the public will be referred to the appropriate city, county, tribal government, or port authority for action under subsection (2) of this section. Upon receipt of the objection, the ((WSLCB's)) LCB's licensing and regulation division will acknowledge receipt of the objection(s) and forward to the appropriate city, county, tribal government, or port authority. Such jurisdiction may or may not, based on the public objection, request nonrenewal.

(2) **What will happen if a city, county, tribal government, or port authority objects to the renewal of a cannabis license?** The ((WSLCB)) LCB will give substantial weight to a city, county, tribal government, or port authority objection to a cannabis license renewal of a premises in its jurisdiction based upon chronic illegal activity associated with the licensee's operation of the premises. Based on the jurisdiction's input and any information in the licensing file, the ((WSLCB)) LCB will decide to either renew the cannabis license, or to pursue nonrenewal.

<p>(a) ((WSLCB)) <u>LCB</u> decides to renew the cannabis license:</p>	<p>(b) ((WSLCB)) <u>LCB</u> decides to pursue nonrenewal of the cannabis license:</p>
<p>(i) The ((WSLCB)) <u>LCB</u> will notify the jurisdiction(s) in writing of its intent to renew the license, stating the reason for this decision.</p>	<p>(i) The ((WSLCB)) <u>LCB</u> will notify the licensee in writing of its intent to not renew the license, stating the reason for this decision.</p>

<p>(a) ((WSLCB)) LCB decides to renew the cannabis license:</p>	<p>(b) ((WSLCB)) LCB decides to pursue nonrenewal of the cannabis license:</p>
<p>(ii) The jurisdiction(s) may contest the renewal and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((WSLCB)) LCB. The request must be received within ((twenty)) <u>20</u> days of the date the intent to renew notification was mailed. If the ((WSLCB)) LCB, in its discretion, grants the governmental jurisdiction(s) an adjudicative hearing, the applicant will be notified and given the opportunity to present evidence at the hearing.</p>	<p>(ii) The licensee may contest the nonrenewal action and request an adjudicative hearing under the provisions of the Administrative Procedure Act (chapter 34.05 RCW) by submitting a written request on a form provided by the ((WSLCB)) LCB. The request must be received within ((twenty)) <u>20</u> days of the date the intent to deny notification was mailed.</p> <p>(iii) If the licensee requests a hearing, the governmental jurisdiction will be notified.</p> <p>(iv) During the hearing and any subsequent appeal process, the licensee is issued a temporary operating permit for the cannabis license until a final decision is made.</p>

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-185 ((WSLCB)) LCB right to inspect premises or vehicles associated with a license to produce, process, sell, research, or transport cannabis. (1) The following must be available for inspection at all times by an enforcement officer of the ((WSLCB)) LCB:

(a) All licensed premises used in the production, processing, storage, transportation, research, or sale of cannabis, useable cannabis, cannabis concentrates, cannabis-infused products, or any premises or parts of premises used or in any way connected, physically or otherwise, with the licensed business;

(b) Any vehicle assigned for the purpose of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products at any licensed location, or while en route during transportation;

(c) Records as outlined in this chapter; and

(d) Cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products on the licensed premises for the purpose of analyzing samples (the licensee will be given a receipt for any product removed from the premises for this purpose).

(2) Every person being on a licensed premises or within a transporting vehicle, or having charge thereof, must admit an enforcement officer of the ((WSLCB)) LCB demanding to enter therein in pursuance of this section in the execution of his/her duty, and must not obstruct or attempt to obstruct the entry of such officer, or refuse to

allow an officer to examine the premises, vehicles, records, and products subject to this section of the licensee.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-200 How will the ((WSLCB)) LCB identify cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products during checks of licensed businesses? Officers shall identify cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products during on-site inspections of licensed producers, processors, and retailers of cannabis by means of product in the traceability system, and/or by observation based on training and experience. Products that are undetermined to be cannabis, useable cannabis, and cannabis-infused products will be verified by the following:

- (1) Officers may take a sample large enough for testing purposes;
- (2) Field test kits may be used if available and appropriate for the type of product being verified; and
- (3) Those samples not able to be tested with a field test kit may be tested through the Washington state toxicology or crime lab.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-210 Will the ((WSLCB)) LCB seize or confiscate cannabis, cannabis concentrates, useable cannabis, and cannabis-infused products? The ((WSLCB)) LCB may seize, destroy, confiscate, or place an administrative hold on cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products under the following circumstances:

- (1) During an unannounced or announced administrative search or inspection of licensed locations, areas of unlicensed locations used for business or commercial purposes, or vehicles involved in the transportation of cannabis products, where any product was found to be in excess of product limitations set forth in WAC 314-55-075, 314-55-077, and 314-55-079.
- (2) Any product not properly logged in inventory records or untraceable product required to be in the traceability system.
- (3) Cannabis, cannabis concentrates, useable cannabis, and cannabis-infused product that are altered or not properly packaged and labeled in accordance with WAC 314-55-105.
- (4) During a criminal investigation, officers shall follow seizure laws detailed in RCW 69.50.505 and any other applicable criminal codes.
- (5) The ((WSLCB)) LCB may destroy any cannabis, cannabis concentrate, useable cannabis, and/or cannabis-infused products in its possession that is not identifiable through the Washington cannabis traceability system or otherwise in a form that is not compliant with Washington's cannabis statutes or rules, chapters 69.50 RCW and 314-55 WAC.
- (6) ((WSLCB)) LCB officers may order an administrative hold of cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products to prevent destruction of evidence, diversion or other

threats to public safety, while permitting a licensee to retain its inventory pending further investigation, pursuant to the following procedure:

(a) If during an investigation or inspection of a licensee, a ((WSLCB)) LCB officer develops reasonable grounds to believe certain cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products constitute evidence of acts in violation of the state laws or rules, or otherwise constitute a threat to public safety, the ((WSLCB)) LCB officer may issue a notice of administrative hold of any such cannabis, useable cannabis, cannabis concentrate, or cannabis-infused products. The notice of administrative hold shall provide a documented description of the cannabis, useable cannabis, cannabis concentrate, or cannabis-infused products to be subject to the administrative hold.

(b) The licensee shall completely and physically segregate the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold in a limited access area of the licensed premises under investigation, where it shall be safeguarded by the licensee. Pending the outcome of the investigation and any related disciplinary proceeding, the licensee is prohibited from selling, giving away, transferring, transporting, or destroying the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold.

(c) Nothing herein shall prevent a licensee from the continued cultivation or harvesting of the cannabis subject to the administrative hold. All cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products subject to the administrative hold must be put into separate harvest batches from product not subject to the administrative hold.

(d) Following an investigation, the ((WSLCB)) LCB may lift the administrative hold, order the continuation of the administrative hold, or seek a final agency order for the destruction of the cannabis, useable cannabis, cannabis concentrate, and cannabis-infused products.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-220 What is the process once the ((WSLCB)) LCB summarily orders cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products of a cannabis licensee to be destroyed? (1)

The ((WSLCB)) LCB may issue an order to summarily destroy cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products after the ((WSLCB's)) LCB's enforcement division has completed a preliminary staff investigation of the violation and upon a determination that immediate destruction of cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products is necessary for the protection or preservation of the public health, safety, or welfare.

(2) Destruction of any cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products under this provision shall take effect immediately upon personal service on the licensee or employee thereof of the summary destruction order unless otherwise provided in the order.

(3) When a license has been issued a summary destruction order by the ((WSLCB)) LCB, an adjudicative proceeding for the associated vio-

lation or other action must be promptly instituted before an administrative law judge assigned by the office of administrative hearings. If a request for an administrative hearing is timely filed by the licensee, then a hearing shall be held within 90 days of the effective date of the summary destruction ordered by the ((WSLCB)) LCB.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-225 Cannabis recalls. (1) **Definitions.** For the purposes of this section, the following definitions apply:

(a) "Affected product" means cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products subject to a recall.

(b) "Affected licensee" means a licensee whose cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products are subject to a recall. More than one licensee may be an affected licensee in a recall.

(2) **Exempt market withdrawals.**

(a) A licensee may withdraw from the market cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products by its own determination for reasons that do not pose a risk to consumers such as for aesthetic reasons or other similar deficiencies in product or packaging.

(b) If a licensee initiates a market withdrawal for a reason that does not pose a risk to consumers, the licensee must notify the ((WSLCB)) LCB by contacting the local ((WSLCB)) LCB enforcement officer assigned to the local area within 48 hours of beginning the market withdrawal. Licensees withdrawing cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products under this subsection (2), for reasons other than risk to consumers, are exempt from the remaining requirements of this section.

(3) (a) **When a recall is required.** A recall is required when circumstances exist that pose a risk to consumers. Factors that contribute to a determination of a recall situation include, but are not limited to, the following:

(i) Evidence that pesticides not approved by the board are present on or in cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products above the action levels prescribed by board rule;

(ii) Evidence that residual solvents are present on or in cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products at levels above the action levels prescribed by board rule; or

(iii) Evidence of another condition that poses a risk to consumers including, but not limited to, ingredients in cannabis-infused products that are unfit for human consumption.

(b) **Licensee-initiated recalls.**

(i) If a licensee initiates a recall due to a condition that poses a risk to consumers and would make a recall appropriate under this subsection (3), the licensee must:

(A) Immediately notify the local ((WSLCB)) LCB enforcement officer; and

(B) Secure, isolate, and prevent the distribution of all cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products that may have been exposed to the condition warranting the

recall. The licensee is prohibited from destroying any affected product prior to notifying the ((WSLCB)) LCB and coordinating with the local ((WSLCB)) LCB officer on destruction activities.

(ii) If the ((WSLCB)) LCB determines the licensee fails to engage in recall efforts that meet the urgency of the risk to consumers, the ((WSLCB)) LCB may seek a board-directed recall as provided in this section depending on the circumstances.

(c) **((WSLCB)) LCB investigation-initiated recalls.**

(i) If the ((WSLCB)) LCB determines that a recall is not appropriate after an investigation, the ((WSLCB)) LCB enforcement division may release administrative holds placed on cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products as part of the investigation as appropriate, unless an administrative hold is necessary under a continuing investigation.

(ii) If the ((WSLCB)) LCB determines that a recall is appropriate after an investigation, the ((WSLCB)) LCB notifies the board and requests the board issue a recall. If the board issues a recall, the ((WSLCB)) LCB notifies the affected licensee that is the source of the issue giving rise to a recall.

(d) **Recall plans.** All licensees must develop a recall plan within 60 days of the effective date of this section that sets the procedures the licensee will follow in the event of a recall of the licensee's product or products under the licensee's control. If a licensee becomes an affected licensee as part of a recall and the affected licensee distributed affected product to consumers or to retailers, the affected licensee must immediately notify all licensees that received affected product, and issue a press release and other appropriate public notification to inform consumers of the recall and identifying information about the affected product recalled.

(i) A recall plan must include, at a minimum, the following:

(A) Designation of a member of the licensee's staff who serves as the licensee's recall coordinator;

(B) Procedures for identifying and isolating product to prevent or minimize its distribution to consumers;

(C) Procedures to retrieve and destroy product; and

(D) A communications plan to notify those affected by the recall, including:

(I) How the affected licensee will notify other licensees in possession of product subject to the recall; and

(II) The use of press releases and other appropriate notifications to ensure consumers are notified of the recall and affected product information if the affected product was distributed to consumers.

(ii) A recall must follow the procedures outlined in the recall plan unless otherwise agreed by the ((WSLCB)) LCB and the licensee. The affected licensee must ensure recall procedures are conducted to maximize recall of affected product and minimize risks to consumers.

(e) **Destruction of affected product.** An affected licensee must coordinate destruction of affected product with the local ((WSLCB)) LCB enforcement officer and allow ((WSLCB)) LCB enforcement to oversee the destruction of affected product recalled to ensure the destruction of affected product that poses risks to consumers.

(f) **Recall reports and audit.** The affected licensee must track the total amount of affected product and the amount of affected product returned to the affected licensee as part of the recall effort. The affected licensee must report to the ((WSLCB)) LCB periodically on the progress of the recall efforts. The periodic reports must occur at

a minimum of once a week or as otherwise specified and agreed to by the ((WSLCB)) LCB and the affected licensee in the recall plan.

(g) **Recall closure.** If the ((WSLCB)) LCB determines that the recall efforts are successful and risks to public health and safety are no longer present, the ((WSLCB)) LCB may recommend closure of the recall to the board.

(4) **Board-directed recall.**

(a) Upon the recommendation by the ((WSLCB)) LCB enforcement division, the board may issue a directed recall if:

(i) The affected licensee does not comply with a recall under subsection (3) of this section;

(ii) The affected licensee does not comply with the recall plan or recall reporting requirements under subsection (3) of this section; or

(iii) The ((WSLCB)) LCB enforcement division determines that affected product may be diverted or is being diverted from the licensed business, or another circumstance that makes the affected licensee's destruction of the product inadvisable or a risk to consumers.

(b) If the board issues a directed recall, the ((WSLCB)) LCB will notify consumers of the recall and all licensees that may possess product affected by the recall if notice has not yet occurred.

(c) Under a directed recall, the ((WSLCB)) LCB enforcement division may seek an order for destruction of the affected product from the board.

(i) If the board issues an order for destruction, the ((WSLCB)) LCB enforcement division may seize and conduct the destruction of affected product.

(ii) An order for destruction will include notice to the licensee and opportunity for hearing before destruction, unless there is evidence of an immediate danger to public health, safety, or welfare to justify an immediate order for destruction, with an opportunity for an expedited hearing after the destruction.

(d) If a destruction order is issued and the ((WSLCB)) LCB seizes product affected by the recall and conducts the destruction of the product, the affected licensee may be responsible for reimbursing the ((WSLCB)) LCB for costs associated with product destruction.

(e) If the board finds that an immediate danger to the public health, safety, or welfare requires immediate ((WSLCB)) LCB action, a licensee may also be subject to summary suspension under RCW 66.08.150(4).

(5) The ((WSLCB)) LCB will maintain a recall web page on its website of all current and closed recalls of record.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-230 What are the procedures the ((WSLCB)) LCB will use to destroy or donate cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products to law enforcement? (1) The ((WSLCB)) LCB may require a cannabis licensee to destroy cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products found in a licensed establishment to be in excess of product limits set forth in WAC 314-55-075, 314-55-077, and 314-55-079.

(2) Destruction of seized cannabis, useable cannabis, cannabis concentrates, cannabis-infused products, or confiscated cannabis after

case adjudication, will conform with the ((~~WSLCB~~)) LCB evidence policies, to include the option of donating cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products, set for destruction, to local and state law enforcement agencies for training purposes only.

(3) Cannabis, useable cannabis, cannabis concentrates, and cannabis-infused products set for destruction shall not reenter the traceability system or market place.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-310 Transportation license. (1) A transportation license allows the licensee to physically transport or deliver cannabis, cannabis concentrates, and cannabis-infused products between licensed cannabis businesses within Washington state. The application fee for the transportation license is \$250 and the annual fee is \$1,300.

(2) Applicants for the transportation license must submit the following information:

(a) Personal/criminal history forms for all true parties of interest (see WAC 314-55-035);

The criminal history background check will consist of completion of a personal/criminal history form provided by the ((~~WSLCB~~)) LCB and submission of fingerprints to a vendor approved by the ((~~WSLCB~~)) LCB. The applicant will be responsible for paying all fees required by the vendor for fingerprinting. These fingerprints will be submitted to the Washington state patrol and the Federal Bureau of Investigation for comparison to their criminal records. The applicant will be responsible for paying all fees required by the Washington state patrol and the Federal Bureau of Investigation.

(b) Documents showing the right to the physical location to be licensed (purchase and sale agreement or lease in the name of the applicant);

(c) Copies of the current UTC common carrier permits. All vehicles and trailers must also be permitted by UTC as common carriers;

(d) Corporate information form or limited liability information form as applicable;

(e) Proof of insurance.

(i) Licensees shall provide insurance coverage as set out in this section. The intent of the required insurance is to protect the consumer should there be any claims, suits, actions, costs, damages or expenses arising from any negligent or intentional act or omission of the licensees. Licensees shall furnish evidence in the form of a certificate of insurance satisfactory to the ((~~WSLCB~~)) LCB that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, may result in license cancellation.

(ii) Commercial general liability insurance: The licensee shall at all times carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of licensed activities. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the licensee or its officers, agents, representatives, assigns, or servants. The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of

the licensee's premises/operations, products, and personal injury. The limits of liability insurance shall not be less than \$1,000,000.

(iii) Insurance carrier rating: The insurance required in (e) (i) of this subsection shall be issued by an insurance company authorized to do business within the state of Washington. Insurance must be placed with a carrier that has a rating of A - Class VII or better in the most recently published edition of *Best's Reports*. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with chapters 48.15 RCW and 284-15 WAC.

(iv) Additional insured. The state and its employees, agents, and volunteers shall be named as an additional insured on all general liability, umbrella, and excess insurance policies. All policies shall be primary over any other valid and collectable insurance.

(3) **Transport manifest.** A complete printed transport manifest on a form provided by the ((~~WSLCB~~)) LCB containing all information required by the ((~~WSLCB~~)) LCB must be kept with the product at all times.

(4) **Records of transportation.** Records of all transportation must be kept for a minimum of three years at the licensee's location and are subject to inspection if requested by an employee of the ((~~WSLCB~~)) LCB or local law enforcement:

(a) Copies of transportation manifests for all deliveries;

(b) A transportation log documenting the chain of custody for each delivery to include driver(s) and vehicle(s) associated with each delivery;

(c) Bank statements and canceled checks for any accounts relating to the licensed business;

(d) Accounting and tax records related to the licensed business;

(e) Records of all financial transactions related to the licensed business, including invoices, contracts and/or agreements for services performed or received that relate to the licensed business;

(f) All employee records, to include training.

(5) **Transportation of product.** Cannabis or cannabis products that are being transported must meet the following requirements:

(a) Only the transportation licensee or an employee of the transportation licensee who is at least 21 years of age may transport product. All drivers must carry a valid Washington driver's license with the proper endorsements when operating a vehicle in the transportation of product. All passengers in the vehicle transporting cannabis or cannabis products must be employees of the transportation licensee who are at least 21 years of age;

(b) Cannabis or cannabis products must be in a sealed package or container approved by the ((~~WSLCB~~)) LCB pursuant to WAC 314-55-105;

(c) Sealed packages or containers cannot be opened during transport;

(d) Cannabis or cannabis products must be in a locked, safe and secure storage compartment that is secured to the inside body/compartment of the vehicle transporting the cannabis or cannabis products;

(e) Any vehicle transporting cannabis or cannabis products must be delivered or returned to the shipper within 48 hours from the time of pickup;

(f) Live plants may be transported in a fully enclosed, windowless locked trailer, or in a secured area within the inside body/compartment of a van or box truck. A secured area is defined as an area where solid or locking metal partitions, cages, or high strength shatterproof acrylic can be used to create a secure compartment in the fully enclosed van or box truck. The secure compartment in the fully

enclosed van or box truck must be free of windows. Live plants may not be transported in the bed of a pickup truck, a sports utility vehicle, or passenger car.

(6) For purposes of this chapter, any vehicle assigned for the purposes of transporting cannabis, useable cannabis, cannabis concentrates, or cannabis-infused products shall be considered an extension of the licensed premises and subject to inspection by enforcement officers of the ((WSLCB)) LCB. Vehicles assigned for transportation may be stopped and inspected by a ((WSLCB)) LCB enforcement officer at any licensed location, or while en route during transportation.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-410 Cooperatives. (1) A cooperative may be formed by qualifying patients and/or designated providers to share responsibility for growing and processing cannabis only for the medical use of the members of the cooperative. A cooperative must meet the following criteria:

(a) All cooperative members must be at least 21 years of age. The designated provider of a qualifying patient under 21 years of age may be a member of a cooperative on the qualifying patient's behalf;

(b) All cooperative members must hold valid recognition cards as defined by RCW 69.51A.010;

(c) No more than four qualifying patients or designated providers may become members of a cooperative;

(d) Qualifying patients or designated providers may only participate in one cooperative;

(e) A cooperative member may only grow plants in the cooperative and may not grow plants elsewhere;

(f) Cooperative members must participate in growing plants. Cooperative members must provide nonmonetary resources and assistance in order to participate. A monetary contribution or donation is not considered assistance;

(g) Cooperative members may grow up to the total amount of plants for which each cooperative member is authorized on his or her recognition card. At the location, the qualifying patients or designated providers may possess the amount of useable cannabis that can be produced with the number of plants permitted, but no more than 72 ounces;

(h) Cooperative members may not sell, donate, or otherwise provide cannabis, cannabis concentrates, useable cannabis, or other cannabis-infused products to a person who is not a member of the cooperative;

(i) A cooperative may not be located within a one mile radius of a cannabis retailer;

(j) A cooperative must be located at the domicile of one of the cooperative members. Only one cooperative may be located per property tax parcel; and

(k) To obscure public view of the premises, outdoor cannabis production must be enclosed by a sight obscure wall or fence at least eight feet high.

(2) People who wish to form a cooperative must register the location with the ((WSLCB)) LCB. The location registered is the only location where cooperative members may grow or process cannabis. The following is required to register a cooperative:

- (a) Submit a completed Cannabis Cooperative Registration Form;
 - (b) Submit copies of each person's recognition card who is seeking to be part of the registered cooperative;
 - (c) Submit a deed, lease, rental agreement, or other document establishing ownership or control to the property where the cooperative is to be located. If the property is leased or rented, a sworn statement from the property owner granting permission to engage in a cooperative must also be submitted that includes a telephone number and address where the owner can be contacted for verification;
 - (d) Submit a sketch outlining the location where the cannabis is planned to be grown.
- (3) ((WSLCB)) LCB will contact the primary contact listed for each registered cooperative on an annual basis to ensure validity of recognition cards and to confirm the status, whether active or inactive, of the cooperative. If the ((WSLCB)) LCB finds that the cooperative no longer meets the criteria required under this section, the ((WSLCB)) LCB may not renew the cooperative registration.
- (4) ((WSLCB)) LCB may inspect a cooperative between the hours of 8:00 a.m. and 8:00 p.m. unless otherwise agreed upon by cooperative members and ((WSLCB)) LCB staff.
- (5) If a person or persons seeking to register the cooperative fails to meet the requirements of a registered cooperative as provided in this section, the ((WSLCB)) LCB will deny the cooperative registration.
- (6) If the ((WSLCB)) LCB finds a registered cooperative violated the requirements of this section, the ((WSLCB)) LCB will revoke the cooperative's registration.
- (7) A person may request an administrative hearing to contest a denial of registration, nonrenewal, or a revocation of a cooperative's registration under this section as provided in chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-415 What are the recordkeeping and reporting requirements for cooperatives? (1) Cannabis cooperatives must keep records that clearly reflect all activity, inventory, and conditions of the cooperative. The following records must be kept in a format prescribed by the ((WSLCB)) LCB. All records must be maintained on the cooperative premises for a three-year period and must be made available for inspection if requested by an employee of the ((WSLCB)) LCB, the department of health, the department of revenue, or local law enforcement.

- (a) Cooperatives must maintain a plant log to track each cannabis plant from the time it enters the cooperative. At minimum, tracking must include:
 - (i) Unique plant identification numbers for each plant at the cooperative;
 - (ii) The date the plant was brought into the cooperative; and
 - (iii) The date the plant leaves the cooperative, including the reason, (e.g., harvested, destroyed, or member left the cooperative).
- (b) Cooperatives must maintain a log to track all harvested plant material from time of harvest until all harvested material has been dispersed. At minimum, tracking must include:
 - (i) A unique identification number for each harvest;

- (ii) The total dry weight of harvested material;
 - (iii) The date quantities are removed from the harvested material;
 - (iv) The amount removed from the harvested material;
 - (v) The reason quantities are removed from the harvested material (e.g., taken for use by qualifying patient, used for extraction, etc.); and
 - (vi) The current weight of the harvested material.
- (c) Cooperatives must maintain a log to track all extracts produced from the time they are produced until all extracted material has been dispersed. At minimum, tracking must include:
- (i) A unique identification for the extract batch;
 - (ii) The date the extract batch was created;
 - (iii) The total initial weight of the extract batch;
 - (iv) ID number of the harvest the material used to make the extract came from;
 - (v) The weight of cannabis plant material used to create the batch;
 - (vi) The date quantities are removed from the extract batch;
 - (vii) The quantity removed from the extract batch and reason; and
 - (viii) The current weight of the extract batch.
- (2) Cooperatives must submit monthly activity report(s) to the ((WSLCB)) LCB. The required monthly reports must be:
- (a) On an electronic system designated by the ((WSLCB)) LCB;
 - (b) Filed every month, including months with no activity;
 - (c) Submitted to the ((WSLCB)) LCB on or before the 20th day of each month, for the previous month. (For example, a report listing activity for the month of January is due by February 20th.);
 - (d) Filed separately for each cooperative; and
 - (e) All records must be maintained and available for review for a three-year period on licensed premises.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-417 Sales of immature plants or clones and seeds from licensed producers to members of cooperatives, qualifying patients, and designated providers. This section details the requirements for sales of immature plants or clones and seeds by licensed producers to members of a registered cooperative, qualifying patients, and designated providers.

(1) Medical cannabis patients who enter into the medical cannabis authorization database established and maintained by the department of health, receive a recognition card, and are members of a cooperative that has been granted a registration by the Washington state liquor and cannabis board ((~~WSLCB~~)) LCB may purchase immature plants or clones and seeds to be grown in the cooperative from a licensed cannabis producer.

(2) Qualifying patients and designated providers who hold a valid unexpired recognition card and have been entered into the medical cannabis authorization database established and maintained by the department of health, may purchase immature plants or clones and seeds from a licensed cannabis producer.

(3) Members of a registered cooperative, qualifying patients, and designated providers who wish to purchase immature plants or clones and seeds from a licensed producer must:

(a) Personally go to the licensed producer to complete the purchase and transfer of any cannabis plants purchased; and

(b) Provide the following information to a licensed producer:

(i) Proof of identification in the form of a state-issued identification card or other valid government-issued identification;

(ii) A valid recognition card; and

(iii) If the person purchasing immature plants or clones or seeds is a member of a registered cooperative, a copy of the letter from the ((WSLCB)) LCB confirming the person is a member of a registered cooperative.

(4) The physical transfer of cannabis plants between licensed producers and members of a cooperative, qualifying patients, or designated providers must take place on the premises of the licensed producer. Deliveries of cannabis plants by a licensed producer to members of a cooperative, qualifying patients, or designated providers are prohibited.

(5) Members of registered cooperatives, qualifying patients, and designated providers are limited to purchasing no more than the maximum amount that the medical cannabis patient's authorization form allows of any combination of immature plants or clones and seeds in a single sale or cumulative sales within a calendar month from a licensed producer. It is the responsibility of the member of the registered cooperative, qualifying patient, or designated provider to ensure that they possess no more than the maximum number of plants allowed under their authorization forms and as provided in chapter 69.51A RCW.

AMENDATORY SECTION (Amending WSR 16-11-110, filed 5/18/16, effective 6/18/16)

WAC 314-55-508 Review of orders on stay. (1) The licensee, or agency, may petition the ((WSLCB)) LCB for review of an initial order on stay. Any petition for review must be in writing and received by the ((WSLCB)) LCB within ((ten)) 10 days of service of the initial order. If neither party has requested review within ((ten)) 10 days of service, the initial order shall be deemed the final order of the ((WSLCB)) LCB for purposes of RCW 34.05.467.

(2) If the ((WSLCB)) LCB receives a timely petition for review, the ((WSLCB)) LCB shall consider the petition within ((fifteen)) 15 days of service of the petition for review. Consideration on review shall be limited to the record of the hearing on stay.

(3) The order of the ((WSLCB)) LCB on the petition for review shall be effective upon personal service unless another date is specified in the order and is final pursuant to RCW 34.05.467. Final disposition of the petition for stay shall not affect subsequent administrative proceedings for suspension or revocation of a license.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-523 Category IV. Violations that are significant regulatory violations.

**Category IV
Significant Regulatory Violations**

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Noncompliance with record keeping requirements. WAC 314-55-087	\$500 monetary fine	5-day suspension or \$1,250 monetary fine	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Cannabis illegally given away, including being sold below the cost of acquisition, true value, or both. WAC 314-55-017(3) WAC 314-55-018 (2)(f) WAC 314-55-018(5) WAC 314-55-077 (11)(b)	\$500 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Retail sales: Use of an unauthorized money transmitter. WAC 314-55-115(5)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Misuse or unauthorized use of cannabis license (operating outside of license class). RCW 69.50.325	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Selling or purchasing cannabis on credit. WAC 314-55-018 WAC 314-55-115	5-day suspension or \$2,500 monetary option	10-day suspension or \$5,000 monetary option	30-day suspension or \$10,000 monetary option	60-day suspension or \$20,000 monetary option
Engaging in nonretail conditional sales, prohibited practices, or both. WAC 314-55-017(1) WAC 314-55-018	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Operating/floor plan: Violations of a ((WSLCB)) LCB approved operating plan. WAC 314-55-020 (11)(a)	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Failure to maintain required insurance. WAC 314-55-082 WAC 314-55-310	\$1,250 monetary fine	5-day suspension or \$2,500 monetary option	10-day suspension or \$7,500 monetary option	30-day suspension or \$15,000 monetary option
Unauthorized sale to a retail licensee (processor). RCW 69.50.360 RCW 69.50.363 WAC 314-55-077 WAC 314-55-083(4)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$10,000 monetary fine	Tier 1: \$7,500 Tier 2: \$15,000 Tier 3: \$30,000 monetary fine	Tier 1: \$15,000 Tier 2: \$30,000 Tier 3: \$60,000 monetary fine

Violation Type	1st Violation	2nd Violation in a Two-year Window	3rd Violation in a Two-year Window	4th Violation in a Two-year Window
Packaging and labeling. WAC 314-55-105	\$500 monetary fine	5-day suspension or \$1,250 monetary option	10-day suspension or \$2,500 monetary option	30-day suspension or \$7,500 monetary option
Unauthorized or unapproved product storage or delivery (processor/producer). WAC 314-55-085(5)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Unauthorized or unapproved product storage or delivery (transporter). WAC 314-55-310 (5)(d)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine
Failure to meet cannabis waste disposal requirements. WAC 314-55-097	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (processors/producers: Vendor, educational, and internal quality control samples). WAC 314-55-096	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Sampling violations (retail). WAC 314-55-096(5) WAC 314-55-096(6)	\$1,250 monetary fine	Tier 1: \$2,500 Tier 2: \$5,000 Tier 3: \$7,500 monetary fine	Tier 1: \$5,000 Tier 2: \$10,000 Tier 3: \$15,000 monetary fine	Tier 1: \$10,000 Tier 2: \$20,000 Tier 3: \$30,000 monetary fine
Failure to maintain required security alarm. WAC 314-55-083(2)	\$1,250 monetary fine	\$2,500 monetary fine	\$5,000 monetary fine	\$10,000 monetary fine

OTS-5406.1

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-010 Purpose. The purposes of this chapter are to:

- (1) Describe the organization of the Washington state liquor and cannabis board (~~((WSLCB))~~) (LCB);
- (2) Detail how the (~~(WSLCB))~~ LCB complies with laws governing the disclosure (release) of public records; and
- (3) Explain how an individual or organization may obtain public records.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-015 Agency description—Contact information. (1) (a) The Washington state liquor and cannabis board (~~((WSLCB))~~) (LCB) is an agency created to exercise the police power of the state in adminis-

tering and enforcing laws and regulations relating to alcoholic beverage control (Title 66 RCW), cannabis (chapter 69.50 RCW), tobacco (chapter 70.155 RCW), and vapor products (chapter 70.345 RCW).

(b) The board issues licenses relating to liquor, cannabis, tobacco, and vapor products; and collects taxes imposed on liquor and cannabis.

(c) The ((WSLCB)) LCB is responsible for enforcing laws preventing access to tobacco products by persons under the age of 18 years (chapter 70.155 RCW). The board enforces the tobacco tax laws and the department of revenue administers tobacco tax laws (chapters 82.24 and 82.26 RCW).

(2) The Washington state liquor and cannabis board is organized into seven divisions:

- (a) Board administration;
- (b) Director's office;
- (c) Licensing and regulation;
- (d) Enforcement and education;
- (e) Finance;
- (f) Information technology; and
- (g) Human resources.

(3) (a) The administrative offices of the Washington state liquor and cannabis board are located at 1025 Union Avenue S.E., Olympia, WA 98501.

(b) ((WSLCB)) LCB staff is also located at enforcement offices maintained in major cities throughout the state.

Enforcement offices addresses and contact numbers are located on the ((WSLCB's)) LCB's website at lcb.wa.gov.

(4) An organizational chart is available from the board's public records office which illustrates the general structure of the ((WSLCB's)) LCB's operations. More information on the construct of the ((WSLCB)) LCB is also available on the ((WSLCB's)) LCB's website at lcb.wa.gov.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-025 Public records officer. (1) The ((WSLCB)) LCB public records officer:

(a) Receives all public records requests made to the ((WSLCB)) LCB;

(b) Provides "fullest assistance" to persons seeking ((WSLCB)) LCB public records;

(c) Oversees the ((WSLCB's)) LCB's compliance with the Public Records Act, including locating, processing, and releasing records responsive to public records requests;

(d) Creates and maintains an index of certain ((WSLCB)) LCB public records, to the extent required by RCW 42.56.070; and

(e) Prevents the fulfillment of public records requests from causing excessive interference with essential functions of the department.

(2) Any person wishing to access ((WSLCB)) LCB public records should contact the ((WSLCB's)) LCB's public records officer or designee at:

Mailing Address:

Public Records Officer
Liquor and Cannabis Board
P.O. Box 43090
Olympia, WA 98504

Building Address:

1025 Union Avenue S.E.
Olympia, WA 98501
Phone: 360-664-1693
Email: publicrecords@lcb.wa.gov

Current contact information is also available on the ((WSLCB)) LCB's website at lcb.wa.gov.

(3) The public records officer may designate one or more ((WSLCB)) LCB staff to carry out the responsibilities set forth in subsection (1) of this section; and other staff may process public records requests. Therefore, use of the term public records officer in this chapter may include the public records officer's designee(s) or any other staff assisting in processing public records requests, where indicated by context.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-070 Availability of public records. (1) Many records are available on the ((WSLCB's)) LCB's website at lcb.wa.gov. Requestors are encouraged to search for and view records on the ((WSLCB's)) LCB's website in lieu of or prior to making a public records request. An index of public records is available as provided in subsection (3) of this section.

(2) Requestors are encouraged to contact the public records officer to determine the location and availability of records prior to or at the time of making a public records request.

(3) **Hours for inspection of records.**

(a) Public records are available for inspection and copying at the main office of the board during normal business hours of the ((WSLCB)) LCB, Monday through Friday, from 9:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m., excluding state legal holidays.

(b) Records must be inspected at the offices of the ((WSLCB)) LCB and may not be removed from ((WSLCB)) LCB offices. The majority of public records are located at the ((WSLCB's)) LCB's central office, although some may be located in other locations, including the regional offices.

(4) **Records index.** The ((WSLCB)) LCB maintains an index as required under RCW 42.56.070 and updates the index on a biennial basis at minimum. The index of public records is available on the ((WSLCB's)) LCB's website at lcb.wa.gov, including:

(a) Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(b) Those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency; and

(c) Declaratory orders issued pursuant to RCW 34.05.240 containing an analysis or decision of substantial importance to the agency in carrying out its duties.

(5) **Organization of records.** The ((WSLCB)) LCB will maintain its records in a reasonably organized manner. The ((WSLCB)) LCB will take reasonable actions to protect records from damage and disorganization.

AMENDATORY SECTION (Amending WSR 22-23-054, filed 11/9/22, effective 12/10/22)

WAC 314-60-080 Requests for public records. An individual may request a public record orally or in writing. The ((WSLCB)) LCB encourages all public records requests be submitted in writing. Public records requests may be sent to the ((WSLCB)) LCB via email at publicrecords@lcb.wa.gov.

(1) A form for public records requests prescribed by the ((WSLCB)) LCB is available at its main office and on its website at lcb.wa.gov. A written request or public records request form must be submitted or presented to the public records officer or designee and may be sent to the ((WSLCB)) LCB via email at publicrecords@lcb.wa.gov. The request should include the following information:

(a) The name, organization, mailing address, telephone number, and email address of the requestor;

(b) The date and time of day of the request;

(c) Identification of the public records sought, in a form or description adequate for the public records officer to identify and locate the records;

(d) If the matter requested is referenced within the current index maintained by the board, a reference to the requested record as described; and

(e) The address where copies of the record are to be mailed or emailed, or notification that the requestor wants to examine the record at the ((WSLCB)) LCB.

(2) If the public records officer or designee accepts a request other than in writing, he or she will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-085 Processing public records requests. (1) **Order of processing public records requests.** The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days after receipt of the request, the public records officer or designee will do one or more of the following:

(a) Provide the records or make the records available for inspection and copying depending on the nature of the request;

(b) If copies are requested and payment of a deposit for copies, if any, is made or terms of payment agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **If no response is received.** If the public records officer does not respond in writing within five business days after the day of receipt of the request for disclosure, the requestor should consider contacting the public records officer to ensure that the ((WSLCB)) LCB received the request.

(4) **Protecting the rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part, under chapter 42.56 RCW or as otherwise provided by law. If the ((WSLCB)) LCB believes that a record is exempt from disclosure and should be withheld, the public records officer or designee will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, the ((WSLCB)) LCB shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. If, after inspecting a record or records, the requestor wishes to receive a copy of a particular record or records, he or she should so indicate to the public records officer or designee. Copies will be provided pursuant to subsection (7) of this section.

(b) The requestor must review the assembled records within ((thirty)) 30 days of the ((WSLCB's)) LCB's notification to him or her that the records are available for inspection. The agency will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the agency to make arrangements to review the records. If the requestor or a representative of the requestor fails to review the records within the ((thirty)) 30-day period or make other arrangements, the ((WSLCB)) LCB may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(7) **Providing copies of records.**

(a) Upon request, the public records officer or designee will provide copies of requested records. Copies may be provided in either hard copy or electronic format, as requested. The cost for copies is set forth in WAC 314-60-090 and costs for copies of records must be paid to the ((WSLCB)) LCB prior to delivery of copies of records.

(b) Copies may be mailed or emailed to the requestor, or made available for pickup at the ((WSLCB's)) LCB's offices, depending on the format of the records and the request of the requestor. If the copies are available for pickup at the ((WSLCB's)) LCB's offices, the requestor must pay for and pick up the copies within ((~~thirty~~)) 30 days of the ((WSLCB's)) LCB's notification to him or her that the copies are available for pickup. The ((WSLCB)) LCB will notify the requestor in writing of this requirement and inform the requestor that he or she should contact the ((WSLCB)) LCB to make arrangements to pay for and pick up the copies. If the requestor fails to pay for or pick up the copies within the ((~~thirty~~)) 30-day period, or fails to make other arrangements, the ((WSLCB)) LCB may close the request. If the requestor subsequently files the same or a substantially similar request, that subsequent request will be considered a new request and will be processed in the order allowing the greatest number of requests to be processed in the most efficient manner.

(8) **Electronic records.** The process for requesting electronic public records is the same as for requesting paper public records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records, or portions of such records that are reasonably locatable, in an electronic format that is used by the ((WSLCB)) LCB and is generally commercially available, or in a format that is reasonably translatable from the format in which the ((WSLCB)) LCB keeps the record.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection or copies of records in installments, if he or she reasonably determines that it would be practical to provide the records in that way. Costs for each installment of copies of records must be paid to the ((WSLCB)) LCB prior to delivery of the installment. If, within ((~~thirty~~)) 30 days, the requestor fails to pay for one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the ((WSLCB)) LCB has completed the records request and made any located nonexempt records available for inspection.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer or designee will close the request and indicate the closure to the requestor.

(12) **Later discovered documents.** If, after the ((WSLCB)) LCB has informed the requestor that it has provided all available records and closed a request, the ((WSLCB)) LCB becomes aware of additional responsive records existing at the time of the request, it will promptly inform the requestor of the additional records and provide them on an expedited basis.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-090 Costs of providing copies of public records. (1)

No fee is charged for the inspection of public records.

(2) The ((WSLCB)) LCB does not charge any fee for access to or downloading records posted on its internet website prior to a request, unless the requestor specifically requests that posted records be provided by other means, such as a printed copy or electronic copies provided by the ((WSLCB)) LCB.

(3) (a) The board finds it would be unduly burdensome to calculate the actual costs of providing public records to requestors as the type of request and staff time to copy and provide records vary widely. The board does not have the resources to conduct a study of these costs, and conducting a study would interfere with other essential agency functions. Additionally, through the 2017 legislative process, the public and requestors commented on and were informed of authorized fees and costs, including costs for electronic records, provided in RCW 42.56.120 (2) (b) and (c), (3) and (4).

(b) The following fee schedule adapted from RCW 42.56.120 applies to physical and electronic copies of public records provided by the ((WSLCB)) LCB. Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

Public Records Fee Schedule	
Charge:	Record Type:
15 cents/page	Photocopies, printed copies of electronic records when requested by the requestor, or for the use of agency equipment to make photocopies.
10 cents/page	Scanned records, or use of agency equipment for scanning.
5 cents for each 4 electronic files or attachment	Files and attachments loaded and delivered on a digital storage media (CD, DVD, or thumb drive).
10 cents per gigabyte	Records transmitted in electronic format or for use of agency equipment to send records electronically.
Actual cost	Digital storage media or devices.
Actual cost	Any container or envelope used to mail copies.
Actual cost	Postage or delivery charges.

Public Records Fee Schedule	
Actual cost	Customized service charge (in addition to fees for copies - See copying fees above), if the board estimates that the request would require use of information technology expertise to prepare data compilations, or provide customized electronic access when such compilations and customized access services are not used by the agency for other agency purposes. The board will notify such requestor of the customized service charge to be applied, why the charge applies, and an estimate of the cost of the charge, and will allow the requestor to amend the request in order to avoid or reduce the cost of the customized service charge.
Option for Copies:	
Up to \$2 flat fee	As an alternative to the copy charges above, the board may charge a flat fee of up to \$2 for any request when the agency reasonably estimates and documents that the costs are equal to or more than \$2. If applied to the initial installment, additional flat fees will not be charged for subsequent installments.

(4) If the requestor asks the ((WSLCB)) LCB to provide a summary of the applicable charges before any copies are made, the ((WSLCB)) LCB will provide an estimate and will allow the requestor to revise the request to reduce the number of copies to be made to reduce the charges. The ((WSLCB)) LCB may require a deposit of up to ((ten)) 10 percent of the cost of providing copies for a request, including a customized service charge.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-100 Exemptions. (1) The Public Records Act (chapter 42.56 RCW) exempts a number of types of records from public inspection, production, and copying that the board may assert when responding to a request for public records. In addition, records are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions, outside the Public Records Act, that restrict the availability of some documents held by ((WSLCB)) LCB for inspection and copying:

(a) **Autopsy, post mortem or medical examiner reports.** Requests for these records should be referred to the agency which originated the record(s): Coroner's office, medical examiner's office, etc. (RCW 68.50.105)

(b) **Claim file information.** On any industrial insurance claim. (RCW 51.28.070)

(c) **Criminal history reports.** Certain criminal history information concerning nonconviction data is prohibited from disclosure under chapter 10.97 RCW. Law enforcement agency reports should be referred to the agency that originated the report. (RCW 10.97.080)

(d) **Crime victims.** Files and information. (RCW 7.68.140)

(e) **Attorney client privileged communications, mediation communications.** Communications protected by RCW 5.60.060(2), 42.56.290 and 7.07.030 exempt from disclosure.

(f) **Medical records and data.** Medical records, drug records, accident victims and other persons to which ((WSLCB)) LCB has access. (RCW 42.56.360(2) and chapter 70.02 RCW)

(g) **Social Security numbers.** (RCW 42.56.250(3) and 42 U.S.C. Section 405 (c) (2) (C) (vii) (1))

(h) **Trade secrets.** As defined in RCW 19.108.010, including blueprints, diagrams, drawings, formulas, photos, etc., requested to be held confidential by the affected person. Should be labeled "RESTRICTED TRADE INFORMATION." (RCW 39.10.470(2) and 49.17.200)

(2) The ((WSLCB)) LCB is prohibited by statute from disclosing lists of individuals for commercial purposes under RCW 42.56.070.

AMENDATORY SECTION (Amending WSR 18-05-006, filed 2/7/18, effective 3/10/18)

WAC 314-60-110 Review of denials of public records requests.

(1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by submitting a written request for review. The written request must specifically refer to the written statement by the public records officer or designee which constituted or accompanied the denial. A written petition for review may be sent to:

Public Records Officer
P.O. Box 43080
Olympia, Washington 98504-3080
360-664-1693
publicrecords@lcb.wa.gov

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer shall refer it to the administrative director. The administrative director shall immediately consider the matter and either affirm or reverse such denial. The request shall be returned with a final decision, within two business days following the ((WSLCB's)) LCB's receipt of the request for review of the original denial, or within such other time as the ((WSLCB)) LCB and the requestor mutually agree to.

(3) If the ((WSLCB)) LCB denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter as provided in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records request.

OTS-5334.1

AMENDATORY SECTION (Amending WSR 99-10-066, filed 5/4/99, effective 6/4/99)

WAC 314-68-040 What are the procedures for a private individual to bring alcoholic beverages into the state from outside the United States for personal or household use? Fill out a board declaration form, which is available from the United States Custom Service.

(1) Compute the state taxes and markup using the chart on the form.

(2) Sign the form.

(3) Keep a copy for your records and give a copy to the United States Customs Service.

(4) Send a copy of the form with payment within (~~ten~~) 10 days to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(5) The board will mail a receipt to the individual who signed the form, authorizing use of the alcoholic beverages for personal or household use.

AMENDATORY SECTION (Amending WSR 99-10-066, filed 5/4/99, effective 6/4/99)

WAC 314-68-050 What are the procedures for a private individual to bring alcoholic beverages into the state from another state for personal or household use? (1) You must obtain prior authorization from the board before bringing alcoholic beverages into the state from another state for personal or household use. Any private individual who fails to obtain prior authorization will be subject to the provisions of RCW 66.44.160, "Illegal possession, transportation of alcoholic beverages."

(2) To obtain approval if you know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a list of the items to be brought into the state to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will compute the tax and markup.

(c) The board will mail an authorization once the payment of the applicable equivalent markup and tax is paid.

(3) To obtain approval if you do not know the quantity of alcoholic beverages you will bring into the state:

(a) Mail a certification that markup and tax will be paid to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

(b) The liquor purchasing agent will review the certification to pay equivalent markup and tax and mail an authorization to bring the alcoholic beverages into the state along with a declaration form.

(c) Once you have brought the alcoholic beverages into the state:

(i) Fill out the declaration form.

(ii) Compute the state taxes and markup using the chart on the form.

(iii) Sign the form.

(iv) Keep a copy for your records.

(v) Mail a copy of the form with payment within (~~ten~~) 10 days to the Washington State Liquor (~~Control~~) and Cannabis Board, Purchasing Division, Olympia, Washington.

OTS-5335.1

AMENDATORY SECTION (Amending Order 44, filed 5/4/76)

WAC 314-72-020 Application. Pursuant to WAC 197-10-800, the liquor (~~control~~) and cannabis board has reviewed its authorized activities and found them to be exempt under the provisions of chapter 197-10 WAC.

WSR 24-16-082
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)
 [Filed August 1, 2024, 9:32 a.m., effective September 1, 2024]

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

Purpose: The purpose is to adopt amendments to WAC 388-71-0752, 388-71-1055, 388-112A-0090, 388-112A-0495, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-1240, and 388-112A-1245 due to SB 5499, (chapter 123, Laws of 2023). The adopted amendments update training rules to recognize registered nurses licensed under chapter 18.80 RCW. This concerns the multistate nurse licensure compact.

Citation of Rules Affected by this Order: Amending WAC 388-71-0752, 388-71-1055, 388-112A-0090, 388-112A-0495, 388-112A-0610, 388-112A-0611, 388-112A-0612, 388-112A-1240, and 388-112A-1245.

Statutory Authority for Adoption: RCW 70.128.230, 74.39A.009, 74.39A.070, and 74.39A.074; and chapter 18.80 RCW.

Adopted under notice filed as WSR 24-09-016 on April 8, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 9, Repealed 0.

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 9, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: August 1, 2024.

Katherine I. Vasquez
 Rules Coordinator

SHS-5005.2

AMENDATORY SECTION (Amending WSR 15-01-174, filed 12/23/14, effective 1/23/15)

WAC 388-71-0752 What are the adult day centers' staffing qualifications and requirements? (1) Staff selection is dependent on participant needs, program design, and contracting requirements. The center must have the proper balance of professionals and paraprofessionals or nonprofessionals to adequately meet the needs of participants. Services must be delivered by those with adequate professional training. A staff person can have multiple functions, such as an administrator who is also responsible for providing nursing services or social services.

(2) To ensure continuity of direction and supervision, there must be a clear division of responsibility between the governing body and the adult day center administrator.

(3) The administrator must be given full authority and responsibility to plan, staff, direct, and implement the program. The administrator must also have the responsibility for establishing collaborative relations with other community organizations to ensure necessary support services to participants and their families (~~(+)~~) or caregivers.

(4) The administrator must be on site to manage the center's day-to-day operations during hours of operation. If the administrator is responsible for more than one site, or has duties not related to adult day center administration or provision of services, a program director must be designated for each additional site and must report to the administrator.

(5) The administrator must be responsible for the development of a written plan of operation with approval of the governing body and the development, coordination, supervision, fiscal control, and evaluation of services provided through the adult day center.

(6) A nurse or other personnel with a current first aid and CPR card must be on-site whenever participants are attending the adult day care or health program.

(7) Required credentials must be verified to ensure that they are current and in good standing for licensed and certified staff.

(8) Adult day centers may utilize a range of staff under contract or consulting from a larger parent organization or from a private entity to provide services.

(9) Staff commonly utilized by both adult day care and adult day health centers must meet the following requirements:

(a) An activity coordinator must have a bachelor's degree in recreational therapy or a related field and one year of experience (full-time equivalent) in social or health services; or an associate degree in recreational therapy or a related field plus two years of appropriate experience; or three years of paid experience in an activity program and expertise with the population served at the center.

(b) The nurse must be a registered nurse (RN) with valid (~~(state)~~) Washington or multistate credentials in good standing and have at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing (~~(and+)~~) or work with disabled clients. In addition to a registered nurse, an adult day center can utilize a licensed practical nurse (LPN), but the LPN must be supervised in compliance with all applicable nurse practice acts and standards. The LPN must have valid state credentials in good standing and at least one-year applicable experience (full-time equivalent) in ambulatory care or hospital nursing or geriatric or preferably in home health or older adult community-based nursing (~~(and+)~~) or work with disabled clients. In the adult day care center, the RN (~~(+)~~) or LPN does not need to be on site during all hours of operation. In the adult day health (ADH) center, the RN (~~(and+)~~) or LPN must be on site when the attending participants (~~(+)~~) who need nursing services are attending the ADH program. If there are no participants who have nursing service interventions identified on their negotiated care plan in attendance, then the nurse is not required to be on site during the ADH program time.

(c) The social services professional must have a master's degree in social work, gerontology, or other human services field, or coun-

seling and at least one year of professional work experience (full-time equivalent), or a bachelor's degree in social work, counseling, or a related field and two years of experience in a human services field.

(d) Program assistant(~~/~~) and aides or personal care aides must have the appropriate knowledge, skills, and training to meet the individual needs of the participants before they are allowed to provide care and services. The assistant(~~/~~) and aide competencies must be documented demonstrating their qualification to meet the needs of the center's participants within their job description.

(e) Consultants from a larger parent organization without formal contracts may be utilized whenever the center is part of a larger organization that has the ability to provide professional services within the larger framework.

(f) Consultants, with appropriate, valid state credentials may be utilized as needed to meet the requirements outlined in this chapter. The rehabilitative consultants must perform the professional assessment of the participant, train the staff regarding the participant's therapy needs and therapeutic (~~(intervention/s)~~) interventions, monitor the rehabilitation program and evaluate the participant's progress for discharge planning.

(g) (~~(Secretary/)~~) Secretaries and bookkeepers must have at least a high school diploma or equivalent and skills and training to carry out the duties of the position.

(h) If the adult day center provides transportation, drivers must have a valid and appropriate state driver's license, a safe driving record, and training in first aid and CPR. The driver must meet all state requirements for licensure or certification.

(i) Volunteers may be individuals or groups who desire to work with adult day center clients and must take part in program orientation and training. Volunteers and staff must mutually determine the duties of volunteers. Duties to be performed under the supervision of a staff member must either supplement staff in established activities or provide additional services for which the volunteer has special talents. Volunteers will be included in the staff ratio only when they conform to the same standards and requirements as paid staff, meet the job qualification standards of the organization, and have designated responsibilities.

(j) Dietitians must be certified with valid state credentials and have a minimum of one year applicable experience (full-time equivalent).

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

WAC 388-71-1055 What are the minimum qualifications for an instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes trainings? An instructor for basic (including 30-hour and seven-hour DDA parent providers), population specific, on-the-job, nurse delegation core, and nurse delegation specialized diabetes training must meet the following minimum qualifications:

- (1) Be at least 21 years of age;

(2) Has not had a professional health care, adult family home, enhanced services facility, assisted living facility, or social services license or certification revoked in Washington state; and

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting; or

(b) Has an associate degree or higher degree in the field of health or human services and six months of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting; or

(c) Has a high school diploma, or equivalent, and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living facility, supported living through DDA, or home care setting.

(4) Meets one or more of the following teaching experience requirements:

(a) 100 hours of teaching adults in an appropriate setting on topics directly related to the basic training or basic training topics that may be offered as continuing education; or

(b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training;

(5) Except for instructors for nurse delegation core and specialized diabetes training, completion of a class on adult education that meets the requirements in WAC 388-71-1066;

(6) The instructor must be experienced in caregiving practices and demonstrate competency with respect to teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing; and

(8) Community instructors for nurse delegation core and specialized diabetes trainings must have a current Washington ((state)) or multistate registered nurse (RN) license in good standing without practice restrictions.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

WAC 388-112A-0090 Which long-term care workers are exempt from the ((seventy)) 70-hour long-term care worker basic training requirement? The following long-term care workers are exempt from the ((seventy)) 70-hour long-term care worker basic training requirement:

(1) An individual employed as a long-term care worker on January 6, 2012, who complied with the basic training requirements in effect on the date of hire;

(2) An individual previously employed as a long-term care worker who complied with the basic training requirements in effect on the date of hire and was employed as a long-term care worker at some time between January 1, 2011, and January 6, 2012;

(3) A registered nurse, licensed practical nurse, and advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW;

(4) A nursing assistant certified under chapter 18.88A RCW and a person in an approved training program for certified nursing assistants under chapter 18.88A RCW provided they complete the training program within (~~one hundred twenty~~) 120 days of the date of hire and the department of health has issued the nursing assistant certified credential within (~~two hundred~~) 200 days of the date of hire;

(5) A home health aide who was employed by a medicare certified home health agency within the year before the individual was hired as a long-term care worker and who has met the requirements of 42 C.F.R. Sec. 484.36;

(6) An individual with special education training with an endorsement granted by the Washington state superintendent of public instruction as described in RCW 28A.300.010; and

(7) A home care aide (HCA) certified under chapter 18.88B RCW.

AMENDATORY SECTION (Amending WSR 20-14-088, filed 6/30/20, effective 7/31/20)

WAC 388-112A-0495 What are the specialty training and supervision requirements for long-term care workers in adult family homes, assisted living facilities, and enhanced services facilities?

Adult family homes.

(1) If an adult family home serves one or more residents with special needs, the adult family home must ensure that a long-term care worker employed by the home completes and demonstrates competency in specialty training as described in WAC 388-112A-0400 within (~~one hundred twenty~~) 120 days of hire.

(2) Until a long-term care worker completes the requirements of subsection (1) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (3) of this section.

(3) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

(a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;

(b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;

(c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;

(d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or

(e) The long-term care worker is exempt from the (~~seventy~~) 70-hour basic training under WAC 388-112A-0090.

Assisted living facilities.

(4) If an assisted living facility serves one or more residents with special needs, the assisted living facility must ensure that a long-term care worker employed by the facility demonstrates completion of, or completes and demonstrates competency in specialty training within (~~one hundred twenty~~) 120 days of hire. However, if specialty training is not integrated with basic training, the specialty training must be completed within (~~ninety~~) 90 days of completion of basic training.

(5) Until a long-term care worker completes the specialty training and demonstrates competency as required under subsection (4) of this section, the home must not allow the long-term care worker to provide personal care to a resident with special needs without direct supervision, unless indirect supervision is allowed under subsection (6) of this section.

(6) The long-term care worker may provide personal care with indirect supervision if one or more of the following requirements are met:

- (a) The long-term care worker is a nursing assistant certified (NA-C) under chapter 18.88A RCW;
- (b) The long-term care worker is a certified home care aide (HCA) under chapter 18.88B RCW;
- (c) The long-term care worker is a licensed practical nurse (LPN) under chapter 18.79 or 18.80 RCW;
- (d) The long-term care worker is a registered nurse (RN) under chapter 18.79 or 18.80 RCW; or
- (e) The long-term care worker is exempt from the ((seventy)) 70-hour basic training under WAC 388-112A-0090.

Enhanced services facilities.

(7) All long-term care workers in enhanced services facilities must complete and demonstrate competency in mental health and dementia specialty training prior to providing client services.

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

WAC 388-112A-0610 Who in an adult family home is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?

(1) The continuing education training requirements that apply to certain individuals working in adult family homes are described ((below)) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

- (i) A certified home care aide;
- (ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);
- (iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An adult family home provider, entity representative, and resident manager as provided under WAC 388-112A-0050.

(b) A long-term care worker who is a certified home care aide, must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the adult family home or by the

long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the hours of credit earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) A long-term care worker who completed basic or modified basic training after June 30, 2005, is not required to have a food handler's permit. For a long-term care worker who completed basic or modified basic caregiver training before June 30, 2005, and does not maintain a food handler's permit, continuing education must include one half hour per year on safe food handling in adult family homes as described in RCW 70.128.250.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

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

WAC 388-112A-0611 Who in an assisted living facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed?

(1) The continuing education training requirements that apply to certain individuals working in assisted living facilities are described ((below)) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant;

(iv) A person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(v) An assisted living facility administrator or the administrator designee as provided under WAC 388-112A-0060.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete and provide documentation of 12 hours of continuing education within 45 calendar days of being hired by the

assisted living facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of initial certification, no continuing education will be due for the first renewal period.

(2) A long-term care worker who does not complete continuing education as required under this chapter must not provide care until the required continuing education is completed.

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

WAC 388-112A-0612 Who in an enhanced services facility is required to complete continuing education training each year, how many hours of continuing education are required, and when must they be completed? (1) The continuing education training requirements that apply to certain individuals working in enhanced services facilities are described (~~below~~) in this section.

(a) The following long-term care workers must complete 12 hours of continuing education by their birthday each year:

(i) A certified home care aide;

(ii) A long-term care worker who is exempt from the 70-hour home care aide basic training under WAC 388-112A-0090 (1) and (2);

(iii) A certified nursing assistant, and a person with special education training and an endorsement granted by the Washington state office of superintendent of public instruction, as described in RCW 28A.300.010; and

(iv) An enhanced services facility applicant, facility representative, administrator, or the administrator designee as provided under WAC 388-112A-0070.

(b) A long-term care worker, who is a certified home care aide must comply with continuing education requirements under chapter 246-980 WAC.

(c) The continuing education requirements of this section do not apply to a registered nurse, a licensed practical nurse, and an advanced registered nurse practitioner licensed under chapter 18.79 or 18.80 RCW, even if voluntarily certified as a home care aide under chapter 18.88B RCW.

(d) If exempt from certification under RCW 18.88B.041, a long-term care worker must complete 12 hours of continuing education within 45 calendar days of being hired by the enhanced services facility or by the long-term care worker's birthday in the calendar year hired, whichever is later; and

(i) Must complete 12 hours of continuing education by the long-term care worker's birthday each calendar year worked thereafter; or

(ii) If the 45 calendar day time period allows the long-term care worker to complete continuing education in January or February of the

following year, the credit hours earned will be applied to the calendar year in which the long-term care worker was hired.

(e) If the birthday following initial certification as a home care aide or nursing assistant (NA-C) is less than a full year from the date of certification, no continuing education will be due for the first renewal period.

(f) Enhanced services facility certified home care aide staff and nursing assistant certified staff must have 10 of the 12 hours of annual continuing education cover relevant education regarding the population served in the enhanced services facility as provided in WAC 388-107-0660.

(g) In addition to the annual continuing education requirements for individual staff, the enhanced services facility must provide three hours of staff education per quarter on topics relevant to the needs of the population served.

(2) A long-term care worker who does not complete continuing education as required in this chapter must not provide care until the required continuing education is completed.

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

WAC 388-112A-1240 What are the minimum qualifications for an instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and specialized diabetes trainings? An instructor for core basic, population specific, on-the-job, residential care administrator, nurse delegation core, and nurse delegation specialized diabetes trainings must meet the following minimum qualifications:

(1) Be at least 21 years of age;

(2) Has not had a professional health care, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(3) Meets one or more of the following education or work experience requirements upon initial approval or hire:

(a) Is a registered nurse with work experience within the last five years with the elderly or persons with disabilities requiring long-term care in a community setting;

(b) Has an associate degree or higher degree in the field of health or human services and six months professional or caregiving experience within the last five years in a community-based setting or an adult family home, enhanced services facility, assisted living facility, supported living through the developmental disabilities administration (DDA), or home care setting; or

(c) Has a high school diploma or equivalent and one year of professional or caregiving experience within the last five years in an adult family home, enhanced services facility, assisted living, supported living through DDA, or home care setting;

(4) Meets one or more of the following teaching experience requirements:

(a) 100 hours of experience teaching adults in an appropriate setting on topics directly related to basic training or basic training topics that may be offered as continuing education;

(b) 40 hours of teaching basic training while being mentored by an instructor who is approved to teach basic training; or

(c) Instructors with adult family homes, enhanced services facilities, and assisted living facilities who do not have the experience described in (a) or (b) of this subsection, must have and attest to the following experience and plans in their application:

(i) 40 hours of informal teaching experiences unrelated to basic training topics such as guest lecturing, team teaching, and volunteer teaching with parks, local high schools, 4-H groups, English as a second language (ESL) groups, senior organizations, or religious organizations;

(ii) Three adult learning techniques that the instructor will implement in the long-term care worker training; and

(iii) Three ways the instructor plans on improving instructional skills and the method the instructor will use to measure improvement such as submitting the continuous improvement plan feedback from the DSHS adult education class;

(5) Except for instructors for nurse delegation core and diabetes training, completion of a class on adult education that meets the requirements of WAC 388-112A-1297;

(6) The instructor must be experienced in caregiving practices and demonstrate competency for teaching the course content or units being taught;

(7) Instructors who will administer tests must have experience or training in assessment and competency testing;

(8) Community instructors for nurse delegation core and diabetes training must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions; and

(9) Facility instructors must be approved and contracted by the department as a community instructor in order to be approved to teach the following classes:

(a) Nurse delegation core;

(b) Nurse delegation specialized diabetes training; or

(c) DSHS adult education training curriculum.

AMENDATORY SECTION (Amending WSR 22-10-053, filed 4/29/22, effective 5/30/22)

WAC 388-112A-1245 What are the requirements and minimum qualifications for high school instructors and programs that offer core basic, population specific, nurse delegation, and specialty trainings?

(1) A high school instructor teaching core basic, population specific, nurse delegation core, nurse delegation special focus on diabetes, specialty and expanded specialty trainings must meet the following minimum qualifications:

(a) Be at least 21 years of age;

(b) Not have had a professional, adult family home, assisted living facility, or social services license or certification revoked in Washington state;

(c) ~~((Meet the following education and work experience requirements upon))~~ Upon initial approval or hire ~~((=~~

~~(i) Have))~~, have a valid teaching credential with a related endorsement such as career and technical education, science, health, or special education; and

~~((A))~~ (i) Have caregiving experience within the last five years in a school, community-based, or home setting; or

~~((B))~~ (ii) Be a registered nurse with direct care experience within the last five years; or

~~((C))~~ (iii) Be certificated under the vocational code V511614;
or

~~((D))~~ (iv) Have successfully completed core basic training taught by a DSHS approved instructor; or

~~((E))~~ (v) Have taught 40 hours of basic training while being mentored by an instructor who is approved to teach basic training;

(d) Have at least 100 hours teaching experience;

(e) Be knowledgeable in caregiving practices and demonstrate competency for teaching the course content or units being taught; and

(f) Have successfully completed a specialty or expanded specialty training class before providing training in that curriculum to others;

(2) In addition to requirements under subsection (1) of this section, an instructor for nurse delegation core or diabetes must have a current Washington or multistate registered nurse (RN) license in good standing without practice restrictions.

(3) A high school home care aide training program must be approved and contracted by the department as a community instructor program.

WSR 24-16-108
PERMANENT RULES
WASHINGTON STATE
SCHOOL FOR THE BLIND

[Filed August 5, 2024, 7:04 a.m., effective September 5, 2024]

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

Purpose: To update current rule language with gender-inclusive pronouns. This change clarifies the language of the rules without changing its effect.

Citation of Rules Affected by this Order: Amending WAC 72-108-020, 72-120-010, 72-120-110, 72-171-150, 72-276-050, 72-276-055, 72-280-011, 72-280-020, 72-280-040, and 72-325-010.

Statutory Authority for Adoption: RCW 72.40.022, 34.05.220, 34.05.250, 28A.155.010, 42.56.100.

Adopted under notice filed as WSR 24-12-015 on May 24, 2024.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 10, Repealed 0.

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

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

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

Date Adopted: August 1, 2024.

Scott McCallum
Superintendent

OTS-5460.1

AMENDATORY SECTION (Amending WSR 90-16-004, filed 7/19/90, effective 8/19/90)

WAC 72-108-020 Appointment of presiding officers. Unless the hearing is assigned to the office of administrative hearings, the superintendent or the superintendent's designee shall designate a presiding officer for an adjudicative proceeding. The presiding officer shall be an administrative law judge, a member in good standing of the Washington State Bar Association, a panel of individuals, the superintendent or (~~his or her~~) their designee, or any combination of the above. Where more than one individual is designated to be the presiding officer, one person shall be designated by the superintendent or the superintendent's designee to make decisions concerning discovery, closure, means of recording adjudicative proceedings, and similar matters.

OTS-5461.1

AMENDATORY SECTION (Amending WSR 16-13-069, filed 6/13/16, effective 7/14/16)

WAC 72-120-010 Student responsibilities and duties. The mission of the Washington state school for the blind is to provide specialized educational services to blind, visually impaired and deaf-blind students which will assist those students to develop skills, competencies and attitudes that are fundamental to the development of responsible, contributing citizens. Admission to the Washington state school for the blind carries with it the obligation of responsibility for the welfare of the school. In order to advance the mission of the school, it shall be the responsibility and duty of each student to pursue (~~his/her~~) their course of studies, respect the rights of others, comply with written rules adopted herein, and submit to reasonable corrective action for violation(s) of such rules. This chapter is intended to assure that corrective action is imposed for just cause and in a fair and reasonable manner.

AMENDATORY SECTION (Amending WSR 16-13-069, filed 6/13/16, effective 7/14/16)

WAC 72-120-110 Prohibited student conduct. The school may impose disciplinary sanctions against a student who commits, or aids, abets, incites, encourages or assists another person to commit, an act(s) of misconduct set forth in this section. As applicable, the term "conduct" includes acts performed by electronic means.

(1) **Personal offenses.** The term "personal offense" is an offense against the safety or security of any person and includes physical assault, reckless endangerment, physical or verbal abuse, threats, intimidation, harassment, bullying, stalking, invasion of privacy, or other similar conduct that harms any person, or that is reasonably perceived as threatening the health or safety of any person, or that has the purpose or effect of unlawfully interfering with any person's rights. The term includes personal offenses committed by electronic means.

(a) Bullying is physical or verbal abuse, repeated over time, and involving a power imbalance between the aggressor and victim.

(b) Stalking is intentional and repeated following of another person, which places that person in reasonable fear that the perpetrator intends to injure, intimidate, or harass that person. Stalking also includes instances where the perpetrator knows or reasonably should know that the person is frightened, intimidated, or harassed, even if the perpetrator lacks such an intent.

(2) **Property violations.** The term "property violation" includes the theft, misappropriation, unauthorized use or possession, vandalism, or other nonaccidental damaging or destruction of school property or the property of another person; including possession of such property or money after it has been stolen. Property for purposes of this subsection includes computer passwords, access codes, identification cards, other confidential personal information, and intellectual property.

(3) **Sexual misconduct.** The term "sexual misconduct" includes, but is not limited to, sexual harassment and sexual violence.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome conduct of a sexual nature, including unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature that is sufficiently serious as to deny or limit, and that does deny or limit, based on sex, the ability of a student to participate in or benefit from the school's educational programs/activities or that creates an intimidating, hostile, or offensive educational environment.

Sexual harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including stalking (or cyberstalking), voyeurism, indecent exposure, or the nonconsensual recording of sexual activity or distribution of such recording.

(c) **Sexual violence.** The term "sexual violence" incorporates the definition of "sexual harassment" and means a physical sexual act perpetrated without clear, knowing, and voluntary consent, such as committing a sexual act against a person's will, exceeding the scope of consent, or where the person is incapable of giving consent. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, sexual abuse, sexual coercion, sexual exploitation, or gender- or sex-based stalking. A person may be incapable of giving consent because (~~she or he is~~) they are underage, unable to understand what is happening, or is disoriented, helpless, asleep or unconscious for any reason, including due to drug or alcohol consumption, is disabled, or cannot consent because of threat or intimidation.

(4) **Disruptive or obstructive conduct.** The term "disruptive" or "obstructive conduct" means conduct, not protected by law, that interferes with, impedes, or otherwise unreasonably hinders the normal teaching, learning, administrative, or other functions, procedures, services, programs, or activities of the school. The term includes disorderly conduct, breach of the peace, lewd or obscene conduct, obstruction of pedestrian or vehicular traffic, or interfering with the orderly conduct of school investigations or disciplinary proceedings, including interfering with or retaliating against any complainant, witness, or other participant.

(5) **Failure to comply.** Refusal or failure to comply with instructions or directions of school officials, refusing to comply with any term or condition of a disciplinary sanction.

(6) **Safety violations.** Any nonaccidental conduct that interferes with or otherwise compromises any school policy, equipment, or procedure relating to the safety and security of the center and school community, including tampering with or disabling safety equipment and triggering false alarms or other emergency response systems.

(7) **False or deceptive conduct.** The term "false" or "deceptive conduct" means dishonest conduct (other than academic dishonesty) that includes forgery, altering or falsifying of school records, furnishing false or misleading information, or falsely accusing any person of misconduct.

(8) **Academic dishonesty.** All forms of cheating, plagiarism and fabrication.

(a) **Cheating.** Cheating includes any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment. This includes assisting another to commit an act of academic dishonesty or allowing someone to do these things for one's benefit.

(b) **Plagiarism.** Plagiarism includes taking and using as one's own, without proper attribution, the ideas, writings or work of another person in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) **Fabrication.** Fabrication includes falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to a teacher concerning the completion of an assignment.

(9) **Unauthorized access.** The term "unauthorized access" means gaining entry without permission to any restricted area or property of the school or the property of another person, including any computer system, email account, or electronic or paper files. Unauthorized access includes computer hacking and the unauthorized possession or sharing of any restricted means of gaining access, including keys, keycards, passwords, or access codes.

(10) **Alcohol, drug and tobacco violations.**

(a) **Alcohol.** Use, possession, delivery, or being visibly under the influence of any alcoholic beverages.

(b) **Marijuana.** Use, possession, delivery, or being visibly under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form.

(c) **Drug.** Use, possession, distribution, delivery, or being under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner. The abuse, misuse, or unlawful sale or distribution of prescription or over-the-counter medications may also constitute a drug violation.

(d) **Tobacco.** Smoking or use of tobacco, tobacco products, electronic smoking devices, or other smoking devices.

(11) **Retaliation.** Harming, threatening, intimidating, coercing or taking adverse action of any kind against a person because such person reported an alleged violation of this code or other school policies, provided information about an alleged violation, or participated as a witness or in any other capacity in an investigation or disciplinary proceeding.

(12) **Weapons violations.** A "weapons violation" includes possessing, carrying, displaying, exhibiting, or storing any firearm or dangerous weapon. Dangerous weapons include, but are not limited to, firearms, dangerous chemicals, explosives, slung shots, sand clubs, metal knuckles, daggers, dirks, spring blade knives, nunchaku sticks, throwing stars, air guns, stun guns, and devices used or intended to be used as a weapon to injure a person by an electric shock, charge, or impulse.

(13) **Harassment, intimidation or bullying.** Harassment, intimidation or bullying means any intentional electronic, written, verbal or physical act including, but not limited to, one shown to be motivated by race, color, religion, ancestry, national origin, gender, sexual orientation including gender identity or expression, mental or physical disability, socio-economic status, physical appearance, or other distinguishing characteristic, when the act:

(a) Physically harms a student or damages the student's property;

(b) Has the effect of substantially interfering with a student's education;

(c) Is so severe, persistent or pervasive that it creates an intimidating or threatening educational environment; or

(d) Has the effect of substantially disrupting the orderly operation of the school.

Nothing in this section requires the affected student to actually possess a characteristic that is a basis for the harassment, intimidation, or bullying.

"Intentional act" refers to the individual's choice to engage in the act rather than the ultimate impact of the action(s).

Harassment, intimidation, and bullying are often carried out through acts of misconduct, which are addressed and prohibited under other rules in this chapter.

(14) **Gang activity.** Claiming membership in, association with, affiliation with, or participation in a gang, in gang-related activities or similar destructive or illegal group behavior at school, during school-related functions, or on any school property. "Gang" has the meaning given the term under RCW 28A.600.455.

(15) **Theft or misuse of electronic resources.** Theft or misuse of computer time or other electronic information resources of the school. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person;

(g) Use of such time or resources to interfere with normal operation of the school's computing system or other electronic information resources;

(h) Use of such time or resources in violation of applicable copyright or other law;

(i) Failure to comply with the student computing resources policy.

(16) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, and social media sites to harass, abuse, bully, or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(17) **Violation of other laws or policies.** Violation of any federal, state, local law, rule, or regulation or other school rules or policies which are published annually in the student/parent handbook.

OTS-5462.1

AMENDATORY SECTION (Amending WSR 16-13-070, filed 6/13/16, effective 7/14/16)

WAC 72-171-150 Admission and placement—Annual review. (1) Upon a referral for admission and placement from a parent, legal guardian, emancipated minor, adult student, or local educational agency (LEA), a Washington state school for the blind admissions team will assess the appropriateness of placement of a visually impaired student residing in the state of Washington as provided for under this chapter.

(2) Applications for placement shall be in writing and shall include the reason for referral. Reasons for referral to the state school for the blind may include, but are not limited to: Vision specific services not readily available in the local school district, need for more intensive vision specific services, adaptive aids and appliances, greater array of vision support services, social skill development, leisure time skill development, and organization skill development.

(3) The LEA will be notified if the referral is from a parent and the student's records will be requested. The following records must be received prior to review by the school's admissions team: Complete application materials, most recent IEP, most recent three-year summary assessment or evaluation, psychological records, transcripts (for high school students), all records subject to disclosure under RCW 28A.225.330, including, but not limited to: History of disciplinary actions, criminal or violent behavior, or other behavior that indicates the student could be a threat to the safety of educational staff or other students.

(4) The admissions team shall review the records and if the information is complete, determine whether to proceed with or terminate the application.

(5) Placement of a student at the state school for the blind shall be determined at an IEP meeting conducted pursuant to WAC 392-172A-03090 through 392-172A-03115, 72-171-150(9) and 72-171-200.

(6) The determination of the appropriate placement for a student shall be based upon:

(a) The student's individualized education program (IEP);

(b) The least restrictive environment requirements of WAC 392-172A-02050 through 392-172A-02070; provided that the IEP team may conclude that a student will receive greater benefit from education in a specialized setting due to specific instructional and related service needs such that the least restrictive environment and appropriate placement for a student may be WSSB;

(c) The placement option(s) that provides a reasonably high probability of assisting the student to attain (~~his or her~~) their annual goals;

(d) A consideration of any potential harmful effect on the student or on the quality of services which (~~he or she needs~~) they need; and

(e) The status of the student as an adjudicated sex offender classified as risk Level II or III in the state of Washington or the equivalent under the laws of the state in which the student resides.

(7) The decision on the educational placement shall be made by a group of persons, including the parents, the LEA, and other persons knowledgeable about the student, the evaluation data, and the placement options.

(8) Pursuant to RCW 72.40.040(4) and 72.40.050(2), admission and retention at the Washington state school for the blind may be denied for a student who is an adjudicated sex offender.

(9) The educational placement of each student shall be determined at least annually at a meeting conducted pursuant to WAC 72-171-150(5).

OTS-5463.1

AMENDATORY SECTION (Amending WSR 16-13-067, filed 6/13/16, effective 7/14/16)

WAC 72-276-050 Public records available. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the school, Monday through Friday, 8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m., excluding legal holidays and holidays established by the school calendar. Records must be inspected at the offices of the school.

(2) **Records index.** An index of public records is available for use by members of the public consisting of the records retention schedule according to record series title, manuals and policy statements by one or more of the following classifications: Administration, statewide (outreach) services, academic and residential life.

(3) **Organization of records.** The school will maintain its records in a reasonably organized manner. The school will take reasonable actions to protect records from damage and disorganization. A requestor shall not take records from school offices without the permission of the public records officer or designee.

(4) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the school should make the request in writing on the school's public records request form, or by letter, fax, or email addressed to the public records officer and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records officer or designee to locate the records;
- The date and time of day of the request; and
- A verification that the records requested shall not be used for commercial purposes.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, (~~he or she~~) they should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 72-276-090, standard photocopies will be provided at (~~fifteen~~) 15 cents per page.

(c) A form is available for use by requestors at the office of the public records officer or online at the school's website.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, (~~he or she~~) they will confirm receipt of the information and the substance of the request in writing.

AMENDATORY SECTION (Amending WSR 16-13-067, filed 6/13/16, effective 7/14/16)

WAC 72-276-055 Processing of public records requests. (1) **Order of processing public records requests.** The public records officer or designee will process requests in the order that allows the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available;

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **If no response is received.** If the school does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to ensure that the school received the request.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for the affected persons to seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the school believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the ex-

empt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, the school shall promptly provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document. The requestor shall indicate which documents (~~(he or she wishes)~~) they wish the school to copy.

(b) The requestor must claim or review the assembled records within (~~(thirty)~~) 30 days of the school's notification to (~~(him or her)~~) them that the records are available for inspection or copying. The school will notify the requestor in writing of this requirement and inform the requestor that (~~(he or she)~~) they should contact the school to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the (~~(thirty-day)~~) 30-day period or make other arrangements, the school may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Electronic records.** The process for requesting electronic public records is the same as for requesting paper public records. When a person requests records in an electronic format, the public records officer will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the school and is generally commercially available, or in a format that is reasonably translatable from the format in which the school keeps the record.

(9) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if (~~(he or she)~~) they reasonably determines that it would be practical to provide the records in that way. If, within (~~(thirty)~~) 30 days, the requestor fails to inspect the entire set of records or one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(10) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate that the school has completed a diligent search for the requested records and made any located nonexempt records available for inspection. Then the public records officer will close the request.

(11) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill (~~(his or her)~~) their obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer will close the request and indicate to the requestor that the school has closed the request.

(12) **Later discovered documents.** If, after the school has informed the requestor that it has provided all available records, the school becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

OTS-5464.1

AMENDATORY SECTION (Amending WSR 16-13-068, filed 6/13/16, effective 7/14/16)

WAC 72-280-011 Definitions. As used in this chapter:

(1) "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, date of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, diplomas, honors, and awards received, and the most recent school or program attended.

(2) "Disclosure" means to permit access to or the release, transfer, or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written, or electronic means.

(3) "Education records" means the type of records covered under the definition of "education records" in 34 C.F.R. Part 99 (regulations implementing FERPA).

(4) "Eligible student" means a student who has reached (~~eighteen~~) 18 years of age. When a student becomes an "eligible student," the rights accorded to, and the consent required of, parents under this chapter, transfer from the parents to the student.

(5) "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(6) "Party" means an individual, agency, institution, or organization.

(7) "Personally identifiable information" includes, but is not limited to, the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier, such as the student's Social Security number or student number or biometric records; a list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

(8) "Student" means any individual who is or has been in attendance at the school and regarding whom the school maintains education records.

(9) "Legitimate educational interest" exists if the school official needs to have access to the record in order to fulfill the official's professional responsibility, perform appropriate tasks that are specified in (~~his or her~~) their position description or contract agreement, perform a function related to a student's education or discipline, perform a service or benefit relating to the student or student's family, such as health education, counseling, advising, or student employment, or maintain safety and security.

(10) "School official" includes a person employed by the school as a teacher, administrator, supervisor, counselor, support or clerical staff, human resources staff, information systems specialist, school security personnel, a person appointed to the board of trustees, a person with whom the school has contracted to perform a service to or on behalf of the school (such as an attorney, hearing officer, auditor, medical consultant, or therapist), a parent or student serving on an official committee or assisting another school official in

performing (~~his or her~~) their tasks, or other party to whom the school has outsourced institutional services or functions.

(11) "Participating agency" means any school district, agency or institution which collects, maintains, or uses personally identifiable information, or from which information is obtained in implementing chapters 392-172A and 72-171 WAC (rules for the provision of special education), and includes the OSPI, school districts and other public agencies.

AMENDATORY SECTION (Amending WSR 16-13-068, filed 6/13/16, effective 7/14/16)

WAC 72-280-020 Access rights. (1) The school shall permit parents of students eligible for special education to inspect and review, during school business hours, any education records relating to the student which are collected, maintained, or used by the school under chapters 392-172A and 72-171 WAC. A request by a parent (or eligible student) to inspect and review education records should be made in writing to the director of education. The director of education or designee shall comply with a request promptly and before any meeting regarding an individualized education program or hearing or resolution session relating to the identification, evaluation, educational placement of the student or provision of FAPE to the student, including disciplinary proceedings. The school shall respond, in no case, more than (~~forty-five~~) 45 calendar days after the request has been made.

(2) Where the education record includes information on more than one student, the parent(s) of those students (or the eligible students) shall have the right to inspect and review only the information relating to their child (or themselves) or to be informed of that specific information.

(3) The right to inspect and review education records under this section includes:

(a) The right to a response from the school to reasonable requests for explanations and interpretations of the records;

(b) The right to request that the school provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent or eligible student from exercising the right to inspect and review the records; and

(c) The right to have a representative of the parent or eligible student inspect and review records.

(4) The school may presume that a parent has authority to inspect and review records relating to (~~his/her~~) their child unless the school has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and dissolution.

(5) A list of the types and locations of education records collected, maintained, or used by the school may be obtained by the parent (or eligible student) at the director of education's office.

AMENDATORY SECTION (Amending WSR 16-13-068, filed 6/13/16, effective 7/14/16)

WAC 72-280-040 Consent for release of records. (1) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with subsection (2) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 C.F.R. Part 99.

(2) Except as provided in this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.

(3) Parental consent, or the consent of an eligible student who has reached the age of majority under state law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

(4) If a parent (or eligible student) so requests, the school shall provide (~~him or her~~) them with a copy of the records disclosed.

(5) "Directory information" may be disclosed without the parent's (or eligible student's) prior written consent, unless the parent (or eligible student) notifies the school in writing within (~~ten~~) 10 days of enrollment and thereafter by the (~~tenth~~) 10th day of the academic year that (~~he or she does~~) they do not want any or all of the student's information to be designated as directory information.

OTS-5465.1

AMENDATORY SECTION (Amending WSR 90-16-011, filed 7/19/90, effective 8/19/90)

WAC 72-325-010 Implementation of State Environmental Policy Act.

(1) It shall be the policy of Washington state school for the blind that all actions taken by the school shall comply with the provisions of chapter 43.21C RCW (State Environmental Policy Act) and chapter 197-11 WAC as presently enacted or hereafter amended.

(2) The superintendent, or (~~his or her~~) their designee, shall be responsible for administering and implementing this policy.

WSR 24-16-115

PERMANENT RULES

FORENSIC INVESTIGATIONS COUNCIL

[Filed August 5, 2024, 12:48 p.m., effective September 5, 2024]

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

Purpose: To update and clarify the scope and procedures used to authorize funding to local jurisdictions investigating incidents of multiple deaths or seeking forensic anthropology services or other testing.

Citation of Rules Affected by this Order: Amending WAC 218-10-005, 218-10-015, 218-10-020, 218-10-025, and 218-10-030.

Statutory Authority for Adoption: RCW 43.103.090(1).

Adopted under notice filed as WSR 24-11-141 on June 5, 2024 [May 21, 2024].

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

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

Date Adopted: July 26, 2024.

Mark Nichols
Chair

OTS-5447.1

RULES RELATING TO THE AUTHORIZATION OF FUNDING ASSISTANCE TO LOCAL JURISDICTIONS FOR THE INVESTIGATION OF MULTIPLE DEATHS AND FOR FORENSIC ANTHROPOLOGY AND OTHER TESTING TO IDENTIFY HUMAN REMAINS

AMENDATORY SECTION (Amending WSR 03-22-012, filed 10/24/03, effective 12/1/03)

WAC 218-10-005 Authority. This chapter is adopted pursuant to chapter 142, Washington Laws of 1999, relating to the authority of the forensic investigations council to prescribe rules governing the disbursement of funds to local jurisdictions to assist them in the investigation of multiple deaths involving unanticipated, extraordinary, and catastrophic events, or involving multiple jurisdictions and to

secure forensic anthropology services and other testing designed to aid in the identification of human remains upon a showing of financial need.

AMENDATORY SECTION (Amending WSR 03-22-012, filed 10/24/03, effective 12/1/03)

WAC 218-10-015 Definitions. (1) "**Death investigation budget**" shall mean the local jurisdiction's appropriation into the coroner or medical examiner budgets for the determination of cause and manner of death.

(2) "**Forensic anthropology services**" shall mean services to local jurisdictions in an applied area of physical anthropology utilizing the science, methodology, and technology of physical/biological anthropology and related fields to help address medicolegal issues, such as personal identification and circumstances surrounding death.

(3) "**Local jurisdiction**" shall mean a city, town, or county of the state of Washington.

~~((3))~~ (4) "**Multiple deaths involving multiple local jurisdictions**" shall mean that the deaths occurred in two or more geographically distinct local jurisdictions.

~~((4))~~ (5) "**Other testing**" includes, but is not limited to, forensic odontology, forensic genealogy, and other forms of testing that in the judgment of the council may aid in the identification of human remains.

(6) "**Unanticipated**" shall mean an event having a disproportionate fiscal impact, relative to the local jurisdiction's death investigation budget and which cannot be reasonably foreseen in the normal budget process.

AMENDATORY SECTION (Amending WSR 03-22-012, filed 10/24/03, effective 12/1/03)

WAC 218-10-020 Eligibility standards. (1) Only the following investigations, forensic anthropology services, and other testing are eligible for funding assistance:

(a) Investigations of multiple deaths involving unanticipated, extraordinary, and catastrophic events; ~~((e))~~

(b) Investigations of multiple deaths involving multiple local jurisdictions; and

(c) Forensic anthropology services and other testing designed to aid in the identification of human remains.

(2) Funding assistance shall be limited to supplementations of the death investigation budget of a local jurisdiction.

(3) Funding assistance shall not be used to supplant moneys reasonably available from other state or federal sources.

AMENDATORY SECTION (Amending WSR 03-22-012, filed 10/24/03, effective 12/1/03)

WAC 218-10-025 Application process. (1) To qualify for consideration and eligibility for assistance from the state death investigations account, the legislative authority of the local jurisdiction shall:

((1)) (a) Submit to the forensic investigations council an application on a form approved by the council; ((and

(2)) (b) Provide a written statement to the council that includes the following:

(i) The scope and nature of the emergency that requires additional funding;

(ii) The amount of jurisdiction funds available for the investigation;

(iii) The estimated need of supplemental funding from FIC;

(iv) A description of the private, federal, state, or local government resources the jurisdiction has applied to for funding and the amount they anticipate receiving from each source;

(v) Any other information that demonstrates the jurisdiction has a financial need;

(vi) Provide any additional information requested by the forensic investigations council, in order to evaluate the request for assistance.

(2) The request will be promptly reviewed, and the council shall deny, grant, or grant in part the request in writing subject to the availability of FIC funding for the current biennium.

AMENDATORY SECTION (Amending WSR 03-22-012, filed 10/24/03, effective 12/1/03)

WAC 218-10-030 Effective date. ((1) This rule shall take effect on December 1, 2003.

(2)) Funding assistance shall be available only for death investigations that commenced after August 1, 2003. Funding assistance shall be available for forensic anthropology services and other testing designed to aid in the identification of human remains regardless of the age of a case.

WSR 24-16-119

PERMANENT RULES

DEPARTMENT OF HEALTH

[Filed August 5, 2024, 2:02 p.m., effective September 5, 2024]

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

Purpose: The department of health (department) is adopting clarifying terms and adding definitions of "delivery," "dispense," and "ultimate user." After receiving questions and comments from interested parties around definitions of "dispense" and "distributed" during a state auditor's office audit of the prescription monitoring program (PMP), as well as in various other routine operational situations, the department determined clarification of the rule was necessary. The department is adopting solutions to those questions and concerns through the rule-making process. The department is also adopting language to clarify the prescribers ability to request the history of prescriptions the prescribers have written. Clarifying and defining phrases found in rule is necessary to cut down on confusion regarding requirements of dispensers and prescribers.

Citation of Rules Affected by this Order: Amending WAC 246-470-010, 246-470-030, and 246-470-050.

Statutory Authority for Adoption: RCW 70.225.025.

Adopted under notice filed as WSR 24-11-119 on May 21, 2024.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 3, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: August 5, 2024.

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

OTS-5231.3

AMENDATORY SECTION (Amending WSR 18-17-048, filed 8/8/18, effective 9/8/18)

WAC 246-470-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Authentication" means information, electronic device, or certificate provided by the department or their designee to a data requestor to electronically access prescription monitoring information.

The authentication may include, but is not limited to, a user name, password, or an identification electronic device or certificate.

(2) "Controlled substance" has the same meaning provided in RCW 69.50.101.

(3) "Delivery" means the actual or constructive transfer from one person to another of a schedule II, III, IV, or V controlled substance or other drug identified by the pharmacy quality assurance commission in WAC 246-470-020 whether or not there is an agency relationship.

(4) "Department" means the department of health.

~~((4))~~ (5) "Dispense," "dispensing," and "dispensed" means:

(a) The interpretation of a prescription for a schedule II, III, IV, or V controlled substance or other drug identified by the pharmacy quality assurance commission in WAC 246-470-020;

(b) Pursuant to that prescription, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription for delivery; and

(c) The drug has left the possession of the dispenser because it has been delivered to the ultimate user, or the drug has been provided to a common or contract carrier for delivery to the ultimate user.

(6) "Dispenser" means a practitioner or pharmacy that delivers to the ultimate user a schedule II, III, IV, or V controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020, but does not include:

(a) A practitioner or other authorized person who only administers, as defined in RCW 69.41.010, a controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020;

(b) A licensed wholesale distributor or manufacturer, as defined in chapter 18.64 RCW, of a controlled substance or other drugs identified by the pharmacy quality assurance commission in WAC 246-470-020; or

(c) A veterinarian licensed under chapter 18.92 RCW. Data submission requirements for veterinarians are included in WAC 246-470-035.

~~((5))~~ (7) "Indirect patient identifiers" means data that may include: Hospital or provider identifiers; a five-digit zip code, county, state, and country of residence; dates that include month and year; age in years; and race and ethnicity; but does not include the patient's first name; middle name; last name; Social Security number; control or medical record number; zip code plus four digits; dates that include day, month, and year; or admission and discharge date in combination.

~~((6))~~ (8) "Local health officer" means the legally qualified physician who has been appointed as the health officer for a county or district health department, consistent with RCW 70.05.010(2).

~~((7))~~ (9) "Qualifying medical test site" means a medical test site licensed by the department under chapter 70.42 RCW, and certified as a drug testing laboratory by the United States department of health and human services, substance abuse and mental health services administration.

~~((8))~~ (10) "Patient" means the person or animal who is the ultimate user of a drug for whom a prescription is issued or for whom a drug is dispensed.

~~((9))~~ (11) "Patient address" means the current geographic location of the patient's residence. If the patient address is in care of another person or entity, the address of that person or entity is the "patient address" of record. When alternate addresses are possible, they must be recorded in the following order of preference:

(a) The geographical location of the residence, as would be identified when a telephone is used to place a 9-1-1 call; or

(b) An address as listed by the United States Postal Service; or

(c) The common name of the residence and town.

~~((10))~~ (12) "Pharmacist" means a person licensed to engage in the practice of pharmacy.

~~((11))~~ (13) "Prescriber" means a licensed health care professional with authority to prescribe controlled substances or legend drugs.

~~((12))~~ (14) "Prescription monitoring information" means information submitted to and maintained by the prescription monitoring program.

~~((13))~~ (15) "Program" means the prescription monitoring program established under chapter 70.225 RCW.

~~((14))~~ (16) "Ultimate user" means an individual who lawfully possesses a schedule II, III, IV, or V controlled substance or other drug identified by the pharmacy quality assurance commission in WAC 246-470-020 for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(17) "Valid photographic identification" means:

(a) A driver's license or instruction permit issued by any United States state or province of Canada. If the patient's driver's license has expired, the patient must also show a valid temporary driver's license with the expired card.

(b) A state identification card issued by any United States state or province of Canada.

(c) An official passport issued by any nation.

(d) A United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents.

(e) A merchant marine identification card issued by the United States Coast Guard.

(f) A state liquor control identification card. An official age identification card issued by the liquor control authority of any United States state or Canadian province.

(g) An enrollment card issued by the governing authority of a federally recognized Indian tribe located in Washington, if the enrollment card incorporates security features comparable to those implemented by the department of licensing for Washington drivers' licenses and are recognized by the liquor control board.

AMENDATORY SECTION (Amending WSR 21-11-088, filed 5/18/21, effective 6/18/21)

WAC 246-470-030 Data submission requirements for dispensers.

(1) A dispenser shall provide to the department the dispensing information required by RCW 70.225.020 and this section for all scheduled II, III, IV, and V controlled substances and for drugs identified by the pharmacy quality assurance commission under WAC 246-470-020. Only drugs dispensed for more than one day use must be reported.

(2) Dispenser identification number. A dispenser shall acquire and maintain an identification number issued to dispensing pharmacies by the National Council for Prescription Drug Programs or a prescriber identifier issued to authorized prescribers of controlled substances

by the Drug Enforcement Administration, United States Department of Justice.

(3) Submitting data. A dispenser shall submit data to the department electronically, as soon as readily available, but no later than one business day from the date of dispensing a drug, and in the format required by the department. When the dispenser has not dispensed any drugs during a business day which require reporting, then within seven days the dispenser shall report that no drugs requiring reporting were dispensed. The notification shall be in a format established by the department.

(a) A dispenser shall submit (~~for each dispensing~~) the following information (~~and~~) for each drug dispensed as well as any additional information required by the department:

(i) Patient identifier. A patient identifier is the unique identifier assigned to a particular patient by the dispenser;

(ii) Name of the patient for whom the prescription is ordered including first name, middle initial, last name, and generational suffixes, if any;

(iii) Patient date of birth;

(iv) Patient address;

(v) Patient gender and species code;

(vi) Drug dispensed;

(vii) Date of dispensing;

(viii) Quantity and days supply dispensed;

(ix) Refill and partial fill information;

(x) Prescriber identifiers including the National Provider Identifier and the Drug Enforcement Administration number including any suffix used;

(xi) Prescription issued date;

(xii) Dispenser identifiers including the Drug Enforcement Administration number and the National Provider Identifier;

(xiii) Prescription fill date and number;

(xiv) Source of payment indicated by one of the following:

(A) Private pay (cash, change, credit card, check);

(B) Medicaid;

(C) Medicare;

(D) Commercial insurance;

(E) Military installations and veterans affairs;

(F) Workers compensation;

(G) Indian nations;

(H) Other;

(xv) When practicable, the name of the person picking up or dropping off the prescription as verified by valid photographic identification; and

(xvi) The prescriber's and dispenser's business phone numbers.

(b) A nonresident, licensed pharmacy that (~~delivers~~) dispenses controlled substances, as defined in RCW 18.64.360, is required to submit only the transactions for patients with a Washington state zip code.

(c) Data submission requirements do not apply to:

(i) The department of corrections or pharmacies operated by a county for the purpose of providing medications to offenders in state or county correctional institutions who are receiving pharmaceutical services from a state or county correctional institution's pharmacy. A state or county correctional institution's pharmacy must submit data to the program related to each offender's current prescriptions for

controlled substances upon the offender's release from a state or county correctional institution.

(ii) Medications provided to patients receiving inpatient services provided at hospitals licensed under chapter 70.41 RCW or patients of such hospitals receiving services at the clinics, day surgery areas, or other settings within the hospital's license where the medications are administered in single doses; or medications provided to patients receiving outpatient services provided at ambulatory surgical facilities licensed under chapter 70.230 RCW.

AMENDATORY SECTION (Amending WSR 18-17-048, filed 8/8/18, effective 9/8/18)

WAC 246-470-050 Local health officer, pharmacist, prescriber or other health care practitioner and medical test site access to information from the program. (1) Access.

(a) The local health officer or a licensed health care practitioner authorized by the local health officer may obtain prescription monitoring information for the purposes of patient follow-up and care coordination following a controlled substance overdose event.

(b) A pharmacist, prescriber, or licensed health care practitioner authorized by a prescriber or pharmacist may obtain prescription monitoring information relating to their patients, for the purpose of providing medical or pharmaceutical care or for the purpose of reviewing the history of prescriptions they wrote.

(c) A qualifying medical test site may have access to prescription monitoring information for the purpose of providing assistance to a prescriber or dispenser for determining medications an identified patient, in the care of the prescriber or dispenser, is taking.

(2) Registration for access.

(a) A local health officer, pharmacist, prescriber, or licensed health care practitioner authorized by a local health officer, prescriber or pharmacist shall register by using the registration process established by the department in order to receive an authentication to access the electronic system.

(b) Staff of a qualifying medical test site, meeting requirements of (a) of this subsection may register for access by using the registration process established by the department.

(3) Verification by the department. The department shall verify the authentication and identity of the local health officer, pharmacist, prescriber, licensed health care practitioner authorized by a local health officer, prescriber or pharmacist, or staff of a qualifying medical test site before allowing access to any prescription monitoring information. The qualifying medical testing laboratory's registered substance abuse and mental health services administration responsible person must designate and report to the program those staff who may access the prescription monitoring information.

(4) Procedure for accessing prescription information.

(a) A local health officer, pharmacist, prescriber, licensed health care practitioner authorized by a local health officer, prescriber or pharmacist, or staff of a qualifying medical test site center may access information from the program electronically, using the authentication issued by the department or the department's designee.

(b) A local health officer, pharmacist, prescriber, or licensed health care practitioner authorized by a local health officer, pre-

scriber or pharmacist may alternately submit a written request via mail or facsimile transmission in a manner and format established by the department.

(5) Reporting lost or stolen authentication. If the authentication issued by the department is lost, missing, or the security of the authentication is compromised, the local health officer, pharmacist, prescriber, licensed health care practitioner authorized by a local health officer, prescriber or pharmacist, or staff of a qualifying medical test site shall notify the department's designee by telephone and in writing as soon as reasonably possible.

(6) All requests for, uses of, and disclosures of prescription monitoring information by authorized persons must be consistent with the mandate as outlined in RCW 70.225.040 and this chapter.

WSR 24-16-120
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed August 6, 2024, 8:35 a.m., effective September 6, 2024]

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

Purpose: The department of social and health services is amending WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants, 388-310-1450 Pregnancy to employment, and 388-484-0006 TANF/SFA time limit extensions. These amendments support implementation of SHB 2007 (chapter 181, Laws of 2024), effective July 1, 2024, which creates a temporary assistance for needy families time limit extension for households caring for a child under the age of two that qualify for an infant, toddler, or postpartum exemption from WorkFirst activities. As applicable, these amendments make additional changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Related emergency rules are currently in effect under WSR 24-14-045. When effective, this permanent filing supersedes the emergency rule filed under WSR 24-14-045.

Citation of Rules Affected by this Order: Amending WAC 388-310-0300, 388-310-1450, and 388-484-0006.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.010.

Other Authority: SHB 2007 (chapter 181, Laws of 2024).

Adopted under notice filed as WSR 24-13-123 on June 20, 2024.

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

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Date Adopted: August 6, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5039.3

AMENDATORY SECTION (Amending WSR 22-20-017, filed 9/22/22, effective 10/23/22)

WAC 388-310-0300 WorkFirst—Infant care exemptions for mandatory participants. (1) When may I be exempted from participating in Work-First activities if I am a mandatory participant?

Either you or the other parent, living in the household, may claim an infant exemption from participating in WorkFirst activities provided you:

- (a) Have a child under two years of age;
- (b) Choose to not fully participate in the WorkFirst program (see WAC 388-310-0400); and
- (c) Have not used up your lifetime 24 month infant care exemption(~~(-)~~); or
- (d) You have used your lifetime 24 month infant care exemption, but have a child under the age of 12 weeks.

(2) If I choose my infant exemption, may I still be required to participate in the WorkFirst program?

You are required to participate up to 20 hours per week in mental health treatment, (~~chemical dependency~~) substance use disorder treatment, or a combination of these, if:

- (a) The comprehensive evaluation or assessment indicates a need; and
- (b) Services are available in your community.

(3) May I volunteer to participate in WorkFirst while I have a child under two years of age?

You may choose to fully participate in WorkFirst (see WAC 388-310-0400) while you have a child under two years of age. If you decide later to stop participating and you still qualify for an exemption, you will return to exempt status with no financial penalty provided you meet the conditions of subsections (1) and (2) of this section.

(4) Does an infant exemption from participation affect my 60 month time limit for receiving temporary assistance for needy families (TANF) or state family assistance (SFA) benefits?

Even if you are exempt from participation, each month you receive a TANF/SFA grant counts toward your 60 month limit (see WAC 388-484-0005).

AMENDATORY SECTION (Amending WSR 22-20-017, filed 9/22/22, effective 10/23/22)

WAC 388-310-1450 Pregnancy to employment. (1) How do I know if I am eligible to participate in pregnancy to employment?

If you are on temporary assistance for needy families (TANF) or state family assistance (SFA) and are pregnant or have a child under the age of two years, you are a participant in the pregnancy to employment pathway.

(2) What services are provided to the pregnancy to employment pathway?

- (a) The pregnancy to employment pathway provides you with services, when available in your community, to look and prepare for work while supporting your child's needs. You and your WorkFirst worker will decide which variety of services you need. Service may include one or more of the items listed in (i) through (vi) of this section:
 - (i) Home visiting or other parent supports;
 - (ii) Safe and appropriate child care;
 - (iii) Mental health treatment;
 - (iv) (~~Chemical dependency~~) Substance use disorder treatment;
 - (v) Domestic violence services; or
 - (vi) Employment services.

(b) The WorkFirst worker will contact you every three months to offer you services if you are not required to participate and choose to claim ~~((the))~~ an infant exemption under WAC 388-310-0300(1).

(c) You will be offered a voluntary referral to either home visiting or other parent supports at various times in the pregnancy to employment pathway.

(3) What am I required to do while I am in the pregnancy to employment pathway?

You must participate in an assessment with a DSHS social service specialist and based on the results you will:

(a) Work with your WorkFirst worker to decide which required activities best meet your needs (these activities will depend on where you are in the pregnancy or the age of your child and will be added to your individual responsibility plan (IRP)); and

(b) Be required to participate in those activities, as identified in your IRP.

(4) What am I required to do while I am pregnant?

Based upon the results of your assessment, your participation:

(a) During your first and second trimester of pregnancy will be full-time work, looking for work, or preparing for work unless you have a good reason to participate fewer hours as described under WAC 388-310-1600.

(b) During your third trimester of pregnancy will be up to 20 hours per week in either mental health treatment or ~~((chemical-dependency))~~ substance use disorder treatment, if:

(i) The comprehensive evaluation or assessment indicates a need; and

(ii) Services are available in your community.

(5) What am I required to do after my child is born?

After the birth of your child, you may choose to take the infant exemption under WAC 388-310-0300 or volunteer to participate in WorkFirst activities to the fullest of your abilities under WAC 388-310-0400.

(6) What if I have used my 24 month lifetime infant exemption?

If you have another child after using all 24 months of the infant exemption, you will be:

(a) Eligible for a 12 week postpartum ~~((deferral))~~ exemption period to personally take care of an infant less than 12 weeks of age but will be required to participate up to 20 hours per week in mental health or ~~((chemical-dependency))~~ substance use disorder treatment, or a combination of these, if the comprehensive evaluation or assessment indicates a need and services are available in your community.

(b) Required to participate full time, unless otherwise exempt or you have good reason to participate fewer hours, once your child turns 12 weeks old in one or more of the following activities:

(i) Work;

(ii) Looking for work;

(iii) Preparing for work by participating in a combination of activities based upon the results of your assessment.

(7) Will I be sanctioned if I refuse to participate?

(a) You are required to participate in the WorkFirst program under WAC 388-310-0200 subject to sanction under WAC 388-310-1600 unless you have good reason and you:

(i) Are in your third trimester of pregnancy;

(ii) Have not used up your 24 month lifetime infant exemption and have a child under the age of two years old; or

(iii) Have used up your 24 month lifetime infant exemption and have a child under 12 weeks.

(b) You may be sanctioned if you stop participating in required mental health or (~~chemical dependency~~) substance use disorder treatment when you are:

(i) In your third trimester of pregnancy;

(ii) Claiming the infant exemption; or

(iii) Using a 12 week postpartum (~~deferral~~) exemption period.

AMENDATORY SECTION (Amending WSR 23-24-036, filed 11/30/23, effective 12/31/23)

WAC 388-484-0006 TANF/SFA time limit extensions. (1) What happens after I receive 60 or more months of TANF/SFA cash assistance?

After you receive 60 or more months of TANF/SFA cash assistance according to WAC 388-484-0005, you may qualify for additional months of cash assistance. We call these additional months of TANF/SFA cash assistance a hardship TANF/SFA time limit extension.

(2) Who is eligible for a hardship TANF/SFA time limit extension?

You are eligible for a hardship TANF/SFA time limit extension if you are on TANF, are otherwise eligible for TANF, received 60 cumulative months of TANF and you:

(a) Are approved for one of the exemptions from mandatory participation according to WAC 388-310-0350 (1)(a) through (d); or

(b) Are a Social Security disability insurance recipient; or

(c) Are at least 65 years old, blind as defined by the Social Security Administration or disabled as determined under chapter 388-449 WAC; or

(d) Have an open child welfare case with a state or tribal government and this is the first time you have had a (~~child~~) dependent child under RCW 13.34.030 in (~~this~~) Washington or another state or had a child a ward of a tribal court; or

(e) Are working in unsubsidized employment for 32 hours or more per week; or

(f) Document that you meet the family violence option criteria in WAC 388-61-001 and are participating satisfactorily in specialized activities needed to address your family violence according to a service plan developed by a person trained in family violence or have a good reason, as described in WAC 388-310-1600(3) for failure to participate satisfactorily in specialized activities; or

(g) Are homeless by reason of hardship, including when your family includes a child or youth who is without a fixed regular, and adequate nighttime residence as described in the federal McKinney-Vento Homeless Assistance Act (Title 42, U.S.C. 11434a(2), chapter 119, subchapter VI, part B) as it existed on January 1, 2020; or

(h) Have a child under the age of two years old who lives in the same household and you qualify for any of the infant related exemptions from WorkFirst activities as defined in WAC 388-310-0300(1), or

(i) Were an active TANF recipient from July 1, 2021, through June 30, 2023; or

~~((i))~~ (j) Were an active TANF recipient, beginning July 1, 2022, when Washington state employment security department's most recently published unemployment rate is seven percent or above.

~~((j))~~ (k) Do not qualify for other time limit extension criteria in this section and received TANF during a month on or after March

1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above. (~~The extension provided for under this subsection (2)(b)(ix) is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.~~) The duration of this extension criteria is equal to the number of months that you received TANF on or after March 1, 2020, when the Washington state employment security department's unemployment rate was at seven percent or above.

(3) Who reviews and approves a hardship time limit extension?

(a) Your case manager or social worker will review your case and determine whether a hardship time limit extension type will be approved.

(b) This review will not happen until after you have received at least 52 months of assistance but before you reach your time limit or lose cash assistance due to the time limit.

(c) Before you reach your time limit or lose cash assistance due to the time limit, the department will send you a notice that tells you whether a hardship time limit extension will be approved, when your time limit expires, and how to request an administrative hearing if you disagree with the decision.

(4) When I have an individual responsibility plan, do my WorkFirst participation requirements change when I receive a hardship TANF/SFA time limit extension?

(a) Even if you qualify for a hardship TANF/SFA time limit extension you will still be required to participate as required in your individual responsibility plan (WAC 388-310-0500). You must still meet all of the WorkFirst participation requirements listed in chapter 388-310 WAC while you receive a hardship TANF/SFA time limit extension.

(b) If you do not participate in the WorkFirst activities required by your individual responsibility plan, and you do not have a good reason under WAC 388-310-1600, the department will follow the sanction rules in WAC 388-310-1600.

(5) Do my benefits change if I receive a hardship TANF/SFA time limit extension?

(a) You are still a TANF/SFA recipient and your cash assistance, services, or supports will not change as long as you continue to meet all other TANF/SFA eligibility requirements.

(b) During the hardship TANF/SFA time limit extension, you must continue to meet all other TANF/SFA eligibility requirements. If you no longer meet TANF/SFA eligibility criteria during your hardship time limit extension, your benefits will end.

(6) How long will a hardship TANF/SFA time limit extension last?

(a) We will review your hardship TANF/SFA time limit extension and your case periodically for changes in family circumstances:

(i) If you are extended under WAC 388-484-0006 (2)(a) then we will review your extension at least every 12 months;

(ii) If you are extended under WAC 388-484-0006 (2)(b), (2)(c), (2)(d), or (2)(e) then we will review your extension at least every six months.

(b) Your hardship TANF/SFA time limit extension may be renewed for as long as you continue to meet the criteria to qualify for a hardship time limit extension.

(c) If during the extension period we get proof that your circumstances have changed, we may review your case and determine if you continue to qualify for a hardship TANF/SFA time limit extension. When

you no longer qualify for a hardship TANF/SFA time limit extension we will stop your TANF/SFA cash assistance. You will be notified of your case closing and will be given the opportunity to request an administrative hearing before your benefits will stop.

WSR 24-16-123

PERMANENT RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed August 6, 2024, 11:01 a.m., effective September 6, 2024]

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

Purpose: The employment security department (department) currently runs three programs: State unemployment insurance, WA Cares, and paid family and medical leave. As part of its duties, the department receives payments from employers for each program. Occasionally, an employer sends a payment to the department without indicating which program(s) the payment was intended for, and the department is unable to make contact with the employer. There are currently no rules addressing how employer payments are allocated across these programs in these situations. Therefore, the department is adopting new rules that address how payments will be allocated across these programs.

Citation of Rules Affected by this Order: New WAC 192-03-010 and 192-03-020.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.24.010, 50A.05.060, 50A.10.030, 50B.04.020, 50B.04.080.

Adopted under notice filed as WSR 24-09-025 on April 10, 2024.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 0, Repealed 0.

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

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

Date Adopted: August 6, 2024.

Joy Adams
Employment System Policy Director

OTS-5211.1

Chapter 192-03 WAC
EMPLOYER PAYMENT ALLOCATION

NEW SECTION

WAC 192-03-010 Employer payment. (1) When an employer makes a payment to a program under Title 50, 50A, or 50B RCW, the full amount of the payment will be allocated to the program listed by the employer.

(2) If the program for which the payment is intended is not clear, the department will make a reasonable attempt to contact the employer to determine how the payment should be applied.

(3) If the department is unsuccessful in contacting the employer, the department will investigate if the employer has any outstanding debts to any of the programs referenced in subsection (1) of this section. If money is owed to one or more programs, then the payment will be deposited in the following order of priority:

- (a) To Title 50 RCW, if money owed to this program; then
- (b) To Title 50A RCW, if money owed to this program; then
- (c) To Title 50B RCW, if money owed to this program.

NEW SECTION

WAC 192-03-020 Credits between programs. If an employer has a credit within one program, the credit can only be applied to another program under Title 50, 50A, or 50B RCW, at the request of the employer.

WSR 24-16-134
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed August 6, 2024, 3:19 p.m., effective September 6, 2024]

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

Purpose: The purpose of this proposal is to amend WAC 388-14A-4900 to implement SB 5842 (chapter 126, Laws of 2024). Under this legislation, the division of child support (DCS) is to minimize the use of Social Security numbers reported directly to DCS by insurance companies complying with RCW 26.23.037. The proposed amendment to the rule makes clear that DCS does not expect insurers reporting directly to DCS to submit a claimant's Social Security number unless the combination of full name, date of birth, and current address is insufficient for DCS to identify the individual. Nothing in the proposal prevents an insurance company from providing a Social Security number to DCS. It only impacts what DCS does with the Social Security number once received. This proposal is necessary to ensure that insurers have sufficient information about the process to fully comply with the statutory requirements.

Citation of Rules Affected by this Order: Amending WAC 388-14A-4900.

Statutory Authority for Adoption: RCW 26.23.037, 26.23.110, 74.08.090, and 74.20A.055.

Adopted under notice filed as WSR 24-12-018 on May 24, 2024.

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

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

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

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

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

Date Adopted: August 6, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5035.1

AMENDATORY SECTION (Amending WSR 21-24-077, filed 11/30/21, effective 12/31/21)

WAC 388-14A-4900 Insurers must report claim information to the division of child support and withhold payments if directed. (1) Insurers must report certain insurance claims to the division of child

support (DCS). Within 10 days after opening a tort liability claim for bodily injury or wrongful death, a workers' compensation claim, or a claim under a policy of life insurance, including an annuity, the insurer must report sufficient information to ~~((the division of child support))~~ DCS to enable it to verify whether the claimant or other beneficiary owes child support. A claim is deemed opened when an insurer has sufficient information to:

(a) Identify the claimant;

(b) Determine that the claimant is entitled to payment of the insurance claim proceeds; and

(c) Make such payment. In the case of a claim that will be paid through periodic payments, the insurer must only report the claim before issuing the initial payment.

(2) Insurers can report information:

(a) To the federal office of child support services (OCSS) or the child support lien network (CSLN);

(b) Through an insurance claim data collection organization, which submits the required information to OCSS, CSLN, or the DCS special collections unit within the timeframes and in the manner required by law; or

(c) Directly to the DCS special collections unit, in writing or electronically, if the insurer does not have the capability to report through the above methods.

(3) The information reporting requirements are satisfied so long as the insurer provides minimum identifying information. ~~((Minimum identifying information about the claimant includes:))~~

(a) OCSS and CSLN maintain their own standards for minimum identifying information.

(b) For the purposes of reporting directly to the DCS special collections unit, minimum identifying information about the claim includes:

(i) The claimant's full name and date of birth;

~~((b))~~ (ii) The claimant's ((Social Security number, or if that is unavailable, the claimant's)) current physical address ((and date of birth));

(iii) The claimant's Social Security number, if full name, date of birth, and current physical address are not sufficient for DCS to identify the individual;

~~((e))~~ (iv) The insurer's name;

~~((d))~~ (v) The insurer's claims department address for lien receipt;

~~((e))~~ (vi) The insurer's claim number in the proper format for identification of the claim;

~~((f))~~ (vii) The insurer's claim date of loss;

~~((g))~~ (viii) The adjustor's name;

~~((h))~~ (ix) The adjustor's telephone number;

~~((i))~~ (x) The adjustor's email address; and

~~((j))~~ (xi) The insurer's fax number for receiving lien notices, if one exists.

~~((3) Insurers can report information:~~

~~(a) To the federal office of child support enforcement or the child support lien network;~~

~~(b) Through an insurance claim data collection organization, which submits the required information to the federal office of child support enforcement, the child support lien network, or the division of child support within the timeframes and in the manner required by law; or~~

~~(c) To the division of child support special collections unit in writing or electronically, if the insurer does not have the capability to report through the above methods.)~~

(4) Upon receipt of claims information, ~~((the division of child support))~~ DCS will determine whether a child support debt exists. If so, ~~((the division of child support))~~ DCS will issue a notice to the insurer to withhold payment and remit to ~~((the division of child support))~~ DCS. An insurer is not required to remit payment to ~~((the division of child support))~~ DCS if the notice issued is received after the insurer has disbursed payment on the claim.

(5) ~~((The division of child support))~~ DCS will give any lien, claim, or demand for reasonable claim-related attorneys' fees, property damage, and medical costs priority over any withholding of payment. These costs must be final costs after all reductions have been pursued with interested parties.

WSR 24-16-135
PERMANENT RULES
DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Division of Child Support)

[Filed August 6, 2024, 3:32 p.m., effective September 6, 2024]

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

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

Citation of Rules Affected by this Order: Amending WAC 388-14A-3375.

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

Adopted under notice filed as WSR 24-13-064 on June 13, 2024.

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

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

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

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

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

Date Adopted: August 6, 2024.

Katherine I. Vasquez
Rules Coordinator

SHS-5037.1

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

WAC 388-14A-3375 What kinds of credits does the division of child support give when establishing or enforcing an administrative

support order? (1) After the noncustodial parent (NCP) has been advised of the requirement to make payments to the Washington state support registry (WSSR) by service of a support establishment notice, or by entry of a support order requiring payments to WSSR, the NCP may obtain credit against the support obligation only:

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

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

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

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

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

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

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

(a) DCS determines there ~~(is)~~

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

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

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

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

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

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

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

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

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

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

WSR 24-16-142

PERMANENT RULES

WASHINGTON STATE UNIVERSITY

[Filed August 7, 2024, 8:25 a.m., effective September 7, 2024]

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

Purpose: Washington State University (WSU) is updating the campus parking and traffic regulations. The chapter 504-15 WAC title is updated to specify that the regulations are for the WSU Pullman campus.

The proposed amendments modify, clarify, and update WSU's rules regarding parking and traffic regulations for the WSU Pullman campus.

Citation of Rules Affected by this Order: Repealing WAC 504-15-580; and amending WAC 504-15-050, 504-15-100, 504-15-210, 504-15-220, 504-15-250, 504-15-370, 504-15-450, 504-15-460, 504-15-470, 504-15-520, 504-15-540, 504-15-560, 504-15-600, 504-15-650, 504-15-810, 504-15-860, 504-15-865, 504-15-870, and 504-15-920.

Statutory Authority for Adoption: RCW 28B.30.150.

Adopted under notice filed as WSR 24-13-128 on June 20, 2024.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 19, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 19, Repealed 1.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 19, Repealed 1.

Date Adopted: August 6, 2024.

Deborah L. Bartlett, Director
Policies, Records, and Forms
and University Rules Coordinator

OTS-5493.1

Chapter 504-15 WAC**CAMPUS PARKING AND TRAFFIC REGULATIONS FOR WASHINGTON STATE UNIVERSITY
PULLMAN**

AMENDATORY SECTION (Amending WSR 08-08-050, filed 3/27/08, effective 7/1/08)

WAC 504-15-050 Emergencies. The president of the university ((shall have)) or designee has authority to suspend, modify, or repeal any or all provisions in this chapter in the event of an emergency,

disaster, or other like contingency. Such action (~~(shall)~~) is to be limited in duration and scope based on the incident.

AMENDATORY SECTION (Amending WSR 22-18-025, filed 8/29/22, effective 9/29/22)

WAC 504-15-100 Definitions. The definitions in this section are applicable within the context of this chapter.

(1) Campus. Describes all property owned, leased, and/or controlled by the university Pullman campus which is or may hereafter be dedicated mainly to the educational, research, housing, recreational, parking, or other activities of the university.

(2) Carpool. An arrangement in which three or more patrons share a ride to campus in which one permit is used for more than one vehicle. Also referred to as rideshare or ride sharing.

(3) Commuter student. Any student who does not live in a university residence hall (~~((dormitory))~~). All students living in (~~((fraternities, sororities,))~~) university-owned housing (other than residence halls) (~~((r))~~) and private housing are considered to be commuter students.

(~~((3))~~) (4) Day. Unless otherwise specified, the term "day" refers to a calendar day.

(~~((4))~~) (5) Disability authorization. A state-issued disability instrument, e.g., placard, license plate, tab. Disability authorization includes the state-issued registration documentation issued to the person utilizing the authorization.

(6) Disability zone. A parking zone designated for exclusive use by individuals with disability and identified with a sign bearing the associated international symbol.

(~~((5))~~) (7) Electric-assisted bicycle. As defined under RCW 46.04.169.

(~~((6))~~) (8) Fire zone. An area needed for emergency access to buildings, fire hydrants, or fire equipment. Such areas include, but are not limited to, areas with adjacent curbs or rails painted red.

(~~((7))~~) ~~Gate card. A plastic card that activates the gates controlling access to certain parking areas.~~

(~~((8))~~) (9) Hearing officer. Any individual appointed to consider parking violations and the application of fees, fines, and sanctions. Said individual is appointed by the parking administrator whose responsibilities include supervision of the parking department or designee.

(10) Hourly parking space. A space in a parking lot, street side parking, or other designated hourly parking area. Hourly parking spaces only accept payment in minute/hourly increments.

(11) Illegal use of parking permit. A parking violation in which a parking ticket is issued under the following circumstances:

(a) Use of a parking permit (~~((or indicator))~~) on a vehicle other than the specified vehicle identified by a license plate number on the permit.

(b) Use of a parking permit or indicator obtained under false pretenses.

(c) Use of a modified parking permit or indicator.

(d) Use and/or retention of a parking permit or indicator by individual(s) ineligible, or no longer eligible, for such a parking permit as described and authorized in this chapter.

~~((9))~~ (12) Impound. To take and hold a vehicle in legal custody by use of a wheel lock and/or towing.

~~((10))~~ (13) Indicator. A decal or hanger displayed adjacent to a parking permit which defines additional parking areas available to a permit holder.

~~((11))~~ (14) Living unit. A space in which a person resides and/or sleeps.

(15) Loading zone. A loading dock, or an area signed "loading zone" adjacent to a facility, in a parking area, or near a residence hall. Such an area is intended for loading and unloading bulky or voluminous material. Loading zones are restricted at all times unless signed otherwise.

~~((12))~~ (16) Micromobility device. Bicycles, skateboards, scooters, roller skates/blades, and all other human-powered, motorized, or electrically assisted rolling conveyances.

~~((13))~~ (17) Moped. As defined under RCW 46.04.304.

~~((14))~~ (18) Motorcycle. As defined under RCW 46.04.330.

~~((15))~~ (19) Motorized foot scooter. As defined under RCW 46.04.336.

~~((16))~~ (20) Motor vehicle. As defined under RCW 46.04.320.

~~((17))~~ (21) No parking zone. Any area not specifically marked and/or signed for parking. Such areas include, but are not limited to, areas with adjacent curbs or rails painted yellow.

~~((18))~~ (22) Officer. Any parking or police official employed by the university who is designated by the parking administrator or chief of police to issue parking tickets, to place and remove wheel locks, or to cause vehicles to be towed under this chapter.

~~((19))~~ (23) Owner. The individual registered with any state as the present owner of a vehicle in the most current registration records available to the university, the owner's expressed representative, or any transferee not designated in such records, provided that the parking administrator or chief of police has received actual written notice of the transfer.

~~((20))~~ (24) Park/parking. This refers to the placement or standing of a vehicle, with or without a driver in attendance, and with or without the engine running.

~~((21))~~ (25) Parking administrator. The director in charge of the parking department or designee.

~~((22))~~ (26) Parking appeals committee. Any individual(s) (~~or individuals~~) appointed to consider parking violations and the application of fees, fines, and sanctions. Said individual(s) (~~or individuals~~) are appointed by the (~~vice-president~~) parking administrator whose responsibilities include supervision of the parking department or designee.

~~((23))~~ (27) Parking department. The university department which is charged with the responsibility of managing, operating, planning, and maintaining parking facilities; enforcing the parking regulations; and coordinating commute trip reduction efforts for the Pullman campus.

~~((24)~~ Parking meter. ~~A single fixed device that typically requires payment and limits the amount of time a vehicle can park in a single space. Also referred to as "meter" in this chapter. A parking meter is not a parking payment device.~~

~~(25))~~ (28) Parking payment device. A machine that requires payment and vends a parking permit and/or a paid receipt. Parking payment devices may be located in various places on the campus. A parking payment device is not a parking meter.

~~((26))~~ (29) Parking permit. A vinyl, plastic, paper, or other instrument sanctioned by the parking department that is displayed from a vehicle, and authorizes parking in specified areas. Some parking permits may be purchased online and may be virtual in nature, and identified by other means such as by license plate. (See the definition of "virtual permit" in subsection ~~((47))~~ (50) of this section.) Also referred to as "permit" in this chapter.

~~((27))~~ (30) Parking ticket. The first notice of a parking violation which is usually placed in a visible location on a motor vehicle.

~~((28))~~ (31) Pay parking facility. A location where parking is provided, and payment is made on-site via a parking ~~((payment device, cashier))~~ application, website, or by other means ~~((other than a parking meter))~~ approved by the parking department.

~~((29))~~ (32) Pedestrian mall. A space that is designed primarily for pedestrian use, but with limited authorized use of motor vehicle and other motorized and nonmotorized conveyances. These restricted areas are depicted on the Pullman campus map and/or with signing at the entrances to the pedestrian mall areas.

~~((30))~~ (33) Individuals with disability. For the purpose of this chapter, individuals with disability refer to an individual or individuals with disability or disabilities who qualify for a state-issued individual with disabilities parking identification and ~~((permit))~~ authorization.

~~((31))~~ (34) Resident priority zone. A parking area ~~((close to a residence hall))~~ (i.e., crimson zone or gray zone) that is typically limited to use by residence hall students.

~~((32))~~ (35) Residence hall student. A student with a current, valid residence hall contract, who lives in a residence hall.

~~((33))~~ (36) Residence hall. Residence hall units ~~((dormitories))~~ that are owned by the university but are not included as university-owned housing apartments. Occupants of residence halls are considered residence hall students and are eligible for parking permits in resident priority zones.

~~((34))~~ (37) Service vehicle. A vehicle used to provide a service for the university or a tenant or contractor of the university (e.g., a university owned vehicle or a privately owned vehicle with a valid service vehicle authorization displayed).

~~((35))~~ (38) Service zone. Parking spaces or area designated for the use of service vehicles, other government-owned vehicles, and vehicles displaying a service indicator or commercial permit. Authorized vehicles may park in these zones on an occasional basis for a maximum of 15 minutes, except for vehicles that display a commercial permit, or a service indicator issued for an extended time. Service zones are restricted at all times unless signed otherwise.

~~((36))~~ (39) Staff. For the purposes of these regulations, "staff" includes all nonstudent employees of the university and the nonstudent employees of other entities located on, or regularly doing business on campus. Teaching assistants, research assistants, and other students employed by the university, or other entities located on, or regularly doing business on campus, are not "staff." They are considered to be students for the purpose of these regulations.

~~((37))~~ (40) Standing. "Standing" is the stopping of a vehicle with the driver remaining in it.

~~((38))~~ (41) Storage of a vehicle. Impounded vehicles are held in storage until released. During such time they are subject to storage fees.

~~((39))~~ (42) Student. The term "student" includes all individuals who are not staff who are taking courses at the university, enrolled full-time or part-time, pursuing undergraduate, graduate, professional studies, or auditing one or more classes.

~~((40))~~ (43) Summer session. The summer session includes all summer sessions beginning on the first day of the earliest session, and ending on the last day of the latest session.

~~((41))~~ (44) University. Refers to Washington State University.

~~((42))~~ (45) University holiday. A day regarded by the university as an official university holiday.

~~((43))~~ (46) University-owned housing. Housing units or apartments, and their respective parking areas, that are owned by the university, but are not included as residence halls. Occupants of university-owned housing are eligible for housing parking permits issued by the university.

~~((44))~~ (47) Unpaid. A full or partial outstanding balance due. This definition includes parking tickets which are pending appeal.

~~((45))~~ (48) Vacation. A period of time when classes or final exams are not in session. Except for holidays that fall within this period, the business offices of the university are open during this time.

~~((46))~~ (49) Vehicle storage. Vehicle storage means the parking or leaving of any vehicle for a period of more than 24 consecutive hours.

~~((47))~~ (50) Virtual permit. A virtual permit is ~~((authorization))~~ an electronic permit given at the time of vehicle registration with the parking department, allowing the registered vehicle to park in a designated lot, zone, or space. The virtual permit is associated with the vehicle license plate number and is used to identify the parking authorization.

~~((48))~~ (51) Visitors. Individuals who are not staff or students and who only visit the campus on an occasional basis.

~~((49))~~ (52) Wheel lock. A device used to temporarily immobilize a motor vehicle. Wheel locked vehicles are considered to be impounded in place and subject to storage fees.

~~((50))~~ (53) Wheel lock-eligible list. The current list of wheel lock-eligible vehicles as maintained by the parking department. A vehicle remains on the wheel lock-eligible list until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((51))~~ (54) Wheel lock-eligible vehicle. Any vehicle on which three or more parking tickets more than 30 days old are unpaid and which parking tickets were issued during the time the vehicle was registered to or otherwise held by the owner. The vehicle remains wheel lock-eligible until all fines and fees related to parking tickets are paid in full or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

~~((52))~~ (55) WSU disability permit. ~~((WSU-issued zone permit displayed with))~~ A valid state-issued disability ((placard or disability license plate)) authorization along with a WSU orange, green, yellow, red, blue, crimson, gray, college hill, or golden cougar parking permit.

AMENDATORY SECTION (Amending WSR 14-11-024, filed 5/12/14, effective 6/12/14)

WAC 504-15-210 Times of enforcement. Parking regulations are subject to enforcement at all times.

(1) Parking permit areas. All parking permit zones are limited to authorized permit holders during specific hours. These hours are posted in each parking area at the entrance to parking areas, or along roadways where parking is marked.

(2) Restricted spaces. These spaces are restricted for their designated purpose at all times unless signed otherwise:

(a) Disability zones.

(b) Load/unload.

(c) Service.

(d) Reserved.

~~(e) ((Reserved (bagged) parking meters.~~

~~(f)) Pedestrian mall.~~

~~((g))~~ (f) Areas which are specially signed or physically set apart by barricades, traffic cones, tape, or other traffic devices.

~~(3) ((Parking metered spaces. Parking meters are in effect during the times posted on each meter. During these times the meter must be paid the posted amount. Additional time cannot be purchased beyond the meter's posted maximum time limit (e.g., a two-hour meter allows a maximum of two hours to be purchased at one time). A motor vehicle which is parked at an expired meter is considered in violation initially, and after each period equal to the maximum time posted for the meter. In such case a parking ticket may be issued for each violation. For example, a vehicle parked at a meter with a two-hour maximum time limit for six hours and five minutes of continuous unpaid parking at the same meter would be eligible for up to three parking tickets.~~

~~(4)) Special conditions. The parking regulations are enforced every day, ((twenty-four)) 24 hours a day. During certain times the following special conditions exist, and the regulations are modified.~~

(a) Crimson permit zones. ~~((i))~~ Crimson permits are required at all times except during university holidays.

~~((ii) Crimson, orange, and green permits are valid in crimson zones during summer session and vacation periods.)~~

(b) Gray permit zones. ~~((i))~~ Gray permits are required at all times except during university holidays.

~~((ii) Gray, crimson, orange, green, yellow, and red permits are valid in gray zones during summer session and vacation periods.~~

~~(c) University-owned housing areas. Permits are not required in university-owned housing areas at the start of each semester from the Monday of the week prior to the first day of class through the third day of class.~~

~~(d))~~ (c) The parking department may select and designate portions of permit zones as temporary loading zones at the start of each semester to accommodate moving into and out of residence halls and during finals week.

~~((5))~~ (4) Pay parking facilities. Some parking areas provide parking on an hourly basis. Hours of operation and ~~((a schedule of fees))~~ restrictions are posted at the facility entrance. Both the hours of operation and schedule of fees are available at the point of payment. Parking tickets are issued to vehicles that are parked over the duration of time that was paid and for nonpayment. ~~((Parking areas with parking meters are not considered pay parking facilities.))~~

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-220 Signed and marked areas. (1) Parking on campus is allowed only in the marked and/or signed spaces in parking facilities and on streets. All other areas outside these designated areas are "no parking zones." Each parking facility has signs or markings to indicate the type of permit or payment required, and the times they are required.

(2) Individual parking spaces are marked, and no vehicle may be parked so as to occupy any portion of more than one parking space. The fact that other vehicles were parked in a manner requiring a vehicle to occupy a portion of more than one space must not constitute an excuse for a violation of this regulation.

~~(3) ((Standing (the stopping of a vehicle with the driver remaining in it) is allowed in marked parking spaces, except metered spaces and restricted spaces, even though the vehicle does not have a valid parking permit. Double parking while "standing" is not allowed.~~

~~(4))~~ Should there be a conflict between these regulations, map designation, and on-site signs regarding parking instructions, the on-site sign takes precedence.

~~((5))~~ (4) Permit areas and restricted spaces are not always signed individually.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-250 Motorcycles and mopeds. (1) The general traffic regulations applicable to motor vehicles apply to motorcycles and mopeds. Motorcycles or mopeds may not be driven on sidewalks or in pedestrian mall areas. Owners of motorcycles and mopeds are responsible for all violations issued.

(2) The university classifies mopeds and motorcycles by engine displacement (also referred to as engine size). This definition applies only to university property and does not replace or supersede the definitions established by the state of Washington for licensing purposes.

(3) Motorcycles and mopeds. Motorcycles and mopeds may park (~~only~~) in spaces which are marked by signs, or the letter "M" painted on the parking surface. Motorcycles and mopeds must display a valid university "M" permit during posted times. During all other times, these spaces are restricted to use by motorcycles and mopeds only. Motorcycles and mopeds may not park at bicycle racks or anywhere within designated pedestrian mall areas at any time.

(4) Motorcycles and mopeds may park in a zone parking space as long as the vehicle is associated with the correct zone permit.

AMENDATORY SECTION (Amending WSR 22-18-025, filed 8/29/22, effective 9/29/22)

WAC 504-15-370 Vehicle storage and abandonment. (1) The storage of vehicles, including motorcycles and mopeds, is prohibited on campus unless otherwise authorized by the parking department.

(2) No person may use any vehicle parked on campus as a living unit without specific approval from the parking department. Violators may be cited and the vehicle impounded.

(3) Vehicles are to be maintained in operating condition at all times on university property, except those in an automotive shop designated by the parking department for parking such vehicles. Vehicle repairs or maintenance is ~~((not done))~~ prohibited on campus unless authorized in advance by the parking department.

(4) A vehicle which appears to be abandoned, with or without a current parking permit or license plates, may be cited and impounded after an attempt is made to locate and notify the owner of the impending action.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-450 Replacement parking permits ~~((, indicators, and gate cards))~~. (1) Sold or traded vehicles. Failure to advise the parking department of a sale or trade for registration purposes may result in continued responsibility to the permit holder for parking tickets received on vehicles.

The permit holder has responsibility for removing parking permits prior to selling or trading a vehicle. The identifiable remnants of the original permit must be presented to the parking department to receive a free replacement. Individuals failing to comply with this requirement must pay the cost of a new permit.

(2) Lost/stolen permits. Permit holders are responsible for the security of their permits. The theft or loss of a parking permit should be reported to the parking department immediately upon discovery. A lost or stolen permit may be replaced upon payment to the parking department of the cost of replacing the permit, according to a schedule adopted by the parking department. Lost or stolen permits must be returned to the parking department immediately if recovered.

(3) Windshield replacements. When a permit-bearing windshield is replaced, the permit replacement fee is waived if proof of windshield replacement is presented.

~~((4) Gate card replacement. A lost, stolen, or damaged gate card is replaced upon payment to the parking department of the cost of replacing the gate card, according to a schedule adopted by the parking department.))~~

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-460 False information. No individual may obtain, attempt to obtain, or use in a manner contrary to these regulations, a modified parking permit or a permit issued upon false information. A violation of this section includes giving a false name, address, identification number, and/or other information known to be false. It also includes the use of a ~~((visitor, conference, and))~~ commercial permit by staff or students. Violation of this provision constitutes the illegal use of a parking permit, and is subject to issuance of a parking ticket.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-470 Recall of parking permits (~~and gate cards~~).

Parking permits are the property of the university and may be recalled by the parking administrator when:

- (1) The purpose for which the permit (~~or gate card~~) was issued changes or no longer exists (e.g., an individual who no longer lives in a residence hall would be required to return their gray permit for refund or credit toward an appropriate permit);
- (2) A permit (~~or gate card~~) is used on an unauthorized vehicle or by an unauthorized individual;
- (3) A parking permit application is falsified;
- (4) A counterfeit, modified, or lost/stolen permit (~~or gate card~~) is used; or
- (5) The parking permit fee is unpaid.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-520 Parking permits—Form and display. All parking permits issued must be entirely visible and displayed in the approved position on the vehicle with permit numbers and relevant dates visible. Vehicles with parking permits which are not displayed in accordance with the provisions of this section are subject to parking tickets for the violation of improperly displaying a parking permit.

- (1) Autos and trucks:
 - (a) Daily parking permits must be displayed as instructed (~~on the permit~~).
 - (b) Annual parking permits must be displayed (~~on the left side (driver's side) of the windshield. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department~~) as instructed.
- (2) Motorcycles and mopeds. "M" permits must be (~~prominently displayed on the left rear side of the vehicle or on top of the rear tail light. Permits must be mounted completely by means of their own design. No additional substances may be used to adhere the permit unless approved by the parking department~~) displayed as instructed.
- (3) Virtual parking permits (~~because certain parking permissions do not require that a permit be displayed. In those instances, the~~). The virtual permit is associated with the license plate registered.
 - (a) Vehicles must be parked so that the license plate is visible from the driving aisle.
 - (b) No covers may be placed over the license plate that would inhibit the reflectivity of the plate.
 - (c) The alphanumeric characters of the license plate must be visible and unobstructed by license plate frames or other accessories.
 - (d) Individuals with virtual permits must ensure their current vehicle is registered and associated with their virtual permit. This process can be accomplished at the parking department.
 - (e) Multiple vehicles on the same virtual permit do not allow for more than one motor vehicle to be parked in a permit area on campus during the same period.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-540 Zone parking permits—Availability and use. The management and assignment of parking zones is designed to provide a parking space to each permit holder. However, uncontrolled access to parking areas and unexpected parking demand makes it impossible to guarantee a parking space in a permit holder's assigned zone. Every effort is made via surveys and limits on permit sales, to ensure that permit holders are not displaced from their assigned zones. ~~((The only exception to this is that the sale of blue permits is not limited.))~~

Staff and students are generally assigned to specific parking areas, referred to as zones. Parking zones are color-coded with respect to their price and numbered with respect to the specific parking zone assignment of each permit holder. Permit holders may park in their assigned zone as reflected by the combination of color and number on their permit and corresponding sign, or they may park in other zones as described below.

(1) Orange permits. Orange permit holders may park in their numerically assigned orange zone, or in any green, yellow, red, or blue zone. ~~((These permits may be made available on a daily basis.))~~

(2) Green permits. Green permit holders may park in their numerically assigned green zone, or in any yellow, red, or blue zone. ~~((These permits may be made available on a daily basis.))~~

(3) Yellow permits. Yellow permit holders may park in their numerically assigned yellow zone, or in any red or blue zone. ~~((These permits may be made available on a daily basis.))~~

(4) Red permits. Red permit holders may park in their numerically assigned red zone or in any blue zone. ~~((These permits may be made available on a daily basis.))~~

(5) Crimson permits. Crimson 1 permit holders may park in the crimson 1 zone, or in any gray 1 zone, or blue 1 zone. Crimson 2 permit holders may park in the crimson 2 zone, or in any gray 2 zone, or blue 1 zone. Crimson 3 permit holders may park in the crimson 3 zone, or in any gray 2 zone, or blue 1 zone. Crimson 4 permit holders may park in the crimson 4 zone, or in any gray 1 zone, or blue 1 zone. Crimson permit holders must turn in their crimson permit for a refund or credit toward another permit, if applicable, immediately upon moving out of the residence hall. Only residence hall students are eligible for crimson permits. Residence hall students are eligible for crimson, gray, or blue permits only.

(6) Gray permits. Gray permit holders may park in their numerically assigned gray zone, or in any blue zone. These permits may be made available on a daily basis. Gray permit holders must turn in their gray permit for refund or credit toward another permit, if applicable, immediately upon moving out of a residence hall. Only residence hall students are eligible for gray permits. Residence hall students are eligible for crimson, gray, or blue permits only.

(7) Blue permits. Blue permit holders may park in any blue zone. These permits may be made available on a daily basis.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-560 Other parking permits—Availability and use. (1)

Visitor permits. For information about visitor parking, refer to the parking department's website.

(2) Golden cougar permits. Golden cougar permits are special permits that are issued to retired or emeritus staff for their sole use in recognition of their service (~~((without additional cost))~~). They are issued on an annual basis and are valid in designated areas that are approved by the parking department. Staff who are employed by the university or by other entities located on campus after formal retirement are not eligible to use a golden cougar permit in lieu of a regular paid zone permit.

(3) Event permits. Event permits are available to patrons who participate in events held on the university campus. They are available on a daily basis only. Event permits are assigned to specific zones on a space-available basis. Event permits are not valid in restricted spaces.

(4) "M" permits. Motorcycle and moped permits are valid within boundaries of areas specifically posted and/or marked for "M" permits. "M" permits are available on an annual and daily basis.

(5) Commercial permits. Commercial permits are issued to vendors, suppliers, and service representatives of outside companies performing a service for the university. Commercial permits are available on an annual or daily basis. Annual commercial permits are valid in service zones, pay parking ((meters)) facilities, and orange, green, yellow, red, and blue zones. (~~((Daily)) Commercial permits may be assigned to specific zones on a space-available basis. ((Commercial permits are not valid in orange zones or pay parking facilities.))~~)

(6) Housing permits. A housing permit is issued to eligible residents of university-owned housing. Housing permits are valid only in specific housing parking areas.

(7) Carpool. Upon application, a (~~((bona fide))~~) carpool (~~((as defined by the campus policies and procedures))~~) is given preference in the assignment of parking zones, and issued a permit that facilitates the carpool. Obtaining or using a carpool permit under false pretenses constitutes the illegal use of a permit.

(8) Departmental permits. Departmental parking permits are available for use by department visitors or employees who need to use their personal vehicles for university business. Departmental permits are (~~((available in different forms and are))~~) valid at (~~((parking meters))~~); service zones; orange, green, yellow, red, and blue(~~((, crimson, and gray permit))~~) zones; and pay parking facilities. Departmental permits are not valid in pedestrian malls or reserved spaces. The use of departmental permits for anything other than official departmental business is prohibited by the State Ethics Act.

(9) Premier guest permits. Premier guest permits are valid at orange, green, yellow, red, and blue zones, and pay parking facilities. Premier guest permits are not valid in pedestrian malls or reserved spaces.

(10) College hill permits. College hill permits are valid in designated numerically assigned parking areas that are approved by the parking department.

(~~((10))~~) (11) Night parking permits. Night parking permits are permits issued to designated WSU employees approved by the parking de-

partment that allow the approved employees to park during specific hours in designated areas.

~~((11))~~ (12) Exempt permits. Exempt permits are issued to departments and entities located on campus for university owned vehicles and other publicly owned vehicles. All other publicly owned vehicles owned by entities not located on or regularly doing business on campus must display a valid permit to park on campus. Police, fire, and emergency vehicles are not required to display a permit on campus.

~~((12))~~ (13) Media permits. Media permits are issued to media organizations that need to cover news on the WSU Pullman campus. Media permits are valid in green, yellow, red, and blue zones ~~(, and meters for the maximum time listed on the meter)~~. Media employees who are also WSU students, faculty, or staff may use the media permit only to cover news stories. Media permits may not be used for personal use, attending class, other day-to-day services that fall within normal job duties. Any attempt by WSU students, faculty, or staff to use a media permit in lieu of a WSU permit may result in a fine for illegal use of a parking permit and/or recall of the media permit by the parking department.

~~((13))~~ (14) WSU permits. WSU permits are issued at the discretion of the parking department. WSU permits are valid in orange, green, yellow, red, and blue zones, ~~((hourly))~~ and pay parking facilities ~~(, and parking meters)~~.

~~((14))~~ (15) Day permits. Day permits are sold on a daily basis and are valid in green, yellow, red, and blue zones.

~~((15))~~ (16) Reserved permits. Reserved permits are valid in a designated reserved lot or space.

(17) Service permits. Service permits are valid for a maximum of 15 minutes in a marked service zone. Service permits are issued upon the approval of the parking department.

(18) Mall service permits. Mall service permits are valid for a maximum of 15 minutes in select pedestrian malls. Mall service permits are issued upon the approval of the parking department.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-600 Parking for individuals with disability. (1) The provisions of this chapter cover disability parking and the payment of fees and fines associated with parking for individuals with disability.

(2) For the purpose of this chapter, individuals with disability refer to individuals with disability who qualify for a state-issued individual with disabilities parking ~~((identification))~~ authorization and permit as provided in chapter 308-96B WAC.

(3) The university uses the state individual with disabilities parking permit ~~((system))~~ authorization to determine eligibility for disability parking.

(4) Unless otherwise authorized, parking in spaces designated for individuals with disability requires a WSU disability permit to park on campus.

(5) Individuals with a WSU disability permit may park in an individuals with disability parking space and any other, nonrestricted permit space within a parking permit zone.

(6) Individuals with a WSU disability permit may not park in restricted spaces with the exception of individuals with disability parking spaces.

(7) Unless otherwise posted, any university parking permit to include a WSU disability permit is not valid in lieu of payment of regular posted fees in pay parking facilities.

(8) A state-issued individual with disabilities license plate, placard, or ~~((permit))~~ tab, etc. is valid in lieu of a WSU disability permit in parking zones during times when a university permit is not required.

(9) The university intends to retain control of access to the pedestrian malls on campus. For that reason a WSU disability permit is required ~~((in lieu of a state-issued individual with disabilities license plate, placard, or permit))~~ as authorization to use a pedestrian mall to access marked individuals with disability parking spaces within the confines of a pedestrian mall. Individuals with disabilities must use the closest entrance of the pedestrian mall to access the disability spaces. Shortcutting of the pedestrian malls is prohibited.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-650 Parking fees and fines. (1) Schedules for parking fees, parking administrative fees, late payment fees, parking fines and sanctions, ~~((parking meter rates,))~~ prorate and refund schedules, and the effective date thereof are submitted to the president or their designee and to the board of regents for approval by motion, provided, however, that increases in fees and fines do not exceed limits established by the board of regents. Increases in fees and fines that do not exceed limits established by the board of regents are not submitted to the board of regents so long as the board of regents has delegated authority to the president or their designee to approve all such fees and fines. The schedules described above for all parking fees and fines are thereafter posted in the public area of the parking department office and posted on the parking department's website.

(2) Before purchasing a permit, the balance of any fees and fines owed to the parking department must be paid in full.

(3) Payments. Parking fees and fines may be paid at the parking department by cash, check, approved payment card, or money order. A payroll deduction plan is available for eligible university employees and eligible graduate students.

(4) The annual fee for any shorter period relative to all permits is prorated according to the published schedule.

(5) The proper fee must be paid for all vehicles parked in ~~((parking meter))~~ hourly spaces unless otherwise authorized.

(6) Staff members whose work schedules qualify them for nighttime differential pay may purchase a permit for one-half the regular fee. Verification is required.

(7) Refunds. Annual physical permits being relinquished must be returned to the parking department in person for a pro rata refund in accordance with university policy. Identifiable remnants of physical permits must be returned. In the case of annual virtual permits, the permit purchaser must notify the parking department in person or in writing that they want to relinquish the permit permissions for a pro

rata refund in accordance with university policy. The balance of any fees and fines owed the parking department is deducted from any refund due. Refunds for temporary permits are not granted. Refunds for pretax payroll deductions cannot be granted pursuant to federal tax laws.

(8) The parking department makes a wide array of options available in advance to university departments for use by their visitors, guests, and employees for the purpose of conducting departmental business. However, when necessary, university departments that can establish in writing that a parking ticket issued by the parking department was received as a result of parking any vehicle for the purpose of conducting official state business, or while conducting official business with the university or an entity located at the university are assessed a parking fee assessment (PFA) in lieu of the parking fine. Such requests for PFAs are signed by a department fiscal custodian. A PFA consists of the maximum daily parking fee plus an additional administrative fee for failing to purchase and provide the necessary parking permit or fee in advance or at the time of parking. University departments are encouraged to avoid additional administrative fees associated with PFAs by purchasing (~~and storing prepaid~~) parking permits and by making them available as the department deems necessary. Nothing in this regulation allows a university employee to receive, or attempt to receive, any benefit associated with their personal expenses in violation of the State Ethics Act. All questionable employee conduct regarding the application of this section is reported to, and investigated by, the university internal auditor. This section applies only to parking tickets issued pursuant to this chapter.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-810 Violations, fines, and sanctions. (1) Violations and fines. Parking violations are processed by the university. Fines must be paid at the parking department or at other authorized locations, by mail, or from the parking department's website. Schedules for parking violations, fines, and sanctions are posted in the public area of the parking department office and on the parking department's website.

(2) Reduction of fines. Internal policies regarding disposition of parking tickets may be established on approval of the vice president or designee whose responsibilities include supervision of the parking department.

(3) Payment of parking fines.

(a) All parking fines and fees are due upon issuance. Thirty days after date of issuance, a late fee is added to all unpaid parking fines. For example, a parking ticket issued on May 1st is assessed a late fee on May 31st.

(b) Parking fines and fees assessed for any violation results in referral to the university controller's office for internal collection. Where internal collection efforts are unsuccessful, the controller or designee may place a hold on student transcripts, registration, or other university services until outstanding fines and fees are paid, and/or transfer the account to an external collection agency. The procedures discussed above are not exclusive, however, and failure by anyone to pay fines and fees may also lead to towing or use of the wheel lock device described in these regulations. Nor are the proce-

dures discussed above a precondition to towing or use of the wheel lock.

(c) Account balances not paid to the university voluntarily may be forwarded to an external collections agency and are subject to additional collection fees of up to (~~fifty~~) 50 percent, attorney's fees, and court costs when necessary.

(4) Failure to pay fines. Failure to pay a fine or comply with other penalties assessed pursuant to these regulations, and exhausting or failing to exercise appeals provided for in these regulations, may result in the inability to renew a vehicle license through the state pursuant to RCW (~~46.16.216~~) 46.16A.120.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-860 Appeal procedures. The parking ticket represents a determination that a parking violation has been committed and the determination is final unless otherwise provided or appealed as provided in this chapter.

(1) Purpose. The parking appeals process serves three primary functions:

- (a) To hear parking ticket appeals;
- (b) To hear appeals of wheel lock eligibility determinations; and
- (c) To hear appeals of impoundments.

(2) Procedure. Any individual who has received a parking ticket may appeal the alleged parking violation. Appeal of wheel lock eligibility determinations and impoundments are described in WAC 504-15-865 and 504-15-870. Parking tickets may be processed by an appeals committee member or an assigned hearing officer.

(3) Written parking ticket appeals. The appeal must be in writing and received at the parking department within (~~ten~~) 10 calendar days of issuance of the parking ticket. (~~Online forms for this purpose~~) Forms are available (~~from the parking department~~) online. The parking appeals committee or hearing officer makes an initial decision regarding the appeal within (~~twenty~~) 20 calendar days during the academic year and within (~~thirty~~) 30 calendar days during the summer months after receipt of the appeal. The committee provides a brief statement of the reason(s) for its decision to the appellant within (~~ten~~) 10 calendar days of the decision.

(4) Review hearing of initial decision. If the appellant is dissatisfied with the initial decision, the appellant may request a hearing before a hearing officer or the parking appeals committee. Such request must be made within (~~ten~~) 10 calendar days of the date of the initial parking appeals committee decision. If no such request is received, the initial decision is final. During the hearing the appellant and representatives of the parking department may present and cross-examine witnesses. The hearing officer or appeals committee renders a decision in writing and provides the appellant with the decision within (~~ten~~) 10 calendar days after the hearing.

(5) Appeal to district court. RCW 28B.10.560 provides that an individual who is not satisfied with the final decision of the university may appeal to district court. The (~~application for~~) notification of appeal to district court must be in writing and must be (~~filed~~) received at the parking department (~~office~~) within (~~ten~~) 10 calen-

dar days after the date of the review hearing. The parking department forwards the documents relating to the appeal to the district court.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-865 General. (1) Pursuant to the provisions of this chapter, an officer must cause a vehicle to be wheel locked, or towed, or both, if:

(a) The vehicle is on the wheel lock-eligible list; or

(b) The vehicle displays a lost, stolen, or counterfeit parking permit.

(2) Any vehicle may be towed away at owner's/operator's expense if the vehicle:

(a) Has been immobilized by wheel lock for more than (~~twenty-four~~) 24 hours; or

(b) Is illegally parked in a marked tow-away zone; or

(c) Is a hazard or obstruction to vehicular or pedestrian traffic (including, but not limited to, vehicles parked at curbs or rails painted yellow or red or in crosswalks); or

(d) Cannot be immobilized with a wheel lock device; or

(e) Is illegally parked in a disability space; or

(f) Is parked in an area designated to be used for emergencies, maintenance, events, or construction; or

(g) Is otherwise illegally parked based on the executive authority of the parking department or the university police department.

(3) The driver and/or owner of a towed vehicle must pay towing and storage expenses.

(4) Any vehicle immobilized by use of the wheel lock device in excess of (~~twenty-four~~) 24 hours is assessed a storage fee for each calendar day or portion thereof, beyond the first (~~twenty-four~~) 24 hours.

(5) The university assumes no responsibility in the event of damages resulting from towing, use of wheel lock devices, storage, or attempts to move a vehicle with a wheel lock device installed.

(6) No vehicle impounded by towing or wheel lock devices is released until the following fines are paid in cash or with an approved payment card:

(a) All unpaid parking ticket fines and late fees against said vehicle and any other vehicle registered to the owner;

(b) A wheel lock fee; and

(c) All towing and storage fees.

(7) An individual wishing to challenge the validity of any fines or fees imposed under this chapter may appeal such fines or fees as provided in WAC 504-15-860. However, in order to secure release of the vehicle, such individual must pay the amount of such fines or fees as a bond which is refunded to the extent the appeal is successful.

(8) An accumulation of six unpaid violations during any (~~twelve~~) 12-month period, (~~exclusive of overtime at parking meter violations, and overtime in time zone violations,~~) subjects the violator to revocation or denial of parking privileges. Vehicles without permits which accumulate the above number of violations may be prohibited from parking on university property.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-870 Wheel lock-eligible list. (1) The parking administrator is responsible for creating and maintaining the wheel lock-eligible list. See definition of "wheel lock-eligible vehicle under WAC 504-15-100(50)."

(2) A wheel lock-eligible vehicle is placed on the wheel lock-eligible list after notice has been issued as provided in subsection (3) of this section and an appeal of the wheel lock eligibility determination, if requested, under subsection (4) of this section.

(3) At least (~~ten~~) 10 days prior to placing a vehicle on the wheel lock-eligible list, the parking administrator must mail a notice to the owner. The parking administrator mails the notice to the address stated on the most current registration records available to the university from a state, or any more current address of which the parking administrator or chief of police has actual written notice. The notice is sent by first class United States mail, postage prepaid. The notice must set forth:

(a) The make and license plate number of the alleged wheel lock-eligible vehicle.

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list.

(c) A list of the three or more alleged unpaid parking tickets, including the parking ticket number, date, time, place of the violation, and the nature of the violation. This list must include all unpaid parking tickets issued to a particular vehicle to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(d) That the owner may avoid the placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date on which the vehicle is subject to placement on the wheel lock-eligible list.

(e) The name, mailing address (and street address if different), and telephone number of the parking department office that may be contacted to appeal the wheel lock eligibility determination. Such an appeal only considers whether an individual vehicle was properly placed on the wheel lock-eligible list and not the merits of an individual parking ticket, which may be addressed pursuant to a separate appeals process described in WAC 504-15-860.

(f) That the vehicle is subject to wheel lock, towing, or both once it is placed on the wheel lock-eligible list.

(g) That all late fees, wheel lock fees, towing, and storage fees must be payable in full to obtain the release of a vehicle wheel locked or towed pursuant to this chapter in addition to payment of any and all unpaid parking tickets on this vehicle or other vehicles owned by the registered owner to include the payment of fines and fees related to parking tickets not yet eligible for late fees.

(4) If a request for an appeal of a wheel lock eligibility determination is received by the parking administrator before the specified date in the notice for placement of the vehicle on the wheel lock-eligible list, then the parking administrator must afford the owner an opportunity to appeal the wheel lock eligibility determination prior to the placing of a vehicle on the wheel lock-eligible list. Although the parking administrator does not have the authority to adjudicate

the merits of any parking ticket, she or he must, however, receive evidence and other input from the owner appealing the wheel lock eligibility determination that the notice given under subsection (3) of this section was erroneous or based on erroneous information.

(5) If an owner timely participates in the appeal as scheduled by the parking administrator, they must furnish the owner written notice of their decision prior to placing the vehicle on the wheel lock-eligible list.

(6) After the specified date provided in the notice issued under subsection (3) of this section, the parking administrator must review the records to ensure that the alleged unpaid parking tickets have not been paid or otherwise resolved, and that no information has been received indicating that the notice was erroneous.

(7) Once a vehicle has been placed on the wheel lock-eligible list, it must not be removed from the list unless and until:

(a) The fines and fees on all unpaid parking tickets issued during the time it has been registered to or otherwise held by the owner are paid or otherwise resolved to include the payment of fines and fees related to parking tickets not yet eligible for late fees;

(b) The parking administrator receives reliable information that title to the vehicle has been transferred; or

(c) The parking administrator determines that the placement of the vehicle on the wheel lock-eligible list was erroneous.

(8) If a vehicle is not properly registered in any state or no registration information is available to the university and the vehicle is wheel lock eligible, then notice must be provided by posting on the vehicle a conspicuous notice(~~(, which)~~) or mailed to the confirmed local operator. The notice must set forth:

(a) A description of the alleged wheel lock-eligible vehicle;

(b) A specified date on which the wheel lock-eligible vehicle is subject to placement on the wheel lock-eligible list;

(c) That the owner may avoid placement of the vehicle on the wheel lock-eligible list by making payment in full of fines and late fees on all unpaid parking tickets to include the payment of fines and fees related to parking tickets not yet eligible for late fees by the specified date certain on which the vehicle is subject to placement on the wheel lock-eligible list; and

(d) That the vehicle is subject to wheel lock, towing or both once it is placed on the wheel lock-eligible list.

(9) An officer must attempt to wheel lock any vehicle which appears on the wheel lock-eligible list when parked, lawfully or unlawfully, on campus.

(10) The parking administrator or the chief of police must ensure that officers are on duty to remove wheel locks from vehicles Monday through Friday between 8:00 a.m. and 5:00 p.m.

AMENDATORY SECTION (Amending WSR 19-11-063, filed 5/15/19, effective 6/15/19)

WAC 504-15-920 Closed and restricted areas. In certain designated areas on campus, such as the pedestrian mall in the campus core, driving is restricted to mall service vehicles and vehicles bearing ~~((university))~~ state-issued individuals with disability ~~((permits))~~ authorizations.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 504-15-580 Special indicator decals and hangers.

WSR 24-16-145

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed August 7, 2024, 9:44 a.m., effective September 7, 2024]

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

Purpose: Making editorial corrections and clarifications to the 2021 Washington State Energy Code, Commercial, chapter 51-11C WAC.

Citation of Rules Affected by this Order: Amending 39 sections in chapter 51-11C WAC.

Statutory Authority for Adoption: RCW 19.27A.045.

Other Authority: Chapter 19.27A RCW.

Adopted under notice filed as WSR 24-12-058 on June 2 [3], 2024.

Changes Other than Editing from Proposed to Adopted Version: Two additional editorial changes were made to correlate with the changes proposed: In Section C406.2.2, Item 4 was corrected to reference the same section numbers cited in Items 1, 2, and 3; and in Table C410.3.1(3), two of the corrected values were missing decimal points.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 39, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 39, Repealed 0.

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

Date Adopted: August 7, 2024.

Daimon Doyle
Chair

OTS-5452.3

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-20218 Section C202.18—R.

RADIANT HEATING SYSTEM. A heating system that transfers heat to objects and surfaces within a conditioned space, primarily by infrared radiation.

READY ACCESS (TO). That which enables a device, appliance or equipment to be directly reached, without requiring the removal or movement of any panel or similar obstruction.

REFRIGERANT DEW POINT. The refrigerant vapor saturation temperature at a specified pressure.

REFRIGERATED WAREHOUSE COOLER. An enclosed storage space that has a total chilled storage area of 3,000 ft² or greater and is designed to maintain a temperature of greater than 32°F but less than 55°F.

REFRIGERATED WAREHOUSE FREEZER. An enclosed storage space that has a total chilled storage area of 3,000 ft² or greater and is designed to maintain a temperature at or below 32°F.

REFRIGERATION SYSTEM, LOW TEMPERATURE. Systems for maintaining food product in a frozen state in refrigeration applications.

REFRIGERATION SYSTEM, MEDIUM TEMPERATURE. Systems for maintaining food product above freezing in refrigeration applications.

REGISTERED DESIGN PROFESSIONAL. An individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the project is to be constructed.

RENEWABLE ENERGY RESOURCES. Energy derived from solar radiation, wind, waves, tides, *biogas*, *biomass* or extracted from hot fluid or steam heated within the earth.

RENEWABLE POWER PURCHASE AGREEMENT. A power purchase agreement for off-site renewable energy where the owner agrees to purchase renewable energy output and the associated renewable energy certificates at a fixed price schedule.

REPAIR. The reconstruction or renewal of any part of an existing building.

REPLACEMENT AIR. Outdoor air that is used to replace air removed from a building through an exhaust system. Replacement air may be derived from one or more of the following: Make-up air, supply air, transfer air and infiltration. However, the ultimate source of all replacement air is outdoor air. When replacement air exceeds exhaust, the result is exfiltration.

REROOFING. The process of recovering or replacing an existing roof covering. See "Roof Recover" and "Roof Replacement."

RESIDENTIAL BUILDING. For this code, (~~includes~~) the following building types are residential buildings:

1. Detached one- and two-family dwellings (~~and~~).
2. Multiple single-family dwellings (townhouses) (~~as well as~~).
3. Group R-2 and R-3 buildings three stories or less in height above grade plane whose dwelling units are accessed directly from the exterior.
4. Accessory structures to residential buildings.

Group R-2 buildings with dwelling units accessed from interior corridors or other interior spaces are not residential buildings.

ROOF ASSEMBLY. A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof covering, underlayment, roof deck, insulation, vapor retarder and interior finish. See also *attic and other roofs*, *metal building roof*, *roof with insulation entirely above deck* and *single-rafter roof*.

ROOF RECOVER. The process of installing an additional *roof covering* over a prepared existing *roof covering* without removing the existing *roof covering*.

ROOF REPAIR. Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.

ROOF REPLACEMENT. The process of removing the existing roof covering, repairing any damaged substrate and installing a new *roof covering*.

ROOFTOP MONITOR. A raised section of a roof containing vertical fenestration along one or more sides.

R-VALUE (THERMAL RESISTANCE). The inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area ($h \cdot \text{ft}^2 \cdot ^\circ\text{F}/\text{Btu}$) [$(\text{m}^2 \cdot \text{K})/\text{W}$].

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

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40211 Section C402.1.1—Low energy buildings.

C402.1.1 Low energy buildings, semi-heated buildings and greenhouses. Low energy buildings shall comply with Section C402.1.1.1. Semi-heated buildings and spaces shall comply with Section C402.1.1.2. Greenhouses shall comply with Section C402.1.1.3.

C402.1.1.1 Low energy buildings. The following buildings, or enclosed portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from all thermal envelope provisions of this code:

1. Those that are heated and/or cooled with a peak design rate of energy usage less than $3.4 \text{ Btu/h} \times \text{ft}^2$ (10.7 W/m^2) or 1.0 watt/ft^2 (10.7 W/m^2) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Unstaffed equipment shelters or cabinets used solely for personal wireless service facilities.

C402.1.1.2 Semi-heated buildings and spaces. The building envelope of *semi-heated* buildings, or portions thereof, shall comply with the same requirements as that for conditioned spaces in Section C402, except as modified by this section. The total installed output capacity of mechanical space conditioning systems serving a *semi-heated* building or space shall comply with Section C202. Building envelope assemblies separating conditioned space from *semi-heated space* shall comply with exterior envelope insulation requirements. *Semi-heated spaces* are not required to comply with the opaque wall insulation provisions of Section C402.2.3 for walls that separate *semi-heated* spaces from the exterior or low energy spaces. Fenestration that forms part of the *building thermal envelope* enclosing semi-heated spaces shall comply with Section C402.4. *Semi-heated spaces* shall be calculated separately from other conditioned spaces for compliance purposes.

Opaque walls in *semi-heated* spaces shall be calculated as fully code compliant opaque walls for both the target and proposed for the Target UA calculations for Component Performance compliance per Section C402.1.5, and for the Baseline Building Design for Total Building Performance compliance per Section C407. The capacity of heat trace temperature maintenance systems complying with Section C404.7.2 that are provided for freeze protection of piping and equipment only shall not be included in the total installed output capacity of mechanical space conditioning systems.

EXCEPTION: Provided the total installed heating output capacity of mechanical space conditioning does not exceed the criteria for semi-heated space as defined in Section C202, a semi-heated building or space may comply with this section when served by heat pumps without electric resistance back up and connected to a heating only thermostat.

C402.1.1.3 Greenhouses. *Greenhouse* structures or areas that comply with all of the following shall be exempt from the building envelope requirements of this code:

1. Exterior opaque envelope assemblies complying with Sections C402.2 and C402.4.4.

EXCEPTION: Low energy greenhouses that comply with Section C402.1.1.1.

2. Interior partition building thermal envelope assemblies that separate the *greenhouse* from conditioned space complying with Sections C402.2, C402.4.3 and C402.4.4.

3. Fenestration assemblies complying with the thermal envelope requirements in Table C402.1.1.3. The *U*-factor for the skylight shall be for the roof assembly or a roof that includes the assembly and an internal curtain system.

EXCEPTION: Unheated *greenhouses*.

4. No mechanical cooling is provided.

5. For heated greenhouses, heating is provided by a radiant heating system, a condensing natural gas-fired or condensing propane-fired heating system, or a heat pump with cooling capacity permanently disabled as preapproved by the jurisdiction.

**Table C402.1.1.3
Fenestration Thermal Envelope Maximum Requirements**

Component	<i>U</i> -Factor BTU/h-ft ² -°F
Skylights	0.5
Vertical fenestration	0.6

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-402121 Table C402.1.3—Opaque thermal envelope assembly *R*-value requirements.

**Table C402.1.3
Opaque Thermal Envelope Insulation Component
Minimum Requirements, *R*-value Method^{a, j}**

CLIMATE ZONE	5 AND MARINE 4	
	All Other	Group R
Roofs		
Insulation entirely above deck	R-38ci	R-38ci
Metal buildings ^b	R-25 + R-22 LS	R-25 + R-22 LS
Attic and other	R-49	R-49
Walls, Above Gradeⁱ		
Mass ^h	R-9.5 ^c ci	R-13.3ci
Mass transfer deck slab edge ^g		
Metal buildings	R-13 + R-14ci	R-13 + R-14ci
Steel framed	R-13 + R-10ci	R-19 + R-8.5ci
Wood framed and other	R-13 + R-7.5ci std or R-20 + R-3.8ci std	R-13 + R-7.5ci std or R-20 + R-3.8ci std or R-25 std
Walls, Below Grade		

CLIMATE ZONE	5 AND MARINE 4	
	All Other	Group R
Below-grade wall ^{d,h}	Same as above grade	Same as above grade
Floors		
Mass ^f	R-30ci	R-30ci
Joist/framing	R-30 ^e	R-30 ^e
Slab-on-Grade Floors		
Unheated slabs	R-10 for 24" below	R-10 for 24" below
Heated slabs	R-10 perimeter & under entire slab	R-10 perimeter & under entire slab

- For SI: 1 inch = 25.4 mm. ci = Continuous insulation. NR = No requirement.
- LS = Liner system—A continuous membrane installed below the purlins and uninterrupted by framing members. Uncompressed, unfaced insulation rests on top of the membrane between the purlins.
- a Assembly descriptions can be found in Chapter 2 and Appendix A.
 - b Where using *R*-value compliance method, a thermal spacer block with minimum thickness of 1/2-inch and minimum *R*-value of R-3.5 shall be provided, otherwise use the *U*-factor compliance method in Table C402.1.4.
 - c Exception: Integral insulated concrete block walls complying with ASTM C90 with all cores filled and meeting both of the following:
 1. At least 50 percent of cores must be filled with vermiculite or equivalent fill insulation; and
 2. The building thermal envelope encloses one or more of the following uses: Warehouse (storage and retail), gymnasium, auditorium, church chapel, arena, kennel, manufacturing plant, indoor swimming pool, pump station, water and waste water treatment facility, storage facility, storage area, motor vehicle service facility. Where additional uses not listed (such as office, retail, etc.) are contained within the building, the exterior walls that enclose these areas may not utilize this exception and must comply with the appropriate mass wall *R*-value from Table C402.1.3/*U*-factor from Table C402.1.4.
 - d Where heated slabs are below grade, they shall comply with the insulation requirements for heated slabs.
 - e Steel floor joist systems shall be insulated to R-38 + R-10ci.
 - f "Mass floors" shall include floors weighing not less than:
 1. 35 pounds per square foot of floor surface area; or
 2. 25 pounds per square foot of floor surface area where the material weight is not more than 120 pounds per cubic foot.
 - g Component performance in accordance with Section C402.1.5 shall be required for buildings with a mass transfer deck slab.
 - h Peripheral edges of intermediate concrete floors are included in the above-grade mass wall category and therefore must be insulated as above-grade mass walls unless they meet the definition of Mass Transfer Deck Slab Edge. The area of the peripheral edges of concrete floors shall be defined as the thickness of the slab multiplied by the perimeter length of the edge condition. See Table A103.3.7.2 for typical default *U*-factors for above-grade slab edges and footnote ^c for typical conditions of above-grade slab edges.
 - i Where the total area of through-wall mechanical equipment is greater than 1 percent of the opaque *above-grade wall area*, use of the *R*-value method is not permitted. See Section C402.1.4.3.
 - j For roof, wall or floor assemblies where the proposed assembly would not be *continuous insulation*, alternate nominal *R*-value compliance options for assemblies with isolated metal fasteners that penetrate otherwise *continuous insulation* are as shown in columns B and C of Table C402.1.3((+)) (j):

**Table C402.1.3((+)) (j)
Continuous Insulation Equivalents**

Column A	Column B	Column C
Assemblies with continuous insulation (see definition)	Alternate option for assemblies with metal penetrations, greater than 0.04% but less than 0.08%	Alternate option for assemblies with metal penetrations, greater than or equal to 0.08% but less than 0.12%
R-9.5ci	R-11.9ci	R-13ci
R-11.4ci	R-14.3ci	R-15.7ci
R-13.3ci	R-16.6ci	R-18.3ci
R-15.2ci	R-19ci	R-21ci
R-30ci	R-38ci	R-42ci
R-38ci	R-48ci	R-53ci
R-13 + R-7.5ci	R-13 + R-9.4ci	R-13 + R-10.3ci
R-13 + R-10ci	R-13 + R-12.5ci	R-13 + R-13.8ci
R-13 + R-12.5ci	R-13 + R-15.6ci	R-13 + R-17.2ci
R-13 + R-13ci	R-13 + R-16.3ci	R-13 + R-17.9ci
R-19 + R-8.5ci	R-19 + R-10.6ci	R-19 + R-11.7ci
R-19 + R-14ci	R-19 + R-17.5ci	R-19 + R-19.2ci
R-19 + R-16ci	R-19 + R-20ci	R-19 + R-22ci
R-20 + R-3.8ci	R-20 + R-4.8ci	R-20 + R-5.3ci
R-21 + R-5ci	R-21 + R-6.3ci	R-21 + R-6.9ci

Notes for Table C402.1.3(j)

These alternate nominal *R*-value compliance options are allowed for projects complying with all of the following:

- 1a. The ratio of the cross-sectional area, as measured in the plane of the surface, of metal penetrations of otherwise continuous insulation to the opaque surface area of the assembly is greater than 0.0004 (0.04%), but less than 0.0008 (0.08%), for use of Column B equivalents, and greater than or equal to ~~((0.008))~~ 0.0008 (0.08%), but less than 0.0012 (0.12%), for use of Column C equivalents.
- 1b. Where all metal penetrations are stainless steel, Column B is permitted to be used for penetrations greater than 0.12%, but less than 0.24% of opaque surface area, and Column C is permitted to be used for penetrations greater than or equal to 0.24%, but less than 0.48% of opaque surface area.
2. The metal penetrations of otherwise continuous insulation are isolated or discontinuous (e.g., brick ties or other discontinuous metal attachments, offset brackets supporting shelf angles that allow insulation to go between the shelf angle and the primary portions of the wall structure). No continuous metal elements (e.g., metal studs, z-girts, z-channels, shelf angles) penetrate the otherwise continuous portion of the insulation.
3. Building permit drawings shall contain details showing the locations and dimensions of all the metal penetrations (e.g., brick ties or other discontinuous metal attachments, offset brackets, etc.) of otherwise continuous insulation. In addition, calculations shall be provided showing the ratio of the cross-sectional area of metal penetrations of otherwise continuous insulation to the overall opaque wall area.

For other cases where the proposed assembly is not continuous insulation, see Section C402.1.4 for determination of *U*-factors for assemblies that include metal other than screws and nails.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40214 Section C402.1.4—Assembly *U*-factor, *C*-factor, or *F*-factor-based method.

C402.1.4 Assembly *U*-factor, *C*-factor, or *F*-factor-based method. Building thermal envelope opaque assemblies shall meet the requirements of Section C402.2 based on the climate zone specified in Chapter 3. Building thermal envelope opaque assemblies intended to comply on an assembly *U*-, *C*-, or *F*-factor basis shall have a *U*-, *C*-, or *F*-factor not greater than that specified in Table C402.1.4. Commercial buildings or portions of commercial buildings enclosing Group R occupancies shall use the *U*-, *C*-, or *F*-factor from the "Group R" column of Table C402.1.4. Commercial buildings or portions of commercial buildings enclosing occupancies other than Group R shall use the *U*-, *C*-, or *F*-factor from the "All other" column of Table C402.1.4. The *U*-factors for typical construction assemblies are included in Appendix A. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook—Fundamentals* using the framing factors listed in Appendix A where applicable and shall include the thermal bridging effects of framing materials.

C402.1.4.1 Roof/ceiling assembly. The maximum roof/ceiling assembly *U*-factor shall not exceed that specified in Table C402.1.4 based on construction materials used in the roof/ceiling assembly.

C402.1.4.1.1 Suspended ceilings. Insulation installed on suspended ceilings having removable ceiling tiles shall not be considered part of the assembly *U*-factor of the roof/ceiling construction.

C402.1.4.1.2 Joints staggered. Continuous insulation board shall be installed in not less than two layers, and the edge joints between each layer of insulation shall be staggered, except where insulation tapers to the roof deck at a gutter edge, roof drain, or scupper.

C402.1.4.2 Thermal resistance of cold-formed steel stud walls. *U*-factors of walls with cold-formed steel studs shall be permitted to be determined in accordance with Equation 4-1:

Equation 4-1:

$$U = 1/[R_s + (ER)]$$

Where:

- R_s = The cumulative *R-value* of the wall components along the path of heat transfer, excluding the cavity insulation and steel studs.
- ER = The effective *R-value* of the cavity insulation with steel studs as specified in Table C402.1.4.2.

C402.1.4.3 Thermal resistance of mechanical equipment penetrations.

When the total area of penetrations from through-wall mechanical equipment or equipment listed in Table C403.3.2(4) exceeds 1 percent of the opaque *above-grade wall* area, the mechanical equipment penetration area shall be calculated as a separate wall assembly with a default *U-factor* of 0.5. Mechanical system ducts and louvers, including those for supply, exhaust and relief, and for condenser air intake and outlet, are not considered to be mechanical equipment for the purposes of this section.

EXCEPTION: Where mechanical equipment has been tested in accordance with *approved* testing standards, the mechanical equipment penetration area is permitted to be calculated as a separate wall assembly using the *U-factor* determined by such test.

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

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-402141 Table C402.1.4—Opaque thermal envelope requirements, *U-factor* method.

**Table C402.1.4
Opaque Thermal Envelope Requirements^{a, f}**

CLIMATE ZONE	5 AND MARINE 4	
	All Other	Group R
Roofs		
Insulation entirely above deck	U-0.027	U-0.027
Metal buildings	U-0.031	U-0.031
Attic and other	U-0.021	U-0.021
Joist or single rafter	U-0.027	U-0.027
Walls, Above Grade^k		
Mass ^{d, g}	U-0.104	U-0.078
Mass transfer deck slab ^{(i) j}	U-0.20	U-0.20
Metal building	U-0.050	U-0.050
Steel framed	U-0.055	U-0.055
Wood framed and other	U-0.051	U-0.051
Walls, Below Grade		
Below-grade wall ^{b, g}	Same as above grade	Same as above grade
Floors		

CLIMATE ZONE	5 AND MARINE 4	
	All Other	Group R
Mass ^c	U-0.031	U-0.031
Joist/framing	U-0.029	U-0.029
Slab-on-Grade Floors		
Unheated slabs	F-0.54	F-0.54
Heated slabs ^c	F-0.55	F-0.55
Opaque Doors		
Nonswinging door	U-0.31	U-0.31
Swinging door ^h	U-0.37	U-0.37
Garage door <14% glazing	U-0.31	U-0.31
Garage door ≥14% and <50% glazing ⁱ	U-0.34	U-0.34

- a Use of opaque assembly *U*-factors, *C*-factors, and *F*-factors from Appendix A is required unless otherwise allowed by Section C402.1.4.
- b Where heated slabs are below grade, they shall comply with the *F*-factor requirements for heated slabs.
- c Heated slab *F*-factors shall be determined specifically for heated slabs. Unheated slab factors shall not be used.
- d Exception: Integral insulated concrete block walls complying with ASTM C90 with all cores filled and meeting both of the following:
 1. At least 50 percent of cores must be filled with vermiculite or equivalent fill insulation; and
 2. The building thermal envelope encloses one or more of the following uses: Warehouse (storage and retail), gymnasium, auditorium, church chapel, arena, kennel, manufacturing plant, indoor swimming pool, pump station, water and waste water treatment facility, storage facility, storage area, motor vehicle service facility. Where additional uses not listed (such as office, retail, etc.) are contained within the building, the exterior walls that enclose these areas may not utilize this exception and must comply with the appropriate mass wall *R*-value from Table C402.1.3/*U*-factor from Table C402.1.4.
- e "Mass floors" shall include floors weighing not less than:
 1. 35 pounds per square foot of floor surface area; or
 2. 25 pounds per square foot of floor surface area where the material weight is not more than 120 pounds per cubic foot.
- f Opaque assembly *U*-factors based on designs tested in accordance with ASTM C1363 shall be permitted. The *R*-value of continuous insulation shall be permitted to be added or subtracted from the original test design.
- g Peripheral edges of intermediate concrete floors are included in the above-grade mass wall category and therefore must be insulated as above-grade mass walls unless they meet the definition of *Mass Transfer Deck Slab*. The area of the peripheral edges of concrete floors shall be defined as the thickness of the slab multiplied by the perimeter length of the edge condition. See Table A103.3.7.2 for typical default *U*-factors for above-grade slab edges and footnote ^c for typical conditions of above-grade slab edges.
- h Swinging door *U*-factors shall be determined in accordance with NFRC-100.
- i Garage doors having a single row of *fenestration* shall have an assembly *U*-factor less than or equal to 0.44, provided that the *fenestration* area is not less than 14 percent and not more than ((25)) 50 percent of the total door area.
- j Component performance in accordance with Section C402.1.5 shall be required for buildings with a mass transfer deck slab. A mass transfer deck, due to its configuration, is not insulated. The table value (U-0.20) shall be used as the baseline value for component performance or total building performance path calculations. For the proposed value, the appropriate value from Table ((A104.3.7.2)) A103.3.7.2 shall be used.
- k Through-wall mechanical equipment subject to Section C402.1.4.3 shall be calculated at the *U*-factor defined in Section C402.1.4.3. The area-weighted *U*-factor of the wall, including through-wall mechanical equipment, shall not exceed the value in the table.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40220 Section C402.2—Specific insulation requirements.

C402.2 Specific building thermal envelope insulation requirements. Insulation in building thermal envelope opaque assemblies shall comply with Sections C402.2.1 through ((~~C402.2.8~~) C402.2.9 and Table C402.1.3.

Where this section refers to installing insulation levels as specified in Section C402.1.3, assemblies complying prescriptively with Section C402.1.4 and buildings complying with Section C402.1.5 are allowed to install alternate levels of insulation so long as the *U*-factor of the insulated assembly is less than or equal to the *U*-factor required by the respective path.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-402300 Table C402.4—Building envelope requirements—Fenestration.

**Table C402.4
Building Envelope Fenestration Maximum *U*-factor and SHGC Requirements**

CLIMATE ZONE	5 AND MARINE 4	
<i>U</i>-factor for Class AW windows rated in accordance with AAMA/CSA101/LS.2/A440, vertical curtain walls and site-built fenestration products^a		
Fixed ^b <i>U</i> -factor	U-0.34	
Operable ^c <i>U</i> -factor	U-0.36	
<i>Entrance doors^d</i>		
<i>U</i> -factor	U-0.60	
<i>U</i>-factor for all other vertical fenestration		
Fixed <i>U</i> -factor	U-0.26	
Operable or mulled windows with fixed and operable sections <i>U</i> -factor	U-0.28	
SHGC for all vertical fenestration^f		
	Fixed	Operable
PF < 0.2	0.38	0.33
0.2 ≤ PF < 0.5	0.46	0.40
PF ≥ 0.5	0.61	0.53
Skylights		
<i>U</i> -factor	U-0.50	
SHGC	0.35	

a *U*-factor and SHGC shall be rated in accordance with NFRC 100.
 b "Fixed" includes curtain wall, storefront, picture windows, and other fixed windows.
 c "Operable" includes operable fenestration products other than "entrance doors."

- d "Entrance door" includes glazed swinging entrance doors. Other doors which are not entrance doors, including sliding glass doors, are considered "operable."
- e Reserved.
- f Fenestration that is entirely within the conditioned space or is between conditioned and other enclosed space is exempt from solar heat gain coefficient requirements and not included in the SHGC calculation.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40231 Section C402.4.1—Maximum area.

C402.4.1 Maximum area. The total building vertical fenestration area (not including opaque doors and opaque spandrel panels) shall not exceed 30 percent of the total building gross above-grade wall area. The skylight area shall not exceed 5 percent of the total building gross roof area (skylight-to-roof ratio).

For buildings with more than one *space conditioning category*, compliance with the maximum allowed window-to-wall ratio and skylight-to-roof ratio shall be demonstrated separately for each *space conditioning category*. Interior partition ceiling, wall, fenestration and floor areas that separate space conditioning areas shall not be applied to the window-to-wall ratio and skylight-to-roof ratio calculations.

C402.4.1.1 Vertical fenestration maximum area with high performance alternates. For buildings that comply with Section C402.4.1.1.1 or C402.4.1.1.2, the total building vertical fenestration area is permitted to exceed 30 percent but shall not exceed 40 percent of the gross above grade wall area for the purpose of prescriptive compliance with Section C402.1.4.

When determining compliance using the component performance alternative in accordance with Section C402.1.5, the total building vertical fenestration area allowed in Equation 4-2 is 40 percent of the above grade wall area for buildings that comply with the vertical fenestration alternates described in this section.

C402.4.1.1.1 Optimized daylighting. All of the following requirements shall be met:

1. Not less than 50 percent of the total conditioned floor area in the building is within a *daylight zone* that includes *daylight responsive controls* complying with Section C405.2.5.1.
2. Visible transmittance (VT) of all *vertical fenestration* in the building is greater than or equal to 1.1 times the required solar heat gain coefficient (SHGC) in accordance with Section C402.4, or 0.50, whichever is greater. It shall be permitted to demonstrate compliance based on the area weighted average VT being greater than or equal to the area weighted average of the minimum VT requirements.

EXCEPTION: Fenestration that is outside the scope of NFRC 200 is not required to comply with Item 2.

C402.4.1.1.2 High-performance fenestration. All of the following requirements shall be met:

1. All *vertical fenestration* in the building shall comply with the following *U*-factors:
 - (~~a.~~) 1.1 *U*-factor for Class AW windows rated in accordance with AAMA/CSA101/I.S.2/A440, vertical curtain walls and site-built fenestration products (fixed) = 0.31

((b-)) 1.2 *U*-factor for Class AW windows rated in accordance with AAMA/CSA101/I.S.2/A440, vertical curtain walls and site-built fenestration products (operable) = 0.36

((e-)) 1.3 Entrance doors = 0.60

((d-)) 1.4 *U*-factor for all other vertical fenestration, fixed = 0.23

((e-)) 1.5 *U*-factor for all other vertical fenestration, operable, or mullied windows with fixed and operable sections = 0.24

2. The SHGC of the vertical fenestration shall be no more than 0.90 times the maximum SHGC values listed in Table C402.4.

An area-weighted average shall be permitted to satisfy the *U*-factor requirement for each fenestration product category listed in Item 1 of this section. Individual fenestration products from different fenestration product categories shall not be combined in calculating the area-weighted average *U*-factor, except that fenestration from lines a. and b. are permitted to be combined.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40232 Section C402.4.2—Minimum skylight fenestration area.

C402.4.2 Minimum skylight fenestration area. Skylights shall be provided in enclosed spaces that meet all the following criteria:

1. Floor area of enclosed spaces is greater than 2,500 square feet (232 m²).

2. Space is located directly under a roof and have a ceiling height greater than 15 feet (4572 mm) for no less than 75 percent of the ceiling area.

3. Space type is one of the following: Office, lobby, atrium, concourse, corridor, gymnasium/exercise center, convention center, automotive service, manufacturing, nonrefrigerated warehouse, retail store, distribution/sorting area, transportation, and workshop.

Skylights in these spaces are required to provide a total toplit daylight zone area not less than 50 percent of the floor area and shall provide one of the following:

1. A minimum ratio of skylight area to toplit daylight zone area under skylights of not less than 3 percent where all skylights have a VT of at least 0.40, or VT_{annual} of not less than 0.26, as determined in accordance with Section C303.1.3.

2. A minimum skylight effective aperture, determined in accordance with Equation 4-5, of:

2.1. Not less than 1 percent using a skylight's VT rating; or

2.2. Not less than 0.66 percent using a *tubular daylight device's* VT_{annual} rating.

Skylight Effective Aperture = (0.85 x Skylight Area x Skylight VT x WF) / Toplit daylight zone

(Equation 4-5)

Where:

Skylight area = Total fenestration area of skylights.

- Skylight VT = Area weighted average visible transmittance of skylights.
- WF = Area weighted average well factor, where well factor is 0.9 if light well depth is less than 2 feet (610 mm), or 0.7 if light well depth is 2 feet (610 mm) or greater, or 1.0 for *tubular daylighting devices (TDD)* with VT_{annual} ratings measured in accordance with NFRC 203.
- Light well depth = Measure vertically from the underside of the lowest point of the skylight glazing to the ceiling plane under the skylight.

EXCEPTIONS:

1. Skylights above daylight zones of enclosed spaces are not required in:
 - 1.1. Spaces designed as storm shelters complying with ICC 500.
 - 1.2. Spaces where the designed *general lighting* power densities are less than 0.5 W/ft² (5.4 W/m²) and at least 10 percent lower than the lighting power allowance in Section C405.4.2.
 - 1.3. Areas where it is documented that existing structures or natural objects block direct beam sunlight on at least half of the roof over the enclosed area for more than 1,500 daytime hours per year between 8 a.m. and 4 p.m.
 - 1.4. Spaces where the daylight zone under rooftop monitors is greater than 50 percent of the enclosed space floor area.
 - 1.5. Spaces where the total floor area minus the sidelit daylight zone area is less than 2,500 square feet (232 m²), and where the lighting in the daylight zone is controlled in accordance with Section ((C405.2.3.1)) C405.2.4.1.
2. The skylight effective aperture, calculated in accordance with Equation 4-5, is permitted to be 0.66 percent in lieu of 1 percent if the VT_{annual} of the skylight or *TDD*, as measured by NFRC 203, is greater than 38 percent.

C402.4.2.1 Lighting controls in daylight zones under skylights. Daylight responsive controls shall be provided to control all electric lights within toplit daylight zones.

C402.4.2.2 Haze factor. Skylights in office, storage, automotive service, manufacturing, nonrefrigerated warehouse, retail store, and distribution/sorting area spaces shall have a glazing material or diffuser with a haze factor greater than 90 percent when tested in accordance with ASTM D 1003.

EXCEPTION: Skylights and *tubular daylighting devices* designed and installed to exclude direct sunlight entering the occupied space by the use of fixed or automated baffles, or the geometry of skylight and light well.

C402.4.2.3 Daylight zones. Daylight zones referenced in Sections C402.4.1.1 through C402.4.2.2 shall comply with Sections C405.2.5.2 and C405.2.5.3, as applicable. Daylight zones shall include toplit daylight zones and sidelit daylight zones.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40241 Section C402.5.1—Air barriers.

C402.5.1 Air barriers. A continuous air barrier shall be provided throughout the building thermal envelope. The continuous air barriers shall be located on the inside or outside of the *building thermal envelope*, located within the assemblies composing the *building thermal envelope*, or any combination thereof. The air barrier shall comply with Sections C402.5.1.1 and C402.5.1.2.

C402.5.1.1 Air barrier construction. The *continuous air barrier* shall be constructed to comply with the following:

1. The air barrier shall be continuous for all assemblies that are the thermal envelope of the building and across the joints and assemblies.

2. Air barrier joints and seams shall be sealed, including sealing transitions in places and changes in materials. The joints and seals shall be securely installed in or on the joint for its entire length so as not to dislodge, loosen or otherwise impair its ability to resist positive and negative pressure from wind, stack effect and mechanical ventilation.

3. Penetrations of the air barrier shall be caulked, gasketed or otherwise sealed in a manner compatible with the construction materials and location. Sealing shall allow for expansion, contraction and mechanical vibration. Joints and seams associated with penetrations shall be sealed in the same manner or taped. Sealing materials shall be securely installed around the penetration so as not to dislodge, loosen or otherwise impair the penetrations' ability to resist positive and negative pressure from wind, stack effect, and mechanical ventilation. Sealing of concealed fire sprinklers, where required, shall be in a manner that is recommended by the manufacturer. Caulking or other adhesive sealants shall not be used to fill voids between fire sprinkler cover plates and walls or ceilings.

4. Recessed lighting fixtures shall comply with Section C402.5.8. Where similar objects are installed which penetrate the air barrier, provisions shall be made to maintain the integrity of the air barrier.

5. Construction documents shall contain a diagram showing the building's pressure boundary in plan(s) and section(s) and a calculation of the area of the pressure boundary to be considered in the test.

C402.5.1.2 Air barrier compliance. A continuous air barrier for the opaque building envelope shall comply with the following:

1. Group R dwelling units that are accessed directly from the outdoors shall meet the provisions of Section C402.5.2.

2. All other buildings or portions of buildings shall meet the provisions of Section C402.5.3.

C402.5.2 Enclosure testing for dwelling and sleeping units accessed directly from the outdoors. For dwelling units accessed directly from outdoors, the *building thermal envelope* shall be tested in accordance with ASTM E779, ANSI/RESNET/ICC 380, ASTM E1827 or an equivalent method approved by the *code official*. The measured air leakage shall not exceed 0.25 cfm/ft² (1.27 L/s m²) of the *testing unit enclosure area* at a pressure differential of 0.2 inch water gauge (50 Pa). Where multiple dwelling units or sleeping units or other occupiable conditioned spaces are contained within one *building thermal envelope* and are accessed directly from the outdoors, each unit shall be considered an individual testing unit, and the building air leakage shall be the weighted average of all testing unit results, weighted by each testing unit's enclosure area. Units shall be tested separately with an unguarded blower door test as follows:

1. Where buildings have fewer than eight testing units, each testing unit shall be tested.

2. For buildings with eight or more testing units, the greater of seven units or 20 percent of the testing units in the building shall be tested, including a top floor unit, a ground floor unit and a unit with the largest *testing unit enclosure area*. For each tested unit that exceeds the maximum air leakage rate, an additional two units shall be tested, including a mixture of testing unit types and locations.

3. Test shall be accomplished using either a) both pressurization and depressurization or b) pressurization alone, but not depressurization alone. The test results shall be plotted against the correct P for pressurization in accordance with Section 9.4 of ASTM E779.

Where the measured air leakage rate exceeds 0.25 cfm/ft^2 ($2.0 \text{ L/s} \times \text{m}^2$) corrective action shall be taken to seal leaks in the air barrier in all units exceeding the target value and all untested units. Post-corrective action testing and repeated corrective action measures will be taken until the required air leakage rating is achieved. Final passing air leakage test results shall be submitted to the *code official*.

C402.5.3 Building thermal envelope testing. The *building thermal envelope* shall be tested in accordance with ASTM E779, ANSI/RESNET/ICC 380, ASTM E3158 or ASTM E1827 or an equivalent method approved by the code official. The measured air leakage shall not exceed 0.25 cfm/ft^2 ($1.27 \text{ L/s} \times \text{m}^2$) of the *building thermal envelope* area at a pressure differential of 0.3 inch water gauge (75 Pa). Alternatively, portions of the building shall be tested and the measured air leakages shall be area weighted by the surface areas of the building envelope in each portion. The weighted average test results shall not exceed the whole building leakage limit. In the alternative approach, the following portions of the building shall be tested:

1. The entire envelope area of all stories that have any spaces directly under a roof.

2. The entire envelope area of all stories that have a building entrance, exposed floor, or loading dock, or are below grade.

3. Representative above-grade sections of the building totaling at least 25 percent of the wall area enclosing the remaining conditioned space.

4. Test shall be accomplished using either a) both pressurization and depressurization or b) pressurization alone, but not depressurization alone. The test results shall be plotted against the correct P for pressurization in accordance with Section 9.4 of ASTM E779.

Where the measured air leakage rate exceeds 0.25 cfm/ft^2 ($2.0 \text{ L/s} \times \text{m}^2$) corrective action shall be taken to seal leaks in the air barrier. Post-corrective action testing and repeated corrective action measures will be taken until the required air leakage rating is achieved. Final passing of the air leakage test results shall be submitted to the *code official*.

C402.5.4 Building test for mixed-use buildings. Where a building is three or fewer stories above grade plane and contains both commercial and residential uses, the air barrier of the R-2 and R-3 occupancy areas of the building is permitted to be separately tested according to Section R402.4.1.2. Alternatively, it is permissible to test the air barrier of the entire building according to Section C402.5.3, provided that the tested air leakage rate does not exceed the rate specified in Section C402.5.3.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40243 Section C402.5.5—Rooms containing fuel-burning appliances.

C402.5.5 Rooms containing fuel-burning appliances. Where combustion air is supplied through openings in an exterior wall to a room or space containing a space conditioning fuel-burning appliance, one of the following shall apply:

1. The room or space containing the appliance shall be located outside of the *building thermal envelope*.
2. The room or space containing the appliance shall be enclosed and isolated from conditioned spaces inside the building thermal envelope. Such rooms shall comply with all of the following:
 - 2.1. The walls, floor and ceiling that separate the enclosed room or space from the conditioned spaces shall be insulated to be at least equivalent to the insulation requirement of below grade walls as specified in Table C402.1.3 or C402.1.4.
 - 2.2. The walls, floors and ceilings that separate the enclosed room or space from conditioned spaces be sealed in accordance with Section C402.5.1.1.
 - 2.3. The doors into the enclosed room or space shall be fully gasketed.
 - 2.4. Water lines and ducts in the enclosed room or space shall be insulated in accordance with Section C403.
 - 2.5. Where the air duct supplying combustion air to the enclosed room or space passes through conditioned space, the duct shall be insulated to an R-value of not less than R-16.

EXCEPTION: Fireplaces and stoves complying with Sections 901 through 905 of the *International Mechanical Code*, and Section ((2111.13)) 2111.14 of the *International Building Code*.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40320 Section C403.2—System design.

C403.2 System design. Mechanical systems shall be designed to comply with Sections C403.2.1 ((and)) through C403.2.4. Where elements of a building's mechanical systems are addressed in Sections C403.3 through C403.13, such elements shall comply with the applicable provisions of those sections.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40332 Section C403.3.2—HVAC equipment performance requirements.

C403.3.2 HVAC equipment performance requirements. Equipment shall meet the minimum efficiency requirements of Tables C403.3.2(1) through C403.3.2(16) when tested and rated in accordance with the applicable test procedure. Plate-type liquid-to-liquid heat exchangers shall meet the minimum requirements of AHRI 400. The efficiency shall be verified

through certification and listed under an *approved* certification program or, if no certification program exists, the equipment efficiency ratings shall be supported by data furnished by the manufacturer. Where multiple rating conditions or performance requirements are provided, the equipment shall satisfy all stated requirements. Where components, such as indoor or outdoor coils, from different manufacturers are used, calculations and supporting data shall be furnished by the designer that demonstrates that the combined efficiency of the specified components meets the requirements herein.

C403.3.2.1 Gas-fired and oil-fired forced air furnaces. Forced air furnaces with input ratings $\geq 225,000$ Btu/h (65 kW) and all unit heaters shall also have an intermittent ignition or interrupted device (IID), and have either mechanical draft (including power venting) or a flue damper. A vent damper is an acceptable alternative to a flue damper for furnaces where combustion air is drawn from the conditioned space. All furnaces with input ratings $\geq 225,000$ Btu/h (65 kW), including electric furnaces, that are not located within the conditioned space shall have jacket losses not exceeding 0.75 percent of the input rating.

C403.3.2.2 Hydronic and multiple-zone HVAC system controls and equipment. Hydronic and multiple-zone HVAC system controls and equipment shall comply with this section.

For buildings with a total equipment cooling capacity of 300 tons and above, the equipment shall comply with one of the following:

1. No one unit shall have a cooling capacity of more than 2/3 of the total installed cooling equipment capacity;
2. The equipment shall have a variable speed drive; or
3. The equipment shall have multiple compressors.

C403.3.2.3 Chillers. Chilled water plants and buildings with more than 500 tons total capacity shall not have more than 100 tons provided by air-cooled chillers.

EXCEPTIONS:

1. Where the designer demonstrates that the water quality at the building site fails to meet manufacturer's specifications for the use of water-cooled equipment.
2. Air-cooled chillers with minimum efficiencies at least 10 percent higher than those listed in Table C403.3.2(3).
3. Replacement of existing air-cooled chiller equipment.
4. Air-to-water heat pump units that are configured to provide both heating and cooling and that are rated in accordance with AHRI 550/590.

C403.3.2.4 Water-cooled centrifugal chilling packages. Equipment not designed for operation at AHRI Standard 550/590 test conditions of 44.00°F (6.67°C) leaving and 54.00°F (12.22°C) entering chilled-water temperatures and with 85.00°F (29.44°C) entering and 94.30°F (34.61°C) leaving condenser-fluid temperatures, shall have maximum full-load kW/ton (FL) and *part-load* ratings adjusted using the following equations.

$$FL_{adj} = FL/K_{adj}$$

(Equation 4-7)

$$PLV_{adj} = IPLV.IP/K_{adj}$$

(Equation 4-8)

Where:

$$K_{adj} = A \times B$$

FL = Full-load kW/ton values as specified in Table C403.3.2(7)

FL_{adj}	=	Maximum full-load kW/ton rating, adjusted for nonstandard conditions
$IPLV_{IP}$	=	Value as specified in Table C403.3.2(7)
PLV_{adj}	=	Maximum NPLV rating, adjusted for nonstandard conditions
A	=	$0.00000014592 \times (LIFT)^4 - 0.0000346496 \times (LIFT)^3 + 0.00314196 \times (LIFT)^2 - 0.147199 \times LIFT + 3.93073$
B	=	$0.0015 \times L_{vg}^{Evap} (\text{°F}) + 0.934$
$LIFT$	=	$L_{vg}^{Cond} - L_{vg}^{Evap}$
L_{vg}^{Cond}	=	Full-load condenser leaving fluid temperature (°F)
L_{vg}^{Evap}	=	Full-load evaporator leaving temperature (°F)

The FL_{adj} and PLV_{adj} values are applicable only for centrifugal chillers meeting all of the following full-load design ranges:

- $36.00\text{°F} \leq L_{vg}^{Evap} \leq 60.00\text{°F}$
- $L_{vg}^{Cond} \leq 115.00\text{°F}$
- $20.00\text{°F} \leq LIFT \leq 80.00\text{°F}$

Manufacturers shall calculate the FL_{adj} and (~~PLV_{adj}~~) PLV_{adj} before determining whether to label the chiller. Centrifugal chillers designed to operate outside of these ranges are not covered by this code.

C403.3.2.5 Positive displacement (air- and water-cooled) chilling

packages. Equipment with a leaving fluid temperature higher than 32°F (0°C) and water-cooled positive displacement chilling packages with a condenser leaving fluid temperature below 115°F (46°C) shall meet the requirements the tables in Section C403.3.2 when tested or certified with water at standard rating conditions, in accordance with the referenced test procedure.

C403.3.2.6 Packaged and split system electric heating and cooling

equipment. Packaged and split system equipment providing both electric heating and cooling, and cooling-only equipment with electric heat in the main supply duct before VAV boxes, in each case with a total cooling capacity greater than 6,000 Btu/h shall be a heat pump configured to operate in heat pump mode whenever the outdoor air temperature is above 25°F (-3.9°C) and the unit is not in defrost. The unit shall have reverse-cycle demand defrost.

EXCEPTION: Unstaffed equipment shelters or cabinets used solely for personal wireless service facilities.

C403.3.2.7 Humidification. If an air economizer is required on a cooling system for which humidification equipment is to be provided to maintain minimum indoor humidity levels, then the humidifier shall be of the adiabatic type (direct evaporative media or fog atomization type).

EXCEPTIONS:

1. Health care facilities licensed by the state where chapter 246-320 or 246-330 WAC requires steam injection humidifiers in duct work downstream of final filters.
2. Systems with water economizer.
3. 100 percent outside air systems with no provisions for air recirculation to the central supply fan.
4. Nonadiabatic humidifiers cumulatively serving no more than 10 percent of a building's air economizer capacity as measured in cfm. This refers to the system cfm serving rooms with stand alone or duct mounted humidifiers.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-403323 Table C403.3.2(3)—Water chilling packages—Minimum efficiency requirements.

Table C403.3.2(3)

Water Chilling Packages—Minimum Efficiency Requirements^{a,b,e,f}

Equipment Type	Size Category	Units	Path A		Path B		Test Procedure ^c
			FL	((IPLV,IP)) IPLV,IP	FL	((IPLV,IP)) IPLV,IP	
Air-cooled chillers	< 150 tons	EER(Btu/Wh)	≥ 10.100	≥ 13.700	≥ 9.700	≥ 15.800	AHRI 550/590
	≥ 150 tons	EER(Btu/Wh)	≥ 10.100	≥ 14.000	≥ 9.700	≥ 16.100	
Air cooled without condenser, electrically operated	All capacities	EER(Btu/Wh)	Air-cooled chillers without condensers shall be rated with matching condensers and comply with the air-cooled chiller efficiency requirements				
Water cooled, electrically operated, positive displacement	< 75 tons	kW/ton	≤ 0.750	≤ 0.600	≤ 0.780	≤ 0.500	
	≥ 75 tons and < 150 tons	kW/ton	≤ 0.720	≤ 0.560	≤ 0.750	≤ 0.490	
	≥ 150 tons and < 300 tons	kW/ton	≤ 0.660	≤ 0.540	≤ 0.680	≤ 0.440	
	≥ 300 tons and < 600 tons	kW/ton	≤ 0.610	≤ 0.520	≤ 0.625	≤ 0.410	
	≥ 600 tons	kW/ton	≤ 0.560	≤ 0.500	≤ 0.585	≤ 0.380	
Water cooled, electrically operated, centrifugal	< 150 tons	kW/ton	≤ 0.610	≤ 0.550	≤ 0.695	≤ 0.440	
	≥ 150 tons and < 300 tons	kW/ton	≤ 0.610	≤ 0.550	≤ 0.695	≤ 0.400	
	≥ 300 tons and < 400 tons	kW/ton	≤ 0.560	≤ 0.520	≤ 0.595	≤ 0.390	
	≥ 400 tons and < 600 tons	kW/ton	≤ 0.560	≤ 0.500	≤ 0.585	≤ 0.380	
	≥ 600 tons	kW/ton	≤ 0.560	≤ 0.500	≤ 0.585	≤ 0.380	
Air cooled absorption, single effect	All capacities	COP(W/W)	≥ 0.600	NR	NA ^d	NA ^d	AHRI 560
Water cooled absorption, single effect	All capacities	COP(W/W)	≥ 0.700	NR	NA ^d	NA ^d	
Absorption double effect, indirect fired	All capacities	COP(W/W)	≥ 1.000	≥ 1.050	NA ^d	NA ^d	
Absorption double effect, direct fired	All capacities	COP(W/W)	≥ 1.000	≥ 1.000	NA ^d	NA ^d	

For SI: 1 ton = 3517 W, 1 British thermal unit per hour = 0.2931 W, °C = [(°F) - 32]/1.8.

NR = No requirement.

- ^a Chapter 6 contains a complete specification of the referenced standards, which includes test procedures, including the referenced year version of the test procedure.
- ^b The requirements for centrifugal chiller shall be adjusted for nonstandard rating conditions per Section C403.3.2.4 and are applicable only for the range of conditions listed there. The requirements for air-cooled, water-cooled positive displacement and absorption chillers are at standard rating conditions defined in the referenced test procedure.
- ^c Both the full load and IPLV,IP requirements must be met or exceeded to comply with this standard. When there is a Path B, compliance can be with either Path A or Path B for any application.
- ^d NA means the requirements are not applicable for Path B and only Path A can be used for compliance.
- ^e FL is the full-load performance requirements, and IPLV,IP is for the part-load performance requirements.
- ^f This table is a replica of ASHRAE 90.1 Table 6.8.1-3 Water-Chilling Packages—Minimum Efficiency Requirements.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40334 Section C403.3.4—Boilers.

C403.3.4 Boiler requirements. *Boiler systems* shall comply with ~~((the following:))~~ Sections C403.3.4.1 through C403.3.4.5.2.

C403.3.4.1 Combustion air positive shut-off. Combustion air positive shut-off shall be provided on all newly installed *boiler systems* as follows:

1. All *boiler systems* with an input capacity of 2,500,000 Btu/h and above, in which the boiler is designed to operate with a nonpositive vent static pressure.

2. All *boiler systems* where one stack serves two or more boilers with a total combined input capacity per stack of 2,500,000 Btu/h.

C403.3.4.2 Boiler system oxygen concentration controls. Boiler system combustion air fans with motors 10 horsepower or larger shall meet one of the following for newly installed boilers:

1. The fan motor shall be variable speed; or

2. The fan motor shall include controls that limit the fan motor demand to no more than 30 percent of the total design wattage at 50 percent of design air volume.

C403.3.4.3 Boiler oxygen concentration controls. Newly installed boilers with an input capacity of 5,000,000 Btu/h and greater and a steady state full-load combustion efficiency less than 90 percent shall maintain stack-gas oxygen concentrations not greater than the values specified in Table C403.3.4.3. Combustion air volume shall be controlled with respect to measured flue gas oxygen concentration. The use of a common gas and combustion air control linkage or jack shaft is prohibited.

EXCEPTION: These concentration limits do not apply where 50 percent or more of the boiler system capacity serves Group R-2 occupancies.

**Table C403.3.4.3
Boiler Stack-Gas Oxygen Concentrations**

Boiler System Type	Maximum Stack-Gas Oxygen Concentration ^a
Less than 10% of the boiler system capacity is used for process applications at design conditions	5%
All others	3%

^a Concentration levels measured by volume on a dry basis over firing rates of 20 to 100 percent.

C403.3.4.4 Boiler turndown. *Boiler systems* with design input of greater than 1,000,000 Btu/h (293 kW) shall comply with the turndown ratio specified in Table C403.3.4.4.

The system turndown requirement shall be met through the use of multiple single input boilers, one or more *modulating boilers* or a combination of single input and modulating boilers.

**Table C403.3.4.4
Boiler Turndown**

Boiler System Design Input (Btu/h)	Minimum Turndown Ratio
≥ 1,000,000 and less than or equal to 5,000,000	3 to 1
≥ 5,000,000 and less than or equal to 10,000,000	4 to 1
≥ 10,000,000	5 to 1

C403.3.4.5 Buildings with high-capacity space-heating gas boiler systems. New buildings with gas hot water boiler systems for space heating with a total system input of at least 1,000,000 Btu/h but not more than 10,000,000 Btu/h shall comply with this section.

- EXCEPTIONS:
1. Where 25 percent of the annual space heating requirement is provided by site-recovered energy, or heat recovery chillers.
 2. Space heating boilers installed in individual dwelling units.
 3. Where 50 percent or more of the design heat load is served using perimeter convective heating, radiant ceiling panels, or both.
 4. Individual gas boilers with input capacity less than 300,000 Btu/h shall not be included in the calculations of the total system input or total system efficiency.

C403.3.4.5.1 Boiler efficiency. Gas hot water boilers shall have a minimum thermal efficiency (Et) of 90 percent when rated in accordance with the test procedures in Table C403.3.2(6). Systems with multiple boilers are allowed to meet this requirement if the space-heating input provided by equipment with thermal efficiency (Et) above and below 90 percent provides an input capacity-weighted average thermal efficiency of at least 90 percent. For boilers rated only for combustion efficiency, the calculation for the input capacity-weighted average thermal efficiency shall use the combustion efficiency value.

C403.3.4.5.2 Hot water distribution system design. The hot water distribution system shall be designed to meet all of the following:

1. Coils and other heat exchangers shall be selected so that at design conditions the hot water return temperature entering the boilers is 120°F (48.9°C) or less.
2. Under all operating conditions, the water temperature entering the boiler is 120°F (48.9°C) or less, or the flow rate of supply hot water that recirculates directly into the return system, such as three-way valves or minimum flow bypass controls, shall be no greater than 20 percent of the design flow of the operating boilers.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40335 Section C403.3.5—Dedicated outdoor air systems.

C403.3.5 Dedicated outdoor air systems (DOAS). For buildings with occupancies as shown in Table C403.3.5, outdoor air shall be provided to each occupied space by a dedicated outdoor air system (DOAS) which delivers 100 percent outdoor air without requiring operation of the heating and cooling system fans for ventilation air delivery.

- EXCEPTIONS:
1. Occupied spaces that are not ventilated by a mechanical ventilation system and are only ventilated by a natural ventilation system in accordance with Section 402 of the *International Mechanical Code*.
 2. High efficiency variable air volume (VAV) systems complying with Section C403.6.10 for occupancy classifications other than Groups A-1, A-2 and A-3 as specified in Table C403.3.5, and high efficiency VAV systems complying with Section C403.12 for occupancy classification Groups A-1, A-2 and A-3 as specified in Table C403.3.5. This exception shall not be used as a substitution for a DOAS per Section C406.6.

Table C403.3.5

Occupancy Classifications Requiring DOAS

Occupancy Classification ^a	Inclusions	Exempted
A-1	All occupancies not specifically exempted	Television and radio studios
A-2	Casinos (gaming area)	All other A-2 occupancies
A-3	Lecture halls, community halls, exhibition halls, gymnasiums, courtrooms, libraries, places of religious worship	All other A-3 occupancies
A-4, A-5		All occupancies excluded
B	All occupancies not specifically exempted	Food processing establishments including commercial kitchens, restaurants, cafeterias; laboratories for testing and research; data processing facilities and telephone exchanges; air traffic control towers; animal hospitals, kennels, pounds; ambulatory care facilities
F, H, I, R, S, U		All occupancies excluded
E, M	All occupancies included	

a. Occupancy classification from the *International Building Code* Chapter 3.

C403.3.5.1 DOAS with energy recovery ventilation. The DOAS shall include energy recovery. The energy recovery (~~(ventilation system)~~) device shall have a 68 percent minimum sensible recovery effectiveness (~~(of the energy recovery device)~~) as calculated in accordance with Equation 4-9 or provide an enthalpy recovery ratio of not less than 60 percent at design conditions in accordance with Section C403.7.6. The airflow rate thresholds in Section C403.7.6 that define when the energy recovery requirements in that section do not apply, are not applicable to this section. The return/exhaust air stream temperature for heat recovery device selection shall be 70°F (21°C) at 30 percent relative humidity, or as calculated by the registered design professional.

(Equation 4-9)

$$\text{Sensible Recovery Effectiveness} = \frac{T_{OA} - T_{SA}}{T_{OA} - T_{RA}}$$

Where:

- T_{OA} = Design outdoor air dry bulb temperature entering the energy recovery device.
- T_{SA} = Supply air dry bulb temperature leaving the energy recovery device at design temperatures and airflow conditions, as selected for the proposed DOAS unit(s).
- T_{RA} = Design return air dry bulb temperature.

- EXCEPTIONS:
1. Systems installed for the sole purpose of providing makeup air for systems exhausting toxic, flammable, paint, or corrosive fumes or dust, dryer exhaust, or commercial kitchen hoods used for collecting and removing grease vapors and smoke.
 2. Heat recovery and energy recovery ventilators (H/ERV) that are rated and *listed* in accordance with HVI 920 can demonstrate compliance with the sensible recovery effectiveness requirement using the adjusted sensible recovery effectiveness (ASRE) rating of the equipment at 32°F test conditions. Applied flow rate for ASRE rating shall be no less than the design flow rate or the closest value interpolated between two listed flow rates.
 3. The energy recovery systems for Group R-2 occupancies are permitted to provide 60 percent minimum sensible heat recovery effectiveness in lieu of 68 percent sensible recovery effectiveness in accordance with Section C403.7.6. The return/exhaust air stream temperature for heat recovery device selection shall be 70°F (21°C) or as determined by an *approved* calculation procedure.

C403.3.5.2 DOAS fan power. For a DOAS that does not have at least one fan or fan array with fan electrical input power ≥ 1 kW, the total combined fan power shall not exceed 1 watt per cfm of outdoor air as

calculated in accordance with Equation 4-10 using design maximum airflows and external static pressures. For a DOAS with at least one fan or fan array with fan electrical input power ≥ 1 kW, the DOAS shall comply with the fan power limitations of Section C403.8.1. DOAS total combined fan power shall include all supply, exhaust and other fans utilized for the purpose of ventilation. This fan power restriction applies to each DOAS in the permitted project, but does not include the fan power associated with the zonal heating and cooling equipment.

(Equation 4-10)

$$\text{DOAS Total Combined Fan Power} \quad \left(\frac{\text{Watts}}{\text{CFM}} \right) = \sum \left(\frac{\text{Fan bhp}}{\eta_m} \right) \times \frac{746}{\text{CFM}_{\text{supply}}}$$

Where:

- Fan bhp = Brake horsepower for each supply, exhaust and other fan in the system at design maximum airflow rate.
- η_m = Fan motor efficiency including all motor, drive and other losses for each fan in the system.
- $\text{CFM}_{\text{supply}}$ = Design maximum airflow rate of outdoor (supply) air.

C403.3.5.3 Heating and cooling system fan controls. Heating and cooling equipment fans, heating and cooling circulation pumps, and terminal unit fans shall cycle off and terminal unit primary cooling air shall be shut off when there is no call for heating or cooling in the zone.

EXCEPTION: Fans used for heating and cooling using less than 0.12 watts per cfm may operate when space temperatures are within the setpoint deadband (Section C403.4.1.2) to provide destratification and air mixing in the space.

C403.3.5.4 Decoupled DOAS supply air. The DOAS supply air shall be delivered directly to the occupied space or downstream of the terminal heating and/or cooling coils.

EXCEPTIONS:

1. Active chilled beam systems.
2. Sensible only cooling terminal units with pressure independent variable airflow regulating devices limiting the DOAS supply air to the greater of latent load or minimum ventilation requirements.
3. Terminal heating and/or cooling units that comply with the low fan power allowance requirements in the exception of Section C403.3.5.3.

C403.3.5.5 Supplemental heating and cooling. Supply air stream heating in the DOAS system shall comply with Section C403.7.3. Cooling is permitted for dehumidification only. Cooling coil shall be sized to meet peak dehumidification requirement at design outdoor temperatures, and no larger. Cooling coil shall be controlled to maintain supply air relative humidity or zone relative humidity.

EXCEPTION: Heating permitted for defrost control shall be locked out when outside air temperatures are above 35°F (2°C). Supplemental heating for defrost shall modulate to 10 percent of the peak capacity, and shall be sized to prevent (~~frost damage~~) frost damage to the unit at design temperatures and provide supply air less than or equal to 55°F (13°C).

C403.3.5.6 Impracticality. Where the *code official* determines that full compliance with one or more of the requirements in Sections C403.3.5.1 through C403.3.5.5 is impractical, it is permissible to provide an approved alternate means of compliance that achieves a comparable level of energy efficiency as the requirement(s) deemed impractical. For the purposes of this section, impractical means that an HVAC system complying with all requirements in Section C403.3.5 cannot effectively be utilized due to an unusual use or configuration of the building.

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40341 Section C403.4.1—Thermostatic controls.

C403.4.1 Thermostatic controls. The supply of heating and cooling energy to each zone shall be controlled by individual thermostatic controls capable of responding to temperature within the zone. Controls in the same zone or in neighboring zones connected by openings larger than 10 percent of the floor area of either zone shall not allow for simultaneous heating and cooling. At a minimum, each floor of a building shall be considered as a separate zone. Controls on systems required to have economizers and serving single zones shall have multiple cooling stage capability and activate the economizer when appropriate as the first stage of cooling. See Section C403.5 for further economizer requirements. Where humidification or dehumidification or both is provided, at least one humidity control device shall be provided for each humidity control system.

EXCEPTIONS:

1. Independent perimeter systems that are designed to offset only building envelope heat losses or gains or both serving one or more perimeter zones also served by an interior system provided:
 - 1.1. The perimeter system includes at least one thermostatic control zone for each building exposure having exterior walls facing only one orientation (within +/-45 degrees) (0.8 rad) for more than 50 contiguous feet (15,240 mm);
 - 1.2. The perimeter system heating and cooling supply is controlled by a thermostat located within the zones served by the system; and
 - 1.3. Controls are configured to prevent the perimeter system from operating in a different heating or cooling mode from the other equipment within the zones or from neighboring zones connected by openings larger than 10 percent of the floor area of either zone.
2. Where an interior zone and a perimeter zone are open to each other with permanent openings larger than 10 percent of the floor area of either zone, cooling in the interior zone is permitted to operate at times when the perimeter zone is in heating and the interior zone temperature is at least 5°F (2.8°C) higher than the perimeter zone temperature. For the purposes of this exception, a permanent opening is an opening without doors or other operable closures.
3. Dedicated outdoor air units that provide ventilation air, make-up air or replacement air for exhaust systems are permitted to be controlled based on supply air temperature. The supply air temperature shall be controlled to a maximum of 65°F (18.3°C) in heating and a minimum of 72°F (22°C) in cooling unless the supply air temperature is being reset based on the status of cooling or heating in the zones served or it being reset based on outdoor air temperature.

C403.4.1.1 Heat pump supplementary heat control. Heat pumps equipped with internal electric resistance heaters shall have controls that prevent supplemental heater operation when the heating load can be met by the heat pump alone during both steady-state operation and setback recovery. Supplemental heater operation is permitted during outdoor coil defrost cycles. Heat pumps equipped with supplemental heaters shall comply with all conditions of Section C403.1.4.

EXCEPTIONS:

1. Packaged terminal heat pumps (PTHPs) of less than 2 tons (24,000 Btu/hr) cooling capacity and whose ratings meet the requirements shown in Table C403.3.2(4) that have reverse-cycle demand defrost and are configured to operate in heat pump mode whenever the outdoor air temperatures are above 25°F (-3.9°C) and the unit is not in defrost.
2. Heat pumps whose minimum efficiency is regulated by NAECA and whose ratings meet the requirements shown in Table C403.3.2(2) and include all usage of internal electric resistance heating.

C403.4.1.2 Deadband. Where used to control both heating and cooling, zone thermostatic controls shall be configured to provide a temperature range or deadband of at least 5°F (2.8°C) within which the supply of heating and cooling energy to the zone is shut off or reduced to a minimum.

EXCEPTIONS:

1. Thermostats requiring manual changeover between heating and cooling modes.
2. Occupancies or applications requiring precision in indoor temperature control as approved by the code official.

C403.4.1.3 Setpoint overlap restriction. Where a zone has a separate heating and a separate cooling thermostatic control located within the zone, a limit switch, mechanical stop or direct digital control system with software programming shall be configured to prevent the heating setpoint from exceeding the cooling setpoint and to maintain a deadband in accordance with Section C403.4.1.2.

C403.4.1.4 Heated or cooled vestibules and air curtains. The heating system for heated vestibules and air curtains with integral heating shall be provided with controls configured to shut off the source of heating when the outdoor air temperature is greater than 45°F (7°C).

Vestibule heating and cooling systems shall be controlled by a thermostat located in the vestibule configured to limit heating to a temperature not greater than 60°F (16°C) and cooling to a temperature not less than 85°F (29°C).

EXCEPTIONS:

1. Control of heating or cooling provided by transfer air that would otherwise be exhausted.
2. Vestibule heating only systems are permitted to be controlled without an outdoor air temperature lockout when controlled by a thermostat located in the vestibule configured to limit heating to a temperature not greater than 45°F (7°C) where required for freeze protection of piping and sprinkler heads located in the vestibule.

C403.4.1.5 Hot water boiler outdoor temperature setback control. Hot water boilers that supply heat to the building through one- or two-pipe heating systems shall have an outdoor setback control that lowers the boiler water temperature based on the outdoor temperature.

C403.4.1.6 Operable opening switches for HVAC system thermostatic control. Operable openings meeting the minimum size criteria of Section C402.5.11 and that open to the outdoors from a conditioned space must have controls configured to do the following once doors have been open for 5 minutes:

1. Disable the mechanical heating to the zone or reset the space heating temperature setpoint to 55°F or less within 5 minutes of the door open enable signal.
2. Disable the mechanical cooling to the zone or reset the space cooling temperature setpoint to 85°F or more within 5 minutes of the door open enable signal.

EXCEPTION: Hydronic radiant heating and cooling systems.

C403.4.1.7 Demand responsive controls. Thermostatic controls for heating or cooling systems shall be provided with *demand responsive controls* capable of increasing the cooling setpoint and decreasing the heating setpoint by no less than 4°F (2.2°C). The thermostatic controls shall be capable of performing all other functions provided by the control when the *demand responsive controls* are not available. Systems with *direct digital control* of individual zones (~~(report)~~) reporting to a central control panel shall be capable of remotely increasing the cooling setpoint and decreasing the heating setpoint for each zone by no less than 4°F (2.2°C).

EXCEPTION: Health care and assisted living facilities.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40349 Sections C403.4.11 and C403.4.12.

C403.4.11 Direct digital control systems. Direct digital control (DDC) shall be required as specified in Sections C403.4.11.1 through C403.4.11.4.

C403.4.11.1 DDC applications. DDC shall be provided in the applications and qualifications listed in Table C403.4.11.1 and for load management measures where installed to meet the requirements of Section C406.3.

C403.4.11.2 DDC controls. Where DDC is required by Section C403.4.11.1, the DDC system shall be configured to perform all of the following functions, as required to provide the system and zone control logic required in Sections C403.2, C403.5, C403.6.8 and C403.4.3:

1. Monitor zone and system demand for fan pressure, pump pressure, heating and cooling.
2. Transfer zone and system demand information from zones to air distribution system controllers and from air distribution systems to heating and cooling plant controllers.

C403.4.11.3 DDC display. Where DDC is required by Section C403.4.11.1 for new buildings, the DDC system shall be configured to gather and provide trending data and graphically displaying input and output points.

C403.4.11.4 DDC demand response setpoint adjustment. Where DDC is required by Section C403.4.11.1 for new buildings and serve mechanical systems with a cooling capacity exceeding 780,000 Btu/h (2,662 kW), the DDC system shall be capable of demand response setpoint adjustment. The DDC system shall be configured with control logic to increase the cooling zone setpoints by at least 2°F (1°C) and reduce the heating zone setpoints by at least 2°F (1°C) when activated by a demand response signal. The demand response signal shall be a binary input to the control system or other interface approved by the serving electric utility.

**Table C403.4.11.1
DDC Applications and Qualifications**

Building Status	Application	Qualifications
New building	Air-handling system and all zones served by the system	Individual systems supplying more than three zones and with fan system bhp of 10 hp and larger
	Chilled-water plant and all coils and terminal units served by the system	Individual plants supplying more than three zones and with design cooling capacity of 300,000 Btu/h and larger
	Hot-water plant and all coils and terminal units served by the system	Individual plants supplying more than three zones and with design heating capacity of 300,000 Btu/h and larger
Alteration or addition	Zone terminal unit such as VAV box	Where existing zones served by the same air-handling, chilled-water, or hot-water system have DDC
	Air-handling system or fan coil	Where existing air-handling system(s) and fan coil(s) served by the same chilled- or hot-water plant have DDC
	New air-handling system and all new zones served by the system	Individual systems with fan system bhp of 10 hp and larger and supplying more than three zones and more than 75 percent of zones are new
	New or upgraded chilled-water plant	Where all chillers are new and plant design cooling capacity is 300,000 Btu/h and larger
	New or upgraded hot-water plant	Where all boilers are new and plant design heating capacity is 300,000 Btu/h and larger

C403.4.12 Pressure independent control valves. Where design flow rate of heating water and (~~chiller~~) chilled water coils is 5 gpm or higher, modulating pressure independent control valves shall be provided.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40350 Section C403.5—Economizers.

C403.5 Economizers. Air economizers shall be provided on all new cooling systems including those serving computer server rooms, electronic

equipment, radio equipment, and telephone switchgear. Economizers shall comply with Sections C403.5.1 through C403.5.5.

EXCEPTIONS:

- 1a. For other than Group R-2 occupancies, cooling system where the supply fan is not installed outside the *building thermal envelope* nor in a *mechanical room* adjacent to outdoors, and is installed in conjunction with DOAS complying with Section C403.3.5 and serving only spaces with year-round cooling loads from lights and equipment of less than 5 watts per square foot.
- 1b. For Group R-2 occupancies, cooling system where the supply fan is not installed outside the *building thermal envelope* nor in a *mechanical room* adjacent to outdoors, and is installed in conjunction with DOAS complying with Section C403.3.5, where the ERV/HRV has a minimum 68 percent sensible recovery or 60 percent enthalpy recovery heating effectiveness ((~~Exception 3 of Section C403.3.5.1 is not utilized~~)), and serving only spaces with year-round cooling loads from lights and equipment of less than 5 watts per square foot.
2. Unitary or packaged systems serving one zone with dehumidification that affect other systems so as to increase the overall building energy consumption. New humidification equipment shall comply with Section C403.3.2.7.
3. Unitary or packaged systems serving one zone where the cooling efficiency meets or exceeds the efficiency requirements in Table C403.5.
4. Equipment serving chilled beams and chilled ceiling space cooling systems only which are provided with a water economizer meeting the requirements of Section C403.5.4.
5. For Group R occupancies, cooling unit where the supply fan is not installed outside the *building thermal envelope* or in a *mechanical room* adjacent to outdoors with a total cooling capacity less than 20,000 Btu/h and other cooling units with a total cooling capacity less than 54,000 Btu/h provided that these are high-efficiency cooling equipment with IEER, CEER, SEER, and EER values more than 15 percent higher than minimum efficiencies listed in Tables C403.3.2(1), C403.3.2(2), C403.3.2(4), C403.3.2(8) and C403.3.2(9) or an IPLV kW/ton that is at least 15 percent lower than the minimum efficiencies listed in Table C403.3.2(3) or C403.3.2(15), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify for this exception. For split systems, compliance is based on the cooling capacity of individual fan coil units.
6. Equipment used to cool *Controlled Plant Growth Environments* provided these are high-efficiency cooling equipment with SEER, EER and IEER values a minimum of 20 percent greater than the values listed in Tables C403.3.2 (1), (3), (4), and (15).
7. Equipment serving a space with year-round cooling loads from lights and equipment of 5 watts per square foot or greater complying with the following criteria:
 - 7.1. Equipment serving the space utilizes chilled water as the cooling source; and
 - 7.2. The chilled water plant includes a condenser heat recovery system that meets the requirements of Section C403.9.5 or the building and water-cooled system meets the following requirements:
 - 7.2.1. A minimum of 90 percent (capacity-weighted) of the building space heat is provided by hydronic heating water.
 - 7.2.2. Chilled water plant includes a heat recovery chiller or water-to-water heat pump capable of rejecting heat from the chilled water system to the hydronic heating equipment capacity.
 - 7.2.3. Heat recovery chillers shall have a minimum COP of 7.0 when providing heating and cooling water simultaneously.
8. Water-cooled equipment served by systems meeting the requirements of Section C403.9.2.4 Condenser heat recovery.
9. Equipment used to cool any dedicated server room, electronic equipment room or telecom switch room provided the system complies with option a, b, or c in the table below. The total cooling capacity of all fan systems without economizers shall not exceed 240,000 Btu/h per building or 10 percent of its air economizer capacity, whichever is greater. This exception shall not be used for total building performance.
10. Dedicated outdoor air systems that include energy recovery as required by Section C403.7.6 but do not include mechanical cooling.
11. Dedicated outdoor air systems not required by Section C403.7.6 to include energy recovery that modulate the supply airflow to provide only the minimum outdoor air required by Section C403.2.2.1 for ventilation, exhaust air make-up, or other process air delivery.

	Equipment Type	Higher Equipment Efficiency	Part-Load Control	Economizer
Option a	Tables C403.3.2(1), C403.3.2(2) and C403.3.2(14) ^a	+15% ^b	Required over 85,000 Btu/h ^c	None Required
Option b	Tables C403.3.2(1), C403.3.2(2) and C403.3.2(14) ^a	+5% ^d	Required over 85,000 Btu/h ^c	Waterside Economizer ^e
Option c	ASHRAE Standard 127 ^f	+0% ^g	Required over 85,000 Btu/h ^c	Waterside Economizer ^e

Notes for Exception 9:

- ^aFor a system where all of the cooling equipment is subject to the AHRI standards listed in Tables C403.3.2(1), C403.3.2(2), and C403.3.2 (14), the system shall comply with all of the following (note that if the system contains any cooling equipment that exceeds the capacity limits in Table C403.3.2(1), C403.3.2(2), or C403.3.2 (14), or if the system contains any cooling equipment that is not included in Table C403.3.2(1), C403.3.2(2), or C403.3.2 (14), then the system is not allowed to use this option).
- ^bThe cooling equipment shall have an EER value and an IPLV value that is a minimum of 15 percent greater than the value listed in Tables C403.3.2(1), C403.3.2(2), and C403.3.2 (14).
- ^cFor units with a total cooling capacity over 85,000 Btu/h, the system shall utilize part-load capacity control schemes that are able to modulate to a part-load capacity of 50 percent of the load or less that results in the compressor operating at the same or higher EER at part loads than at full load (e.g., minimum of two-stages of compressor unloading such as cylinder unloading, two-stage scrolls, dual tandem scrolls, but hot gas bypass is not credited as a compressor unloading system).
- ^dThe cooling equipment shall have an EER value and an IPLV value that is a minimum of 5 percent greater than the value listed in Tables C403.3.2(1), C403.3.2(2), and C403.3.2 (14).
- ^eThe system shall include a water economizer in lieu of air economizer. Water economizers shall meet the requirements of C403.5.1 and C403.5.2 and be capable of providing the total concurrent cooling load served by the connected terminal equipment lacking airside economizer, at outside air temperatures of 50°F dry-bulb/45°F wet-bulb and below. For this calculation, all factors including solar and internal load shall be the same as those used for peak load calculations, except for the outside temperatures. The equipment shall be served by a dedicated condenser water system unless a nondedicated condenser water system exists that can provide appropriate water temperatures during hours when waterside economizer cooling is available.
- ^fFor a system where all cooling equipment is subject to ASHRAE Standard 127.
- ^gThe cooling equipment subject to the ASHRAE Standard 127 shall have an EER value and an IPLV value that is equal to or greater than the value listed in Tables C403.3.2(1), C403.3.2(2), and C403.3.2 (14) when determined in accordance with the rating conditions ASHRAE Standard 127 (i.e., not the rating conditions in AHRI Standard 210/240 or 340/360). This information shall be provided by an independent third party.

Table C403.5

**Equipment Efficiency Performance
Exception for Economizers**

Climate Zones	Efficiency Improvement ^a
4C	64%
5B	59%

^a If a unit is rated with an IPLV, IEER or SEER then to eliminate the required air or water economizer, the minimum cooling efficiency of the HVAC unit must be increased by the percentage shown. If the HVAC unit is only rated with a full load metric like EER or COP cooling, then these must be increased by the percentage shown.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-403610 Section C403.6.10—High efficiency VAV systems.

C403.6.10 High efficiency variable air volume (VAV) systems. For HVAC systems subject to the requirements of Section C403.3.5 but utilizing Exception 2 of that section, a high efficiency multiple-zone VAV system may be provided without a separate parallel DOAS when the system is designed, installed, and configured to comply with all of the following criteria (this exception shall not be used as a substitution for a DOAS per Section C406.6):

1. Each VAV system must serve a minimum of 3,000 square feet (278.7 m²) and have a minimum of five VAV zones.
2. The VAV systems are provided with airside economizer per Section C403.5 without exceptions.
3. A direct-digital control (DDC) system is provided to control the VAV air handling units and associated terminal units per Section C403.4.11 regardless of sizing thresholds of Table C403.4.11.1.
4. Multiple-zone VAV systems with a minimum outdoor air requirement of 2,500 cfm (1180 L/s) or greater shall be equipped with a device capable of measuring outdoor airflow intake under all load conditions. The system shall be capable of increasing or reducing the outdoor airflow intake based on feedback from the VAV terminal units as required by Section C403.6.5, without exceptions, and Section C403.7.1 demand controlled ventilation.
5. Multiple-zone VAV systems with a minimum outdoor air requirement of 2,500 cfm (1180 L/s) or greater shall be equipped with a device capable of measuring supply airflow to the VAV terminal units under all load conditions.
6. In addition to meeting the zone isolation requirements of C403.2.1 a single VAV air handling unit shall not serve more than 50,000 square feet (4645 m²) unless a single floor is greater than 50,000 square feet (4645 m²) in which case the air handler is permitted to serve the entire floor.
7. The primary maximum cooling air for the VAV terminal units serving interior cooling load driven zones shall be sized for a supply air temperature that is a minimum of 5°F greater than the supply air temperature for the exterior zones in cooling.
8. Air terminal units with a minimum primary airflow setpoint of 50 percent or greater of the maximum primary airflow setpoint shall be sized with an inlet velocity of no greater than 900 feet per minute.

9. (~~Allowable fan power~~) Fan system electrical input power (Fan kW_{design system}) shall not exceed 90 percent of the (~~allowable~~) fan power budget (Fan kW_{budget}) as defined by Section C403.8.1.1.

10. All fan powered VAV terminal units (series or parallel) shall be provided with electronically commutated motors. The DDC system shall be configured to vary the speed of the motor as a function of the heating and cooling load in the space. Minimum speed shall not be greater than 66 percent of design airflow required for the greater of heating or cooling operation. Minimum speed shall be used during periods of low heating and cooling operation and ventilation-only operation.

EXCEPTION: For series fan powered terminal units where the volume of primary air required to deliver the ventilation requirements at minimum speed exceeds the air that would be delivered at the speed defined above, the minimum speed setpoint shall be configured to exceed the value required to provide the required ventilation air.

11. Fan-powered VAV terminal units shall only be permitted at perimeter zones with an envelope heating load requirement. All other VAV terminal units shall be single duct terminal units.

EXCEPTION: Fan powered VAV terminal units are allowed at interior spaces with an occupant load greater than or equal to 25 people per 1000 square feet of floor area (as established in Table 403.3.1.1 of the *International Mechanical Code*) with demand control ventilation in accordance with Section C403.7.1.

12. When in occupied heating or in occupied deadband between heating and cooling all fan powered VAV terminal units shall be configured to reset the primary air supply setpoint, based on the VAV air handling unit outdoor air vent fraction, to the minimum ventilation airflow required per *International Mechanical Code*.

13. Spaces that are larger than 150 square feet (14 m²) and with an occupant load greater than or equal to 25 people per 1000 square feet (93 m²) of floor area (as established in Table 403.3.1.1 of the *International Mechanical Code*) shall be provided with all of the following features:

13.1. A dedicated VAV terminal unit capable of controlling the space temperature and minimum ventilation shall be provided.

13.2. Demand control ventilation (DCV) shall be provided that utilizes a carbon dioxide sensor to reset the ventilation setpoint of the VAV terminal unit from the design minimum to design maximum ventilation rate as required by Chapter 4 of the *International Mechanical Code*.

13.3. Occupancy sensors shall be provided that are configured to reduce the minimum ventilation rate to zero and setback room temperature setpoints by a minimum of 5°F, for both cooling and heating, when the space is unoccupied.

14. Dedicated data centers, computer rooms, electronic equipment rooms, telecom rooms, or other similar spaces with cooling loads greater than 5 watts/sf shall be provided with separate cooling systems to allow the VAV air handlers to turn off during unoccupied hours in the office space and to allow the supply air temperature reset to occur.

EXCEPTION: The VAV air handling unit and VAV terminal units may be used for secondary backup cooling when there is a failure of the primary HVAC system.

Additionally, computer rooms, electronic equipment rooms, telecom rooms, or other similar spaces shall be provided with airside economizer in accordance with Section 403.5 without using the exceptions to Section C403.5.

EXCEPTION: Heat recovery per Exception 9 of Section C403.5 may be in lieu of airside economizer for the separate, independent HVAC system.

15. HVAC system central heating or cooling plant will include a minimum of one of the following options:

15.1. VAV terminal units with hydronic heating coils connected to systems with hot water generation equipment limited to the following types of equipment: Gas-fired hydronic boilers with a thermal efficiency, E_t , of not less than 92 percent, air-to-water heat pumps or heat recovery chillers. Hydronic heating coils shall be sized for a maximum entering hot water temperature of 120°F (48.9°C) for peak anticipated heating load conditions.

15.2. Chilled water VAV air handling units connected to systems with chilled water generation equipment with IPLV values more than 25 percent higher than the minimum part load efficiencies listed in Table C403.3.2(3), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify. The smallest chiller or compressor in the central plant shall not exceed 20 percent of the total central plant cooling capacity or the chilled water system shall include thermal storage sized for a minimum of 20 percent of the total central cooling plant capacity.

16. The DDC system shall include a fault detection and diagnostics (FDD) system complying with the following:

16.1. The following temperature sensors shall be permanently installed to monitor system operation:

16.1.1. Outside air.

16.1.2. Supply air.

16.1.3. Return air.

16.2. Temperature sensors shall have an accuracy of $\pm 2^\circ\text{F}$ (1.1°C) over the range of 40°F to 80°F (4°C to 26.7°C).

16.3. The VAV air handling unit controller shall be configured to provide system status by indicating the following:

16.3.1. Free cooling available.

16.3.2. Economizer enabled.

16.3.3. Compressor enabled.

16.3.4. Heating enabled.

16.3.5. Mixed air low limit cycle active.

16.3.6. The current value of each sensor.

16.4. The VAV air handling unit controller shall be capable of manually initiating each operating mode so that the operation of compressors, economizers, fans and the heating system can be independently tested and verified.

16.5. The VAV air handling unit shall be configured to report faults to a fault management application able to be accessed by day-to-day operating or service personnel or annunciated locally on zone thermostats.

16.6. The VAV terminal unit shall be configured to report if the VAV inlet valve has failed by performing the following diagnostic check at a maximum interval of once a month:

16.6.1. Command VAV terminal unit primary air inlet valve closed and verify that primary airflow goes to zero.

16.6.2. Command VAV terminal unit primary air inlet valve to design airflow and verify that unit is controlling to within 10 percent of design airflow.

16.7. The VAV terminal unit shall be configured to report and trend when the zone is driving the following VAV air handling unit reset sequences. The building operator shall have the capability to exclude zones used in the reset sequences from the DDC control system graphical user interface:

16.7.1. Supply air temperature setpoint reset to lowest supply air temperature setpoint for cooling operation.

16.7.2. Supply air duct static pressure setpoint reset for the highest duct static pressure setpoint allowable.

16.8. The FDD system shall be configured to detect the following faults:

16.8.1. Air temperature sensor failure/fault.

16.8.2. Not economizing when the unit should be economizing.

16.8.3. Economizing when the unit should not be economizing.

16.8.4. Outdoor air or return air damper not modulating.

16.8.5. Excess outdoor air.

16.8.6. VAV terminal unit primary air valve failure.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40376 Section C403.7.6—Energy recovery ventilation systems.

C403.7.6 Energy recovery ventilation systems. Energy recovery ventilation systems shall be provided as specified in Sections C403.7.6.1 and C403.7.6.2.

C403.7.6.1 Ventilation for Group R-2 occupancy. For all Group R-2 dwelling and sleeping units, a balanced ventilation system with heat recovery system with minimum 60 percent sensible recovery effectiveness shall provide outdoor air directly to each habitable space in accordance with the *International Mechanical Code*. The ventilation system shall allow for the design flow rates to be tested and verified at each habitable space as part of the commissioning process in accordance with Section C408.2.2. The return/exhaust air stream temperature for heat recovery device selection shall be 70°F (21°C), or as calculated by the *registered design professional*.

EXCEPTION: Heat recovery and energy recovery ventilators (H/ERV) that are rated and listed in accordance with HVI 920 can demonstrate compliance with the sensible recovery effectiveness requirement using the adjusted sensible recovery effectiveness (ASRE) rating of the equipment at 32°F test conditions. Applied flow rate for ASRE rating shall be no less than the design flow rate or the closest value interpolated between two listed flow rates.

C403.7.6.2 Spaces other than Group R-2 dwelling units. Any system serving a space other than a Group R-2 dwelling or sleeping unit with minimum outside air requirements at design conditions greater than 5,000 cfm or any system where the system's supply airflow rate exceeds the value listed in Tables C403.7.6(1) and C403.7.6(2), based on the climate zone and percentage of outdoor airflow rate at design conditions, shall include an energy recovery system. Table C403.7.6(1) shall be used for all ventilation systems that operate less than 8,000 hours per year, and Table C403.7.6(2) shall be used for all ventilation systems that operate 8,000 hours or more per year. The energy recovery system shall provide a 68 percent minimum sensible recovery effectiveness or have an *enthalpy recovery ratio* of not less than 60 percent at design conditions. Where an air economizer is required, the energy recovery system shall include a bypass of the energy recovery media for both the outdoor air and exhaust air or return air dampers and controls which permit operation of the air economizer as required by Section C403.5. Where a single room or space is supplied by multiple units, the aggregate ventilation (cfm) of those units shall be used in applying this requirement. The return/exhaust air stream tem-

perature for heat recovery device selection shall be 70°F (21°C) at 30 percent relative humidity, or as calculated by the registered design professional.

EXCEPTION:

- An energy recovery ventilation system shall not be required in any of the following conditions:
1. Where energy recovery systems are restricted per Section 514 of the *International Mechanical Code* to sensible energy, recovery shall comply with one of the following:
 - 1.1. Kitchen exhaust systems where they comply with Section C403.7.7.1.
 - 1.2. Laboratory fume hood systems where they comply with Exception 2 of Section C403.7.6.
 - 1.3. Other sensible energy recovery systems with the capability to provide a change in dry-bulb temperature of the outdoor air supply of not less than 50 percent of the difference between the outdoor air and the return air dry-bulb temperatures, at design conditions.
 2. Laboratory fume hood systems that include at least one of the following features and also comply with Section C403.7.7.2:
 - 2.1. Variable-air-volume hood exhaust and room supply systems configured to reduce exhaust and makeup air volume to 50 percent or less of design values.
 - 2.2. Direct makeup (auxiliary) air supply equal to at least 75 percent of the exhaust rate, heated no warmer than 2°F (1.1°C) above room setpoint, cooled to no cooler than 3°F (1.7°C) below room setpoint, no humidification added, and no simultaneous heating and cooling used for dehumidification control.
 3. Systems serving spaces that are heated to less than 60°F (15.5°C) and are not cooled.
 4. Where more than 60 percent of the outdoor air heating energy is provided from site-recovered energy.
 5. Systems exhausting toxic, flammable, paint or corrosive fumes or dust.
 6. Cooling energy recovery.
 7. Systems requiring dehumidification that employ energy recovery in series with the cooling coil.
 8. Multiple-zone systems where the supply airflow rate is less than the values specified in Tables C403.7.6 (1) and (2), for the corresponding percent of outdoor air. Where a value of NR is listed, energy recovery shall not be required.
 9. Equipment which meets the requirements of Section C403.9.2.4.
 10. Systems serving Group R-1 dwelling or sleeping units where the largest source of air exhausted at a single location at the building exterior is less than 25 percent of the design outdoor air flow rate.

**Table C403.7.6(1)
Energy Recovery Requirement
(Ventilation systems operating less than 8,000 hours per year)**

Percent (%) Outdoor Air at Full Design Airflow Rate								
Climate zone	≥ 10% and < 20%	≥ 20% and < 30%	≥ 30% and < 40%	≥ 40% and < 50%	≥ 50% and < 60%	≥ 60% and < 70%	≥ 70% and < 80%	≥ 80%
Design Supply Fan Airflow Rate (cfm)								
4C, 5B	NR	NR	NR	NR	NR	NR	≥ 5000	≥ 5000

NR = Not required.

**Table C403.7.6(2)
Energy Recovery Requirement
(Ventilation systems operating not less than 8,000 hours per year)**

Percent (%) Outdoor Air at Full Design Airflow Rate								
Climate zone	≥ 10% and < 20%	≥ 20% and < 30%	≥ 30% and < 40%	≥ 40% and < 50%	≥ 50% and < 60%	≥ 60% and < 70%	≥ 70% and < 80%	≥ 80%
Design Supply Fan Airflow Rate (cfm)								
4C	NR	≥ 19500	≥ 9000	≥ 5000	≥ 4000	≥ 3000	≥ 1500	≥ 120
5B	≥ 2500	≥ 2000	≥ 1000	≥ 500	≥ 140	≥ 120	≥ 100	≥ 80

NR = Not required.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-4038 Section C403.8—Fan and fan controls.

C403.8 Fan and fan controls. Fans in HVAC systems shall comply with Sections C403.8.1 through C403.8.5.1.

The airflow requirements of Section C403.8.5.1 shall apply to all fan motors. Low capacity ventilation fans shall also comply with Section C403.8.4.

C403.8.1 Fan System. Each fan system that includes at least one fan or fan array with fan electrical input power ≥ 1 kW, moving air into, out

of, or between conditioned spaces or circulating air for the purpose of conditioning air within a space shall comply with Sections C403.8.1.1 through C403.8.1.2.

C403.8.1.1 Determining fan power budget. For each *fan system*, the *fan system electrical input power* (Fan kW_{design,system}) determined in accordance with Section C403.8.1.2 at the *fan system airflow* shall not exceed Fan kW_{budget}. Calculate fan power budget (Fan kW_{budget}) for each *fan system* as follows:

1. Determine the *fan system airflow* and choose the appropriate table(s) for fan power allowance.

1.1. For *single-cabinet fan systems*, use the *fan system airflow* and the power allowances in both Table C403.8.1.1(1) and Table C403.8.1.1(2).

1.2. For *supply-only fan systems*, use the *fan system airflow* and power allowances in Table C403.8.1.1(1).

1.3. For *relief fan systems*, use the design relief airflow and the power allowances in Table C403.8.1.1(2).

1.4. For exhaust, return and transfer *fan systems*, use the *fan system airflow* and the power allowances in Table C403.8.1.1(2).

1.5. For complex and DOAS with energy recovery *fan systems*, separately calculate the *fan power allowance* for the supply and return/exhaust systems and sum them. For the supply airflow, use supply airflow at the *fan system* design conditions, and the power allowances in Table C403.8.1.1(1). For the return/exhaust airflow, use return/exhaust airflow at the *fan system* design conditions, and the power allowances in Table C403.8.1.1(2).

2. For each *fan system*, determine the components included in the fan system and sum the fan power allowances of those components. All fan systems shall include the system base allowance. If, for a given component, only a portion of the fan system airflow passes through the component, calculate the fan power allowance for that component in accordance with Equation 4-11:

(Equation 4-11)

$$FPA_{adj} = (Q_{comp}/Q_{sys}) \times FPA_{comp}$$

Where:

- FPA_{adj} = The corrected fan power allowance for the component in W/cfm.
- Q_{comp} = The airflow through component in cfm.
- Q_{sys} = The *fan system airflow* in cfm.
- FPA_{comp} = The fan power allowance of the component from Table C403.8.1.1(1) or Table C403.8.1.1(2).

3. Multiply the *fan system airflow* by the sum of the fan power allowances for the *fan system*.

4. Divide by 1,000 to convert to Fan kW_{budget}.

5. For building sites at elevations greater than 3,000 feet, multiply Fan kW_{budget} by 0.896.

**Table C403.8.1.1(1)
Supply Fan Power Allowances (W/CFM)**

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other <i>Fan Systems</i> ≤ 5,000 cfm	All Other <i>Fan Systems</i> > 5,000 and ≤ 10,000 cfm	All Other <i>Fan Systems</i> > 10,000 cfm
Supply system base allowance for AHU serving spaces ≤ 6 floors away	0.395	0.453	0.413	0.232	0.256	0.236
Supply system base allowance for AHU serving spaces > 6 floors away	0.508	0.548	0.501	0.349	0.356	0.325
MERV 13 to MERV 16 Filter upstream of thermal conditioning equipment (two-times the clean filter pressure drop) ^b	0.136	0.114	0.105	0.139	0.120	0.107
MERV 13 to MERV 16 Final filter downstream of thermal conditioning equipment (two-times the clean filter pressure drop) ^b	0.225	0.188	0.176	0.231	0.197	0.177
Filtration allowance for > MERV 16 or HEPA Filter (two-times the clean filter pressure drop) ^b	0.335	0.280	0.265	0.342	0.292	0.264
Central hydronic heating coil allowance	0.046	0.048	0.052	0.046	0.050	0.054
Electric heat allowance	0.046	0.038	0.035	0.046	0.040	0.036
Gas heat allowance	0.069	0.057	0.070	0.058	0.060	0.072
Hydronic/DX cooling coil or heat pump coil (wet) allowance ^c	0.135	0.114	0.105	0.139	0.120	0.107
Solid or liquid desiccant system allowance	0.157	0.132	0.123	0.163	0.139	0.124
Reheat coil for dehumidification allowance	0.045	0.038	0.035	0.046	0.040	0.036

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other Fan Systems ≤ 5,000 cfm	All Other Fan Systems > 5,000 and ≤ 10,000 cfm	All Other Fan Systems > 10,000 cfm
Allowance for evaporative humidifier/ cooler in series with a cooling coil. Value shown is allowed W/cfm per 1.0 inches of water gauge (in.w.g.). Determine pressure loss (in.w.g.) at 400 fpm or maximum velocity allowed by the manufacturer, whichever is less ^d	0.224	0.188	0.176	0.231	0.197	0.177
Allowance for 100% Outdoor air system ^e	0.000	0.000	0.000	0.070	0.100	0.107
Energy recovery allowance for 0.50 ≤ ERR < 0.55 ^f	0.135	0.114	0.105	0.139	0.120	0.107
Energy recovery allowance for 0.55 ≤ ERR < 0.60 ^f	0.160	0.134	0.124	0.165	0.141	0.126
Energy recovery allowance for 0.60 ≤ ERR < 0.65 ^f	0.184	0.155	0.144	0.190	0.163	0.146
Energy recovery allowance for 0.65 ≤ ERR < 0.70 ^f	0.208	0.175	0.163	0.215	0.184	0.165
Energy recovery allowance for 0.70 ≤ ERR < 0.75 ^f	0.232	0.196	0.183	0.240	0.205	0.184
Energy recovery allowance for 0.75 ≤ ERR < 0.80 ^f	0.257	0.216	0.202	0.264	0.226	0.203
Energy recovery allowance for ERR ≥ 0.80 ^f	0.281	0.236	0.222	0.289	0.247	0.222
Coil runaround loop	0.135	0.114	0.105	0.139	0.120	0.107

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other Fan Systems ≤ 5,000 cfm	All Other Fan Systems > 5,000 and ≤ 10,000 cfm	All Other Fan Systems > 10,000 cfm
Allowance for Gas phase filtration required by code or accredited standard. Value shown is allowed W/cfm per 1.0 in. wg air pressure drop ^d	0.224	0.188	0.176	0.231	0.197	0.177
Economizer damper return	0.045	0.038	0.035	0.046	0.040	0.036
Air blender allowance	0.045	0.038	0.035	0.046	0.040	0.036
Sound attenuation section [fans serving spaces with design background noise goals below NC35]	0.034	0.029	0.026	0.035	0.030	0.027
Deduction for systems that feed a terminal unit with a fan with electrical input power < 1kW	-0.100	-0.100	-0.100	-0.100	-0.100	-0.100
Low-turndown single-zone VAV fan systems ^g	0.000	0.000	0.000	0.070	0.100	0.089

- ^a See definition of FAN SYSTEM, MULTI-ZONE VARIABLE AIR VOLUME (VAV).
- ^b Filter fan power allowance can only be counted once per fan system, except fan systems in health care facilities, which can claim one of the MERV 13 to 16 filter allowances and the HEPA filter allowance if both are included in the fan system.
- ^c Health care facilities can claim this fan power allowance twice per fan system where coil design leaving air temperature is less than 44°F.
- ^d Power allowance requires further calculation by multiplying the actual inches of water gauge (in.w.g.) of the device/component by the w/cfm in Table C403.8.1(1).
- ^e The 100% outdoor air system must serve 3 or more HVAC zones and airflow during noneconomizer operating periods must comply with Section C403.2.2.1.
- ^f Enthalpy Recovery Ratio (ERR) calculated per ANSI/ASHRAE 84-2020.
- ^g A low-turndown single-zone VAV fan system must be capable of and configured to reduce airflow to 50 percent of design airflow and use no more than 30 percent of the design wattage at that airflow. No more than 10 percent of the design load served by the equipment shall have fixed loads.

**Table C403.8.1.1(2)
Exhaust, Return, Relief, Transfer Fan Power Allowances (W/CFM)**

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other Fan Systems ≤ 5,000 cfm	All Other Fan Systems > 5,000 and ≤ 10,000 cfm	All Other Fan Systems > 10,000 cfm
Exhaust system base allowance	0.221	0.246	0.236	0.186	0.184	0.190
Filter (any MERV value) ^b	0.046	0.041	0.036	0.046	0.041	0.035
Energy recovery allowance for 0.50 ≤ ERR < 0.55 ^c	0.139	0.120	0.107	0.139	0.123	0.109

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other Fan Systems ≤ 5,000 cfm	All Other Fan Systems > 5,000 and ≤ 10,000 cfm	All Other Fan Systems > 10,000 cfm
Energy recovery allowance for 0.55 ≤ ERR <0.60 ^c	0.165	0.142	0.126	0.165	0.144	0.128
Energy recovery allowance for 0.60 ≤ ERR <0.65 ^c	0.190	0.163	0.146	0.191	0.166	0.148
Energy recovery allowance for 0.65 ≤ ERR <0.70 ^c	0.215	0.184	0.165	0.216	0.188	0.167
Energy recovery allowance for 0.70 ≤ ERR <0.75 ^c	0.240	0.206	0.184	0.241	0.209	0.186
Energy recovery allowance for 0.75 ≤ ERR <0.80 ^c	0.265	0.227	0.203	0.266	0.231	0.205
Energy recovery allowance for ERR ≥ 0.80 ^c	0.289	0.248	0.222	0.291	0.252	0.225
Coil runaround loop	0.139	0.120	0.107	0.139	0.123	0.109
Return or exhaust systems required by code or accreditation standards to be fully ducted, or systems required to maintain air pressure differentials between adjacent rooms	0.116	0.100	0.089	0.116	0.102	0.091
Return and/or exhaust airflow control devices	0.116	0.100	0.089	0.116	0.102	0.091
Laboratory and vivarium exhaust systems in high-rise buildings in vertical duct exceeding 75 ft. Value shown is allowed W/cfm per 0.25 in. wg for each 100 feet exceeding 75 feet ^d	0.058	0.051	0.045	0.058	0.052	0.046

Airflow	Multi-Zone VAV Systems ^a ≤ 5,000 cfm	Multi-Zone VAV Systems ^a > 5,000 and ≤ 10,000 cfm	Multi-Zone VAV Systems ^a > 10,000 cfm	All Other Fan Systems ≤ 5,000 cfm	All Other Fan Systems > 5,000 and ≤ 10,000 cfm	All Other Fan Systems > 10,000 cfm
Biosafety cabinet. Value shown is allowed W/cfm per 1.0 in. wg air pressure drop ^d	0.231	0.198	0.177	0.232	0.202	0.179
Exhaust filters, scrubbers, or other exhaust treatment required by code or standard. Value shown is allowed W/cfm per 1.0 in. wg air pressure drop ^d	0.231	0.198	0.177	0.232	0.202	0.179
Health care facility allowance ^e	0.231	0.198	0.177	0.232	0.202	0.179
Sound attenuation section [Fans serving spaces with design background noise goals below NC35.]	0.035	0.030	0.027	0.035	0.031	0.028

- ^a See definition of FAN SYSTEM, MULTI-ZONE VARIABLE AIR VOLUME (VAV) to be classified as a Multi-Zone VAV System.
- ^b Filter pressure loss can only be counted once per fan system.
- ^c Enthalpy Recovery Ratio (ERR) calculated per ANSI/ASHRAE 84-2020.
- ^d Power allowance requires further calculation, multiplying the actual pressure drop (in. wg) of the device/component by the W/cfm in the Table C403.8.1(2).
- ^e This allowance can only be taken for health care facilities.

C403.8.1.2 Determining Fan System Electrical Input Power (Fan kW_{design,system}). *Fan kW_{design,system}* is the sum of *Fan kW_{design}* for each fan or fan array included in the *fan system*. If variable speed drives are used, their efficiency losses shall be included. Fan input power shall be calculated with two-times the clean filter pressure drop. The *Fan kW_{design}* for each fan or fan array shall be determined using one of the following methods. There is no requirement to use the same method for all fans in a *fan system*:

1. Use the default *Fan kW_{design}* in Table C403.8.1.2 for one or more of the fans. This method cannot be used for *complex fan systems*.
2. Use the *Fan kW_{design}* at *fan system design conditions* provided by the manufacturer of the fan, fan array, or equipment that includes the fan or fan array calculated per a test procedure included in 10 C.F.R. Part 430, 10 C.F.R. Part 431, ANSI/AMCA 208, ANSI/AMCA S210, AHRI 430, AHRI 440, or ISO 5801.
3. Use the *Fan kW_{design}* provided by the manufacturer, calculated at *fan system design conditions* per one of the methods listed in Section 5.3 of ANSI/AMCA 208.
4. Determine the *Fan kW_{design}* by using the maximum electrical input power provided on the motor nameplate.

Table C403.8.1.2

Default Values for Fan kW_{design} Based on Motor Nameplate HP^{a,b}

Motor Nameplate HP	Default <i>Fan kW_{design}</i> with variable speed drive (Fan kW _{design})	Default <i>Fan kW_{design}</i> without variable speed drive (Fan kW _{design})
<1	0.96	0.89
≥1 and <1.5	1.38	1.29
≥1.5 and <2	1.84	1.72
≥2 and <3	2.73	2.57
≥3 and <5	4.38	4.17
≥5 and <7.5	6.43	6.15
≥7.5 and <10	8.46	8.13
≥10 and <15	12.4	12.0
≥15 and <20	16.5	16.0
≥20 and <25	20.5	19.9
≥25 and <30	24.5	23.7
≥30 and <40	32.7	31.7
≥40 and <50	40.7	39.4
≥50 and <60	48.5	47.1
≥60 and <75	60.4	58.8
≥75 and ≤100	80.4	78.1

^a This table cannot be used for motor nameplate horsepower values greater than 100.

^b This table is to be used only with motors with a service factor ≤1.15. If the service factor is not provided, this table may not be used.

C403.8.2 Motor nameplate horsepower. For each fan, the selected fan motor shall be no larger than the first available motor size greater than the brake horsepower (bhp). The fan brake horsepower (bhp) shall be indicated on the design documents to allow for compliance verification by the *code official*.

EXCEPTIONS:

1. For fans less than 6 bhp (4476 W), where the first available motor larger than the brake horsepower has a nameplate rating within 50 percent of the bhp, selection of the next larger nameplate motor size is allowed.
2. For fans 6 bhp (4476 W) and larger, where the first available motor larger than the bhp has a nameplate rating within 30 percent of the bhp, selection of the next larger nameplate motor size is allowed.
3. For fans used only in *approved* life safety applications such as smoke evacuation.
4. Fans with motor nameplate horsepower less than 1 hp or fans with a fan motor nameplate electrical input power of less than 0.89 kW.
5. Fans equipped with electronic speed control devices to vary the fan airflow as a function of load.

C403.8.3 Fan efficiency. Each fan and *fan array* shall have a *fan energy index (FEI)* of not less than 1.00 at the design point of operation, as determined in accordance with AMCA 208 by an *approved*, independent testing laboratory and labeled by the manufacturer. Each fan and *fan array* used for a variable-air volume system shall have an *FEI* of not less than 0.95 at the design point of operation as determined in accordance with AMCA 208 by an *approved*, independent testing laboratory and labeled by the manufacturer. The *FEI* for *fan arrays* shall be calculated in accordance with AMCA 208 Annex C.

EXCEPTION:

1. The following fans are not required to have a fan energy index:
 1. Fans that are not *embedded ((fans)) fans* with motor nameplate horsepower of less than 1.0 hp (0.75 kW) or with a nameplate electrical input power of less than 0.89 kW.
 2. *Embedded fans* that have a motor nameplate horsepower of 5 hp (3.7 kW) or less or with a fan system electrical input power of 4.1 kW or less.
 3. Multiple fans operated in series or parallel as the functional equivalent of a single fan that have a combined motor nameplate horsepower of 5 hp (3.7 kW) or less or with a fan system electrical input power of 4.1 kW or less.
 4. Fans that are part of equipment covered under Section C403.3.2.
 5. Fans included in an equipment package certified by an *approved agency* for air or energy performance.
 6. *Ceiling fans*.
 7. Fans used for moving gases at temperatures above ((425)) 482°F (250°C).
 8. Fans used for operation in explosive atmospheres.
 9. Reversible fans used for tunnel ventilation.
 10. Fans that are intended to operate only during emergency conditions.
 11. Fans outside the scope of AMCA 208.

C403.8.4 Low-capacity ventilation fans. Mechanical ventilation system fans with motors less than 1/12 hp (0.062 kW) in capacity shall meet the efficacy requirements of Table C403.8.4 at one or more rating points.

- EXCEPTIONS:
1. Where ventilation fans are a component of a listed heating or cooling appliance.
 2. Dryer exhaust duct power ventilators and domestic range booster fans that operate intermittently.

**Table C403.8.4
Low-Capacity Ventilation Fan Efficacy^a**

Fan Location	Airflow Rate Minimum (cfm)	Minimum Efficacy (cfm/watt)	Airflow Rate Maximum (cfm)
HRV or ERV	Any	1.2 cfm/watt	Any
Range hood	Any	2.8 cfm/watt	Any
In-line fan	Any	3.8 cfm/watt	Any
Bathroom, utility room	10	2.8 cfm/watt	< 90
Bathroom, utility room	90	3.5 cfm/watt	Any

For SI: 1 cfm/ft = 47.82 W.

^a Airflow shall be tested in accordance with HVI 916 and listed. Efficacy shall be listed or shall be derived from listed power and airflow. Fan efficacy for fully ducted HRV, ERV, balanced and in-line fans shall be determined at a static pressure not less than 0.2 inch w.c. Fan efficacy for ducted range hoods, bathroom, and utility room fans shall be determined at a static pressure not less than 0.1 inch w.c.

C403.8.5 Fan controls. Controls shall be provided for fans in accordance with Section C403.8.5.1 and as required for specific systems provided in Section C403.

C403.8.5.1 Fan airflow control. Each cooling system listed in Table C403.8.5.1 shall be designed to vary the indoor fan airflow as a function of load and shall comply with the following requirements:

1. Direct expansion (DX) and chilled water cooling units that control the capacity of the mechanical cooling directly based on space temperature shall have not fewer than two stages of fan control. Low or minimum speed shall not be greater than 66 percent of full speed. At low or minimum speed, the fan system shall draw not more than 40 percent of the fan power at full fan speed. Low or minimum speed shall be used during periods of low cooling load and ventilation-only operation.

2. Other units including DX cooling units and chilled water units that control the space temperature by modulating the airflow to the space shall have modulating fan control. Minimum speed shall be not greater than 50 percent of full speed. At minimum speed, the fan system shall draw no more than 30 percent of the power at full fan speed. Low or minimum speed shall be used during periods of low cooling load and ventilation-only operation.

3. Units that include an airside economizer in accordance with Section C403.5 shall have not fewer than two speeds of fan control during economizer operation.

- EXCEPTIONS:
1. Modulating fan control is not required for chilled water and evaporative cooling units with fan motors of less than 1 hp (0.746 kW) where the units are not used to provide ventilation air and the indoor fan cycles with the load.
 2. Where the volume of outdoor air required to comply with the ventilation requirements of the *International Mechanical Code* at low speed exceeds the air that would be delivered at the minimum speed defined in Section C403.8.5, the minimum speed shall be selected to provide the required ventilation air.

**Table C403.8.5.1
Fan Control**

Cooling System Type	Fan Motor Size	Mechanical Cooling Capacity
DX cooling	Any	≥ 42,000 Btu/h

Cooling System Type	Fan Motor Size	Mechanical Cooling Capacity
Chilled water and evaporative cooling	≥ 1/4 hp	Any

C403.8.6 Large-diameter ceiling fans. Where provided, *large-diameter ceiling fans* shall be tested and labeled in accordance with AMCA 230.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40410 Section C404.11—Pools and spas.

C404.11 Energy consumption of pools and permanent spas. The energy consumption of pools and permanent spas shall be controlled by the requirements in Sections C404.11.1 through C404.11.4.

C404.11.1 Heaters. Pool water heaters using electric resistance heating as the primary source of heat are prohibited for pools over 2,000 gallons. Heat pump pool heaters shall have a minimum COP of 4.0 at 50°F (10°C) db, 44.2°F (6.8°C) wb outdoor air and 80°F (27°C) entering water, determined in accordance with AHRI 1160. Other pool heating equipment shall comply with the applicable efficiencies in Section C404.2.

The electric power to all heaters shall be controlled by an on-off switch that is an integral part of the heater, mounted on the exterior of the heater, or external to and within 3 feet of the heater in a location with *ready access*. Operation of such switch shall not change the setting of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with constant burning pilot lights.

C404.11.2 Time switches. Time switches or other control method that can automatically turn off and on heaters and pump motors according to a preset schedule shall be installed for heaters and pump motors. Heaters and pump motors that have built-in time switches shall be in compliance with this section.

EXCEPTIONS:
 1. Where public health standards require 24-hour pump operation.
 2. Pumps that operate solar- and waste-heat-recovery pool heating systems.

C404.11.3 Covers. Heated pools and permanent spas shall be provided with a vapor-retardant cover on or at the water surface. Pools heated to more than 90°F shall have a pool cover with a minimum insulation value of R-12, and the sides and bottom of the pool shall also have a minimum insulation value of R-12.

C404.11.4 Heat recovery. Heated indoor swimming pools, spas or hot tubs with water surface area greater than 200 square feet shall provide for energy conservation by an exhaust air heat recovery system that heats ventilation air, pool water or domestic hot water. The heat recovery system shall be configured to decrease the exhaust air temperature at design heating conditions (80°F indoor) by 36°F (10°C).

EXCEPTION: Pools, spas or hot tubs that include system(s) that provide equivalent recovered energy on an annual basis through one of the following methods:
 1. Solar water heating systems not claimed in Section ((C406.5)) C406.2.5 or C407;
 2. Dehumidification heat recovery;
 3. Waste heat recovery; or

4. A combination of these system sources capable of and configured to provide at least 70 percent of the heating energy required over an operating season.

C404.12 Portable spas. The energy consumption of electric-powered portable spas shall be controlled by the requirements of APSP 14.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-405021 Section C405.2.1—Occupant sensor controls.

C405.2.1 Occupant sensor controls. Occupant sensor controls shall be installed to control luminaires in the space types listed in Table C405.2.1, and shall comply with the requirements listed in the table.

EXCEPTIONS: 1. Corridors in manufacturing facilities.
 2. *General lighting* and task lighting in shop and laboratory classrooms.
 3. Luminaires that are required to have specific application controls in accordance with Section C405.2.6 unless specifically required to comply with this section by Section C405.2.6.

**Table ((C405.4.2(1))) C405.2.1
 ((Interior Lighting Power Allowances Building Area Method)) Occupant
 Sensor Compliance Requirements for Space Types**

Space Type	Comply with Section
Classrooms/lecture/training rooms	C405.2.1.1
Conference/meeting/multipurpose rooms	C405.2.1.1
Copy/print rooms	C405.2.1.1
Lounge/breakrooms	C405.2.1.1
Enclosed offices	C405.2.1.1
Open plan office areas	C405.2.1.3
Restrooms	C405.2.1.1
Storage rooms	C405.2.1.1
Locker rooms	C405.2.1.1
Other spaces 300 square feet (28 m ²) or less that are enclosed by floor-to-ceiling height partitions	C405.2.1.1
Warehouse storage areas	C405.2.1.2
Library stacks	C405.2.1.2
Enclosed fire rated stairways	C405.2.1.5
Corridors	C405.2.1.6

C405.2.1.1 Occupant sensor control function. Occupant sensor controls for the space types listed in Section C405.2.1 shall comply with all of the following:

1. They shall be configured to automatically turn off lights within 20 minutes of all occupants leaving the space.
2. They shall be manual on or configured to automatically turn the lighting on to not more than 50 percent power.
3. They shall incorporate a manual control to allow occupants to turn lights off.

EXCEPTION: Full automatic-on controls with no manual control shall be permitted in corridors, interior parking areas, stairways, restrooms, locker rooms, library stacks, lobbies, and areas where manual operation would endanger occupant safety or security.

~~((4. They shall incorporate a manual control to allow occupants to turn lights off.))~~

C405.2.1.2 Occupant sensor control function in warehouse storage areas and library stacks. Lighting in library stacks and warehouse storage areas shall be controlled as follows.

1. Lighting in each aisleway shall be controlled independently of lighting in all other aisleways and open areas.

2. Occupant sensors shall automatically reduce lighting power within each controlled area to an unoccupied setpoint of not more than 50 percent within 20 minutes after all occupants have left the controlled area.

3. Lights which are not turned off by occupant sensors shall be turned off by time schedule sweep to turn lighting off within 20 minutes of all occupants leaving the space, or comply with Section C405.2.2 to turn lighting off when the building is vacant.

4. Restore lighting to full power or target light level when occupants enter the space.

5. A *manual* control shall be provided to allow occupants to turn off lights in the space.

C405.2.1.3 Occupant sensor control function in open plan office areas.

Occupant sensor controls in open plan office spaces less than 300 square feet (28 m²) in area shall comply with Section C405.2.1.1. Occupant sensor controls in all other open plan office spaces shall be configured to comply with all of the following:

1. *General lighting* is controlled separately in control zones with floor areas not greater than 600 square feet (55 m²) within the open plan office space.

2. *General lighting* in each control zone shall be permitted to automatically turn on upon occupancy within the control zone. *General lighting* in other unoccupied zones within the open plan office space shall be permitted to turn on to not more than 20 percent of full power or remain unaffected.

3. Automatically turn off *general lighting* in all control zones within 20 minutes after all occupants have left the open plan office space.

4. *General lighting* in each control zone shall turn off or uniformly reduce lighting power to an unoccupied setpoint of not more than 20 percent of full power within 20 minutes after all occupants have left the control zone.

5. Lighting controls in open plan office areas larger than 5,000 square feet must also comply with Section C405.2.8.

C405.2.1.4 Occupant sensor control function in enclosed fire rated stairways.

Occupant sensor controls shall be configured to automatically reduce lighting power by not less than 50 percent when no occupants have been detected in the stairway for a period not exceeding 20 minutes and restore lighting to full power when occupants enter the stairway. All portions of stairways shall remain illuminated to meet the requirements of Sections ~~(1009)~~ 1008 and 1025 of the *International Building Code* when the lighting power is reduced.

C405.2.1.5 Occupant sensor control function in corridors. Occupant sensor controls in *corridors* shall uniformly reduce lighting power to an unoccupied setpoint of not more than 50 percent of full power within 20 minutes after all occupants have left the space.

EXCEPTION: *Corridors* provided with less than two foot-candles of illumination on the floor at the darkest point with all lights on.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-405024 Section C405.2.4—Light-reduction controls.

C405.2.4 Light-reduction controls. Where not provided with occupant sensor controls complying with Section C405.2.1.1, *general lighting* shall be provided with light-reduction controls complying with Section C405.2.4.1.

EXCEPTIONS:

1. Luminaires controlled by daylight responsive controls complying with Section C405.2.5.
2. Luminaires controlled by ((special)) specific application controls complying with Section C405.2.6.
3. Where provided with manual control, the following areas are not required to have light reduction control:
 - 3.1. Spaces that have only one luminaire with a rated power of less than 60 watts.
 - 3.2. Spaces that use less than 0.45 watts per square foot (4.9 W/m²).
 - 3.3. Corridors, lobbies, electrical rooms and/or mechanical rooms.

C405.2.4.1 Light-reduction control function. *Manual* controls shall be configured to provide light-reduction control that allows the occupant to reduce the connected lighting load by not less than 50 percent in a ((reasonable)) reasonably uniform illumination pattern with an intermediate step in addition to full on or off, or with continuous dimming control, by using one of the following or another *approved* method:

1. Continuous dimming of all luminaires from full output to less than 20 percent of full power.
2. Switching all luminaires to a reduced output of not less than 30 percent and not more than 70 percent of full power.
3. Switching alternate rows of luminaires or alternate luminaires to achieve a reduced output of not less than 30 percent and not more than 70 percent of full power.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-405025 Section C405.2.5—Daylight responsive controls.

C405.2.5 Daylight responsive controls. *Daylight responsive controls* complying with Section C405.2.5.1 shall be provided to control the *general lighting* within *daylight zones* in the following spaces:

1. Spaces with a total of more than 75 watts of *general lighting* within *primary sidelit daylight zones* complying with Section C405.2.5.2.
2. Spaces with a total of more than 150 watts of *general lighting* within the combined *primary* and *secondary daylight zones* complying with Section C405.2.5.2.
3. Spaces with a total of more than 75 watts of *general lighting* within *toplit daylight zones* complying with Section C405.2.5.3.

EXCEPTION: *Daylight responsive controls* are not required for the following:

1. Spaces in health care facilities where patient care is directly provided.
2. Sidelit daylight zones on the first floor above grade in Group A-2 and Group M occupancies where the fenestration adjoins a sidewalk or other outdoor pedestrian area, provided that the light fixtures are controlled separately from the general area lighting.

C405.2.5.1 Daylight responsive controls function. Where required, daylight responsive controls shall be provided within each space for control of lights in that space and shall comply with all of the following:

1. Lights in primary sidelit daylight zones shall be controlled independently of lights in secondary sidelit daylight zones in accordance with Section C405.2.5.2.

2. Lights in toplit daylight zones in accordance with Section C405.2.5.3 shall be controlled independently of lights in sidelit daylight zones in accordance with Section C405.2.5.2.

3. *Daylight responsive controls* within each space shall be configured so that they can be calibrated from within that space by authorized personnel.

4. Calibration mechanisms shall be in a location with *ready access*.

5. *Daylight responsive controls* shall dim lights continuously from full light output to 15 percent of full light output or lower.

6. *Daylight responsive controls* shall be configured to completely shut off all controlled lights in that zone.

7. When occupant sensor controls have reduced the lighting power to an unoccupied setpoint in accordance with Sections C405.2.1.2 through C405.2.1.4, *daylight responsive controls* shall continue to adjust electric light levels in response to available daylight but shall be configured to not increase the lighting power above the specified unoccupied setpoint.

8. Lights in sidelit daylight zones in accordance with Section C405.2.5.2 facing different cardinal orientations (i.e., within 45 degrees of due north, east, south, west) shall be controlled independently of each other.

EXCEPTION: Up to 75 watts of *general lighting* are permitted to be controlled together with lighting in a daylight zone facing a different cardinal orientation.

9. Incorporate time-delay circuits to prevent cycling of light level changes of less than three minutes.

10. The maximum area a single *daylight responsive control* device serves shall not exceed 2,500 square feet (232 m²).

11. Occupant override capability of daylight dimming controls is not permitted, other than a reduction of light output from the level established by the daylighting controls.

C405.2.5.1.1 Dimming. *Daylight responsive controls* shall be configured to automatically reduce the power of *general lighting* in the daylight zone in response to available daylight, while maintaining *uniform illumination* in the space through one of the following methods:

1. Continuous dimming using dimming ballasts/dimming drivers and daylight-sensing controls. The system shall reduce lighting power continuously to less than 15 percent of rated power at maximum light output.

2. Stepped dimming using multi-level switching and daylight-sensing controls. The system shall provide a minimum of two steps of uniform illumination between 0 percent and 100 percent of rated power at maximum light output. Each step shall be in equal increments of power, plus or minus 10 percent.

General lighting within daylight zones in offices, classrooms, laboratories, and library reading rooms shall use the continuous dimming method. Stepped dimming is not allowed as a method of daylight zone control in these spaces.

C405.2.5.2 Sidelit daylight zone. The sidelit daylight zone is the floor area adjacent to vertical *fenestration* which complies with the following:

1. Where the *fenestration* is located in a wall, the primary sidelit daylight zone shall extend laterally to the nearest full height wall, or up to 1.0 times the height from the floor to the top of the *fenestration*, and longitudinally from the edge of the *fenestration* to the nearest full height wall, or up to 0.5 times the height from the floor to the top of the *fenestration*, whichever is less, as indicated in Figure C405.2.5.2(1).

2. The secondary sidelit daylight zone is directly adjacent to the primary daylight zone and shall extend laterally to 2.0 times the height from the floor to the top of the *fenestration* or to the nearest full height wall, whichever is less, and longitudinally from the edge of the *fenestration* to the nearest full height wall or up to 2 feet, whichever is less, as indicated in Figure C405.2.5.2(1).

3. Where *clerestory fenestration* is located in a wall, the sidelit daylight zone includes a lateral area twice the depth of the *clerestory fenestration* height, projected upon the floor at a 45 degree angle from the center of the *clerestory fenestration*. The longitudinal width of the sidelit daylight zone is calculated the same as for *fenestration* located in a wall. Where the 45 degree angle is interrupted by an obstruction greater than 0.7 times the ceiling height, the sidelit daylight zone shall remain the same lateral area but be located between the clerestory and the obstruction, as indicated in Figure C405.2.5.2(2).

4. Where the *fenestration* is located in a rooftop monitor, the sidelit daylight zone shall extend laterally to the nearest obstruction that is taller than 0.7 times the ceiling height, or up to 1.0 times the height from the floor to the bottom of the *fenestration*, whichever is less, and longitudinally from the edge of the *fenestration* to the nearest obstruction that is taller than 0.7 times the ceiling height, or up to 0.25 times the height from the floor to the bottom of the *fenestration*, whichever is less, as indicated in Figures C405.2.5.2(3) and C405.2.5.2(4).

5. If the rough opening area of a vertical fenestration assembly is less than 10 percent of the calculated primary sidelit daylight zone area for this fenestration, it does not qualify as a sidelit daylight zone.

6. The visible transmittance of the fenestration is no less than 0.20.

7. The projection factor (determined in accordance with Equation 4-5) for any overhanging projection which is shading the *fenestration* is not greater than 1.0 for fenestration oriented 45 degrees or less from true north, and not greater than 1.5 for all other orientations.

Figure C405.2.5.2(1)
Sidelit Daylight Zone Adjacent to Fenestration in a Wall

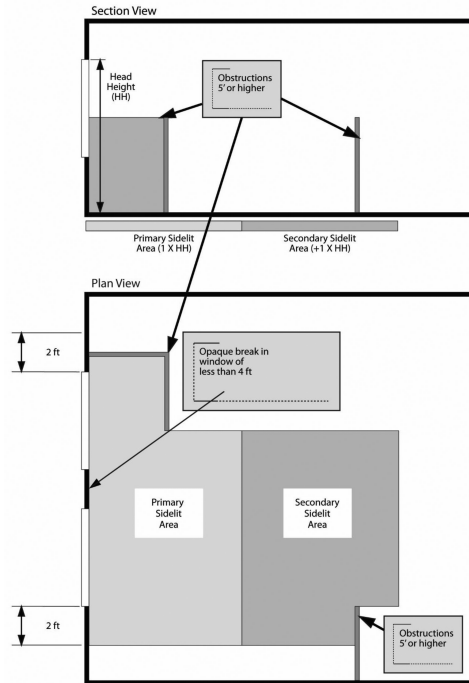


Figure C405.2.5.2(2)
Sidelit Daylight Zone Adjacent to Clerestory Fenestration in a Wall

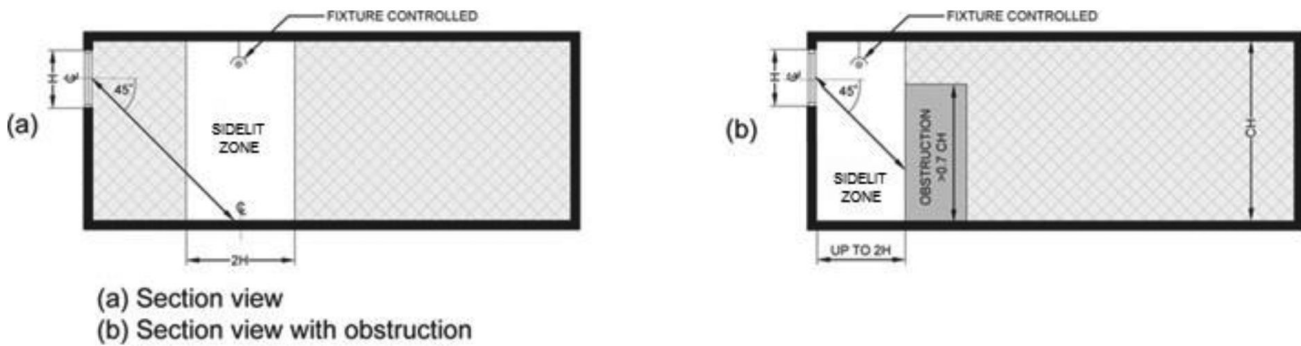
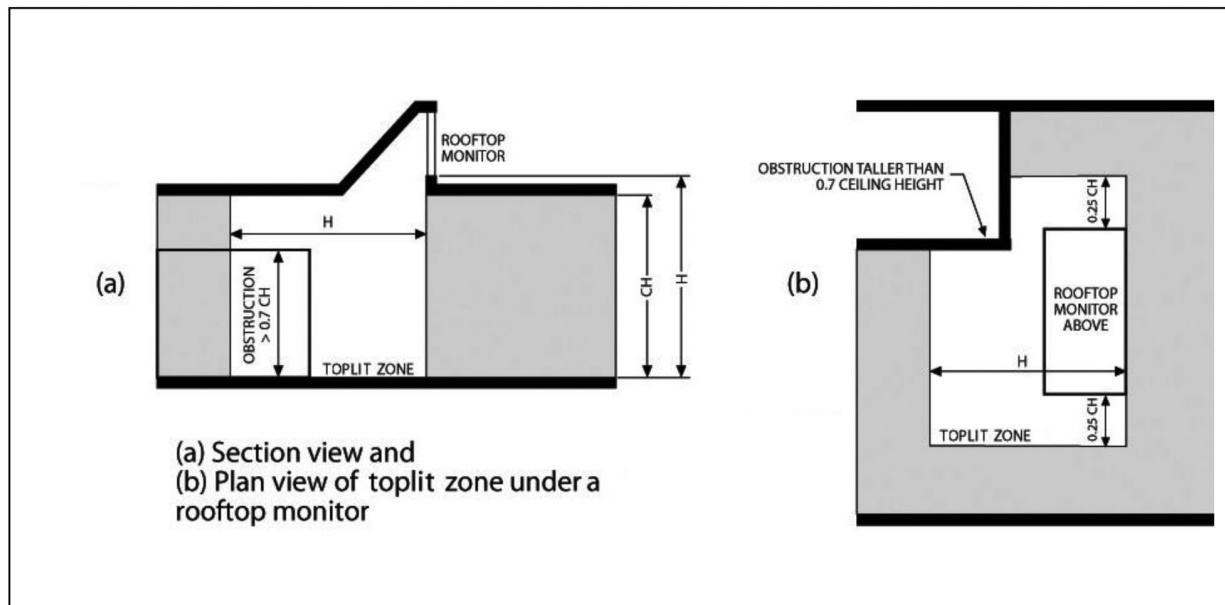


Figure C405.2.5.2(3)
Sidelit Daylight Zone Under a Sloped Rooftop Monitor



C405.2.5.3 Toplit daylight zone. The toplit daylight zone is the floor area underneath a roof fenestration assembly which complies with the following:

1. The toplit daylight zone shall extend laterally and longitudinally beyond the edge of the roof fenestration assembly to the nearest obstruction that is taller than 0.7 times the ceiling height, or up to 0.7 times the ceiling height, whichever is less, as indicated in Figure C405.2.5.3(1).

2. Where toplit daylight zones overlap with sidelit daylight zones, lights within the overlapping area shall be assigned to the toplit daylight zone.

3. The product of the *visible transmittance* of the roof fenestration assembly and the area of the rough opening of the roof fenestration assembly, divided by the area of the toplit daylight zone is no less than 0.008.

4. Where located under atrium fenestration, the toplit daylight zone shall include the bottom floor area directly beneath the atrium fenestration, and the top floor directly under the atrium fenestration, as indicated in Figure C405.2.5.3(4). The toplit daylight zone area at the top floor is calculated the same as for a toplit daylight zone. Intermediate levels below the top floor that are not directly beneath the atrium are not included.

Figure C405.2.5.3(1)
Toplit Daylight Zone Under a Rooftop Fenestration Assembly

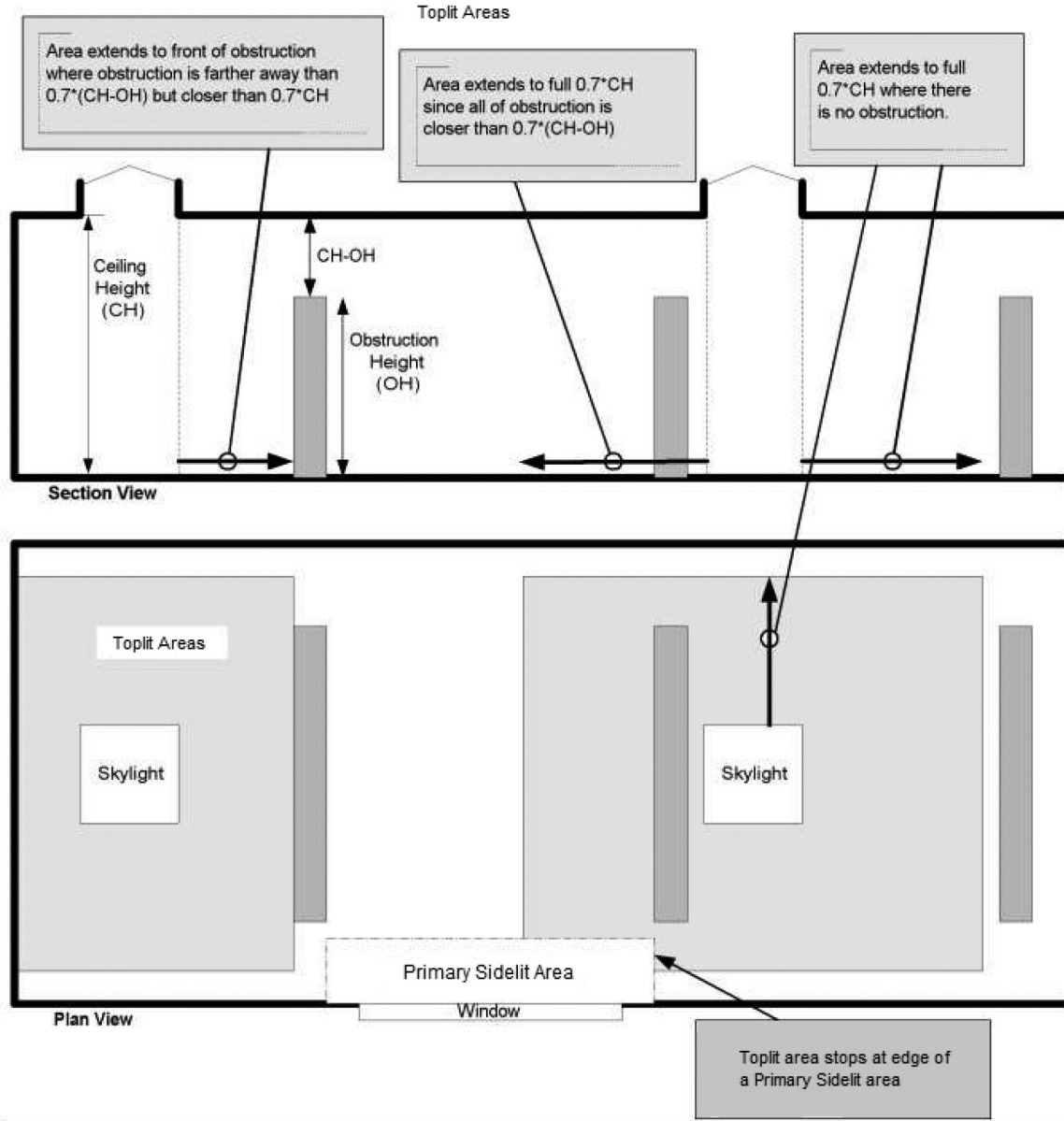
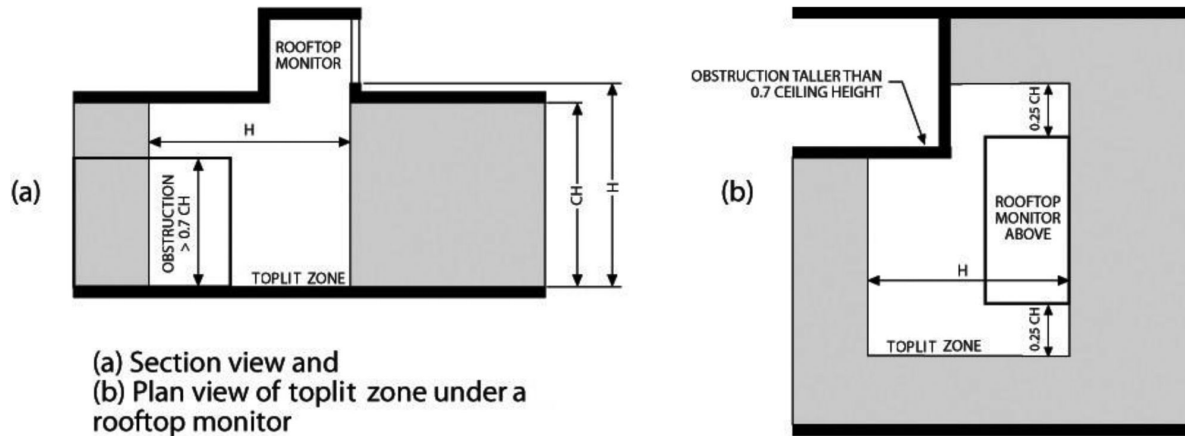
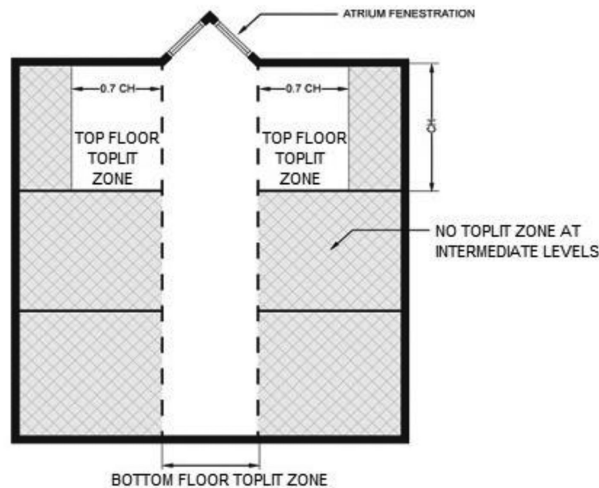


Figure C405.2.5.3(2)
Toplit Daylight Zone Under a Rooftop Monitor



(a) Section view and
 (b) Plan view of toplit zone under a rooftop monitor

Figure C405.2.5.4
Toplit Daylight Zone Under Atrium Fenestration



C405.2.5.4 Atriums. Daylight zones at atrium spaces shall be established at the top floor surrounding the atrium and at the floor of the atrium space, and not on intermediate floors, as indicated in Figure C405.2.5.4.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-405054 Table C405.4.2(2)—Interior lighting power allowances—Space-by-space method.

Table C405.4.2(2)
Interior Lighting Power Allowances—Space-by-Space Method

Common Space-by-Space Types ^{a,j}	LPD (w/ft ²)
Atrium - Less than 20 feet in height	0.39
Atrium - 20 to 40 feet in height	0.48
Atrium - Above 40 feet in height	0.60
Audience/seating area - Permanent ⁱ	
In an auditorium	0.61
In a gymnasium	0.23
In a motion picture theater	0.27
In a penitentiary	0.67
In a performing arts theater	1.16
In a religious building	0.72
In a sports arena	0.33
Otherwise	0.23
Banking activity area ⁱ	0.61
Breakroom (see lounge/breakroom)	
Classroom/lecture hall/training room	
In a penitentiary	0.89
Otherwise ^h	0.71
Computer room, data center	0.94
Conference/meeting/multipurpose	0.97
Confinement cell	0.70
Copy/print room	0.31
Corridor	
In a facility for the visually impaired (and not used primarily by the staff) ^b	0.71
In a hospital	0.71
In a manufacturing facility	0.41
Otherwise ^{e,i}	0.41
Courtroom ^c	1.20
Dining area	
In a penitentiary	0.42
In a facility for the visually impaired (and not used primarily by the staff) ^b	1.27
In a bar/lounge or leisure dining ⁱ	0.86
In cafeteria or fast food dining	0.40
In a family dining area ⁱ	0.60
Otherwise	0.43
Electrical/mechanical	0.43
Emergency vehicle garage	0.52
Food preparation	1.09
Guest room ^{a,b}	0.41
Laboratory	
In or as a classroom	1.11

Common Space-by-Space Types^{a,j}	LPD (w/ft²)
Otherwise	1.33
Laundry/washing area	0.53
Loading dock, interior	0.88
Lobby ^c	
In a facility for the visually impaired (and not used primarily by the staff) ^b	1.69
For an elevator	0.65
In a hotel	0.51
In a motion picture theater	0.23
In a performing arts theater	1.25
Otherwise	0.84
Locker room	0.52
Lounge/breakroom ⁱ	
In a health care facility ^{c,i}	0.42
Otherwise ⁱ	0.59
Office	
Enclosed ≤ 250	0.74
Enclosed > 250	0.66
Open plan	0.61
Parking area, interior	0.15
Pharmacy area	1.66
Restroom	
In a facility for the visually impaired (and not used primarily by the staff) ^b	1.26
Otherwise ⁱ	0.63
Sales area	1.05
Seating area, general	0.23
Stairway (see space containing stairway)	
Stairwell ^{c,i}	0.49
Storage room	
< 50 ft ²	0.51
50-100 ft ²	0.38
All other storage	0.38
Vehicular maintenance	0.60
Workshop	1.26
Building Specific Space-by-Space Types^a	LPD (w/ft²)
Automotive (see vehicular maintenance)	
Convention center - Exhibit space ⁱ	0.61
Dormitory living quarters ^{a,b}	0.50
Facility for the visually impaired ^b	

Building Specific Space-by-Space Types^a	LPD (w/ft²)
In a chapel (and not used primarily by the staff) ^b	0.70
In a recreation room (and not used primarily by the staff) ^b	1.77
Fire stations	
Sleeping quarters	0.23
Gymnasium/fitness center	
In an exercise area	0.90
In a playing area	0.85
Health care facility ^{c,i}	
In an exam/treatment room	1.40
In an imaging room	0.94
In a medical supply room	0.62
In a nursery	0.92
In a nurse's station	1.17
In an operating room	2.26
In a patient room	0.68
In a physical therapy room	0.91
In a recovery room	1.25
Library	
In a reading area ⁱ	0.96
In the stacks	1.10
Manufacturing facility	
In a detailed manufacturing area	0.80
In an equipment room	0.76
In an extra high bay area (greater than 50-foot floor-to-ceiling height)	1.42
In a high bay area (25 - 50-foot floor-to-ceiling height)	1.24
In a low bay (< 25-foot floor-to-ceiling height)	0.86
Museum	
In a general exhibition area ⁱ	0.31
In a restoration room	1.10
Performing arts theater dressing/fitting room	0.41
Post office - Sorting area	0.76
Religious buildings	
In a fellowship hall ⁱ	0.54
In a worship/pulpit/choir area ⁱ	0.85
Retail facilities	
In a dressing/fitting room	0.51
In a mall concourse	0.82
Sports arena - Playing area	
For a Class 1 facility ^d	2.94

Building Specific Space-by-Space Types ^a	LPD (w/ft ²)
For a Class 2 facility ^e	2.01
For a Class 3 facility ^f	1.30
For a Class 4 facility ^g	0.86
Transportation	
In a baggage/carousel area	0.39
In an airport concourse	0.25
At a terminal ticket counter ⁱ	0.51
Warehouse - Storage area	
For medium to bulky palletized items	0.33
For smaller, hand-carried items	0.69

For SI: 1 foot = 304.8 mm, 1 watt per square foot = 10.76 W/m².

- a In cases where both a common space type and a building area specific space type are listed, the building area specific space type shall apply.
- b A facility for the visually impaired is a facility that is licensed or will be licensed by local or state authorities for senior long-term care, adult daycare, senior support or people with special visual needs.
- c Additional lighting power allowance of 0.2 watts per square foot for the purpose of highlighting art or exhibits. This additional power allowance shall be permitted only where the specified lighting is installed in addition to and controlled separately from *general lighting* in accordance with Section C405.2.6. This additional power allowance shall be used only for the specified luminaires and shall not be used for any other purpose and it shall not be added to any other space or the interior power allowance.
- d Class I facilities consist of professional facilities; and semiprofessional, collegiate or club facilities with seating for 5,000 or more spectators.
- e Class II facilities consist of collegiate and semiprofessional facilities with seating for fewer than 5,000 spectators; club facilities with seating between 2,000 and 5,000 spectators; and amateur league and high school facilities with seating for more than 2,000 spectators.
- f Class III facilities consist of club, amateur league and high school facilities with seating for 2,000 or fewer spectators.
- g Class IV facilities consist of elementary school and recreational facilities; and amateur league and high school facilities without provisions for spectators.
- h For classrooms, additional lighting power allowance of 4.50 W/lineal foot of white or chalk boards for directional lighting dedicated to white or chalk boards.
- i Additional lighting power allowance of 0.15 W/ft² for ornamental lighting. Qualifying ornamental lighting includes luminaires that are specifically used in a decorative manner. This additional power shall be permitted only where the specified lighting is installed in addition to and controlled separately from display or *general lighting* in accordance with Section C405.2.6. This additional power shall be used only for the specified luminaires and it shall not be added to any other space or the interior power allowance.
- j Where a space is designated as unfinished, neither the area nor the lighting power in the space shall be calculated as part of the LPA.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-40509 Section C405.9—Vertical and horizontal transportation systems.

C405.9 Vertical and horizontal transportation systems and equipment.

Vertical and horizontal transportation systems and equipment shall comply with this section.

C405.9.1 Elevator cabs. For the luminaires in each elevator cab, not including signals and displays, the sum of the lumens divided by the sum of the watts shall be no less than 35 lumens per watt. Ventilation fans in elevators that do not have their own air conditioning system shall not consume more than 0.33 watts/cfm at the maximum rated speed of the fan. Controls shall be provided that will deenergize ventilation fans and lighting systems when the elevator is stopped, unoccupied and with its doors closed for over 15 minutes.

C405.9.2 Escalators and moving walks. Escalators and moving walks shall comply with ASME A17.1/CSA B44 and shall have automatic controls that reduce speed as permitted (~~speed~~) in accordance with ASME A17.1/CSA B44 and applicable local code when not conveying passengers.

EXCEPTION: A variable voltage drive system that reduces operating voltage in response to light loading conditions is allowed to be provided in lieu of the variable speed function.

C405.9.2.1 Energy recovery. Escalators shall be designed to recover electrical energy when resisting overspeed in the down direction.

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40600 Section C406—Efficiency and load management measures.

C406.1 Additional energy efficiency and load management measures credit requirements. The project as defined in the building permit shall meet the following requirements as applicable:

1. New buildings, changes in *space conditioning category*, change of occupancy group, and building additions in accordance with Chapter 5 shall comply with sufficient measures from Section C406.2 so as to achieve the minimum number of required efficiency credits shown in Table C406.1.

2. New buildings greater than 5000 gross square feet of floor area shall comply with sufficient measures from Section C406.3 so as to achieve the minimum number of required load management credits shown in Table C406.1.

3. Tenant spaces shall comply in accordance with Section C406.1.1.

4. Projects using discrete area credit weighting shall comply in accordance with Section C406.1.2.

EXCEPTIONS:

1. Low energy spaces in accordance with Section C402.1.1.1, equipment buildings in accordance with Section C402.1.2, unconditioned spaces, open parking garages, and enclosed parking garages that comply with sufficient measures from Table C406.2(1) to achieve a minimum of 50 percent of the efficiency credits required for new construction. Such projects shall be exempt from the load management requirements in Table C406.1.
2. Building additions that have less than 1,000 square feet of *conditioned floor area* that comply with sufficient measures from Table C406.2(1) to achieve a minimum of 50 percent of the efficiency credits required for additions.
3. Warehouses are exempt from the load management credit requirements in Table C406.1.

**Table C406.1
Energy Measure Credit Requirements**

Required Credits for Projects	Section	Occupancy Group					
		Group R-1	Group R-2	Group B	Group E	Group M	All Other
New building energy efficiency credit requirement	C406.2	54	41	42	48	74	49
Building additions energy efficiency credit requirement	C406.2	27	20	21	23	36	21
New building load management credit requirement	C406.3	12	15	27	15	13	26

C406.1.1 Tenant spaces. An initial tenant improvement shall comply with sufficient measures from Table C406.2(1) to achieve a minimum of efficiency credits required in Table C406.1 and are not required to achieve any load management credits. In projects with multiple tenant spaces, each tenant space is permitted to apply for different measures provided the weighted average of all areas in the project comply with the overall efficiency credit requirement in Table C406.1. Whole building or addition energy credits shall be allocated to tenant spaces in accordance with Sections C406.1.1.1 and C406.1.1.2.

EXCEPTIONS: 1. An initial tenant improvement where the core and shell building complied via Section C407 in 2018 or later edition of the Washington State Energy Code.
2. Previously occupied tenant spaces in existing buildings that ~~((empty))~~ complies with this code in accordance with Section C501.

C406.1.1.1 Applicable envelope, renewable and elevator energy credits.

Where an entire building or building addition complies with Section ~~((C406.2.4, C406.2.9, C406.2.10, or C406.2.14))~~ C406.2.5, C406.2.12, or C406.2.18, under an initial tenant improvement permit, tenant spaces within the building qualify for the number of credits assigned to the occupancy group of the tenant space in accordance with Table C406.2(1). Where prior energy credits were achieved under the 2018 Washington State Energy Code, they shall be multiplied by 6 for applicability to this code.

C406.1.1.2 Applicable HVAC and service water heating credits. Where HVAC and service water heating systems and services are installed and comply with Section ~~((C406.2.4))~~ C406.2.2, C406.2.8, C406.2.9, or C406.2.10 ~~((, or C406.2.14))~~ under an initial tenant improvement permit, those systems and services shall be considered a part of the tenant space. Tenant spaces qualify for the credits assigned to the occupancy group of the tenant space in accordance with Table C406.2(1) if the tenant space includes the distribution system and equipment that the central HVAC systems or service water heating systems were designed to support.

C406.1.2 Discrete area-weighted project compliance. Discrete building areas are permitted to select different packages of measures provided that the whole project complies with both the energy and load management credit requirements. Compliance shall be determined as follows:

1. Required project credits shall be prorated on an area-weighted basis for each occupancy group by multiplying the occupancy group floor area by the number of credits required, and then dividing this value by the total area of all the occupancy groups combined. Where one occupancy group is less than 10 percent of the floor area of the project, use the primary occupancy group for those credits.

2. Occupancies are permitted to be subdivided into discrete areas, with required and achieved credits for each area prorated on an area-weighted basis as required for the occupancy group.

3. Where envelope or lighting power credits in Section C406.2.3.1, C406.2.3.2, or C406.2.3.12 are applied, the lighting power or envelope UA percentage reduction shall be calculated for the project as a whole to determine achieved credits.

4. Determine total project credits achieved by area-weighting the achieved credits by occupancy group in the same manner as for required project credits.

5. A project complies when the achieved number of area-weighted energy and load management credits are equal to or greater than the required area-weighted number of credits.

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40620 Section C406.2—Additional energy efficiency credit measures.

C406.2 Additional energy efficiency credit measures. Each energy efficiency credit measure used to meet credit requirements for the project shall include efficiency that is greater than the energy efficiency required for the building type and configuration requirements in Sections C402 through C405. Measures installed in the project that meet the requirements in Sections C406.2.1 through C406.2.14 shall achieve the credits listed for the measure and occupancy group in Table C406.2(1) or Table C406.2(2) or where calculations required by Sections C406.2.1 through C406.2.14 create or modify the table credits, the credits achieved shall be based upon the section calculations. Projects that chose to comply with the fossil fuel pathway in Section C401.3 shall use Table C406.2(2) to achieve credits.

For mixed fuel space heating systems, the number of space heating energy efficiency credits available for measures with a prorating flag "Heat" are calculated using the following equation:

$$C_{SH} = CHP_{SH} \times B/C + CFF_{SH} \times (1 - B/C)$$

Where:

- C_{SH} = Blended credits for mixed fuel systems.
- CHP_{SH} = Credits available in Table C406.2(1).
- CFF_{SH} = Credits available in Table C406.2(2).
- B = Installed space heating capacity in kBTU/h of space heating appliances that comply with any of the exceptions to Section C403.1.4.
- C = Total installed space heating capacity in kBTU/h of all space heating appliances.

For mixed fuel service water heating systems, the number of service water heating energy efficiency credits available for measures with a prorating flag "SWH" are calculated using the following equation:

$$C_{WH} = CHP_{WH} \times B/C + CFF_{WH} \times (1 - B/C)$$

Where:

- C_{WH} = Blended credits for mixed fuel systems.
- CHP_{WH} = Credits available in Table C406.2(1).
- CFF_{WH} = Credits available in Table C406.2(2).
- B = Installed service water heating capacity in kBtu/h of service water heating appliances that comply with any of the exceptions to Section C404.2.1.
- C = Total installed service water heating capacity in kBtu/h of all service water heating appliances.

**Table C406.2 (1)
Efficiency Measure Credits**

Measure Title	Applicable Section	Prorating Flag	Occupancy Group					
			Group R-1	Group R-2	Group B	Group E	Group M	All Other
1. Dwelling unit HVAC control	((C406.2.2)) C406.2.1	Heat	NA	7	NA	NA	NA	NA
2. Improved HVAC TSPR ^a	C406.2.2.1	Heat	NA	8	11	17	22	NA
3. Improve cooling and fan efficiency	C406.2.2.2	Heat	2	2	3	4	3	2
4. Improve heating efficiency	C406.2.2.3	Heat	2	3	3	10	16	7
5. Improved low-carbon district energy system (10% better)	C406.2.2.4		3	3	4	11	17	8
6. Improved low-carbon district energy system (20% better) ^b	C406.2.2.5		9	10	12	33	52	24
7. High performance DOAS	C406.2.2.6	Heat	31	31	21	39	40	21/ (A) 40 ^c
8. Fault detection & diagnostics (FDD)	C406.2.2.7	Heat	2	2	2	6	9	4
9. 10% reduced lighting power	C406.2.3.1	Heat	7	4	18	16	20	15
10. 20% reduced lighting power ^d	C406.2.3.2	Heat	13	8	36	32	40	29
11. Lamp efficacy improvement	C406.2.3.3	Heat	5	6	NA	NA	NA	NA
12. Residential lighting control	C406.2.4.1	Heat	NA	8	NA	NA	NA	NA
13. Enhanced lighting control	C406.2.4.2	Heat	1	1	6	6	11	6
14. Renewable energy	C406.2.5		7	12	13	13	10	11
15. Shower drain heat recovery	C406.2.6.1	SWH	9	30	NA	3	NA	NA
16. Service water heat recovery	C406.2.6.2	SWH	35	111	13	14	(Grocery) 41 ^e	NA
17. Heat pump water heating	C406.2.6.3	SWH	72	54	1	13	5	29 ^f

Measure Title	Applicable Section	Prorating Flag	Occupancy Group					
			Group R-1	Group R-2	Group B	Group E	Group M	All Other
18. High efficiency service water heating, gas-fired	C406.2.6.4	SWH	NA	NA	NA	NA	NA	NA
19. Heat trace system	C406.2.7.1	SWH	6	13	4	1	NA	6
20. Point of use water heater	C406.2.7.2	SWH	NA	NA	19	5	NA	NA
21. Service hot water distribution right sizing	C406.2.8		13	42	NA	NA	NA	NA
22. High performance service hot water temperature maintenance system	C406.2.9		6	13	4	1	NA	6
23. High efficiency service hot water circulation system	C406.2.10		3	6	2	1	NA	4
24. Low flow residential showerheads	C406.2.11	SWH	3	3	NA	NA	NA	NA
25. Enhanced envelope performance ^g	C406.2.12	Heat	24	20	13	5	19	14
26. Base reduced air leakage ^g	((C406.2.13.2)) C406.2.13.1		29	24	6	3	9	11
27. Enhanced reduced air leakage ^g	((C406.2.13.3)) C406.2.13.2	Heat	53	44	11	5	16	20
28. Enhanced commercial kitchen equipment	C406.2.14	Heat	30 ^h	18 ^h	18 ^h	30 ^h	30 ^h	31 ^h
29. Enhanced residential kitchen equipment	C406.2.15	Heat	12	19	NA	NA	NA	NA
30. Enhanced residential laundry equipment	C406.2.16	Heat	NA	6	NA	NA	NA	NA
31. Heat pump clothes dryers	C406.2.17	Heat	6	6	NA	NA	NA	NA
32. Efficient elevator equipment	C406.2.18	Heat	3	5	5	5	4	4

a Projects using Item 2 shall not use Items 3 (~~through 5~~), 4, or 7.

b Projects using C406.2.2.5 shall not use C406.2.2.4.

c For C406.2.2.6, occupancy Group A achieves 40 credits while other occupancy groups within the "all other" category achieve 21 credits.

d Projects using C406.2.3.2 shall not use C406.2.3.1.

e Service water heat recovery and heat pump water heating are available in Group M only for grocery stores larger than 10,000 ft². Large mixed retail with full grocery and butcher sections shall achieve half the credits. This credit is not available where refrigeration recovery to heat service hot water is used to meet the requirements of Section C403.9.2.3.

f Heat pump water heating efficiency credits are available in the "all other" category only for Group A-2.

g Buildings or building areas that are exempt from the thermal envelope requirements in accordance with Sections C402.1.1 and C402.1.2, do not qualify for this package.

h Additional energy efficiency credits, up to the maximum shown in Table C406.2(1), shall be calculated according to Section ~~((C406.2.14))~~ C406.2.14.

Table C406.2(2)
Efficiency Measure Credits for use with
Fossil Fuel Compliance Path

Measure Title	Applicable Section	Prorating Flag	Occupancy Group					
			Group R-1	Group R-2	Group B	Group E	Group M	All Other
1. Dwelling unit HVAC control	((C406.2.2)) C406.2.1	Heat	NA	8	NA	NA	NA	NA

Measure Title	Applicable Section	Prorating Flag	Occupancy Group					
			Group R-1	Group R-2	Group B	Group E	Group M	All Other
2. Improved HVAC TSPR ^a	C406.2.2.1	Heat	NA	9	12	19	24	NA
3. Improve cooling and fan efficiency	C406.2.2.2	Heat	12	8	14	8	10	10
4. Improve heating efficiency	C406.2.2.3	Heat	2	3	3	11	18	8
5. Improved low-carbon district energy system (10% better)	C406.2.2.4		3	3	4	12	19	9
6. Improved low-carbon district energy system (20% better) ^b	C406.2.2.5		10	11	13	36	57	26
7. High performance DOAS	C406.2.2.6	Heat	34	34	23	43	44	23/ (A) 40 ^c
8. Fault detection & diagnostics (FDD)	C406.2.2.7	Heat	2	2	2	6	9	4
9. 10% reduced lighting power	C406.2.3.1	Heat	7	4	18	16	20	15
10. 20% reduced lighting power ^d	C406.2.3.2	Heat	13	8	36	32	40	29
11. Lamp efficacy improvement	C406.2.3.3	Heat	5	6	NA	NA	NA	NA
12. Residential lighting control	C406.2.4.1	Heat	NA	8	NA	NA	NA	NA
13. Enhanced lighting control	C406.2.4.2	Heat	1	1	6	6	11	6
14. Renewable energy	C406.2.5		7	12	13	13	10	11
15. Shower drain heat recovery	C406.2.6.1	SWH	10	33	NA	3	NA	NA
16. Service water heat recovery	C406.2.6.2	SWH	35	111	13	14	(Grocery) 41 ^e	NA
17. Heat pump water heating	C406.2.6.3	SWH	135	163	17	33	(Grocery) 95 ^e	(A-2) 95 ^f
18. High efficiency service water heating, gas-fired	C406.2.6.4	SWH	59	65	6	11	18	32
19. Heat trace system	C406.2.7.1	SWH	6	13	4	1	NA	6
20. Point of use water heater	C406.2.7.2	SWH	NA	NA	19	5	NA	NA
21. Service hot water distribution right sizing	C406.2.8		13	42	NA	NA	NA	NA
22. High performance service hot water temperature maintenance system	C406.2.9		6	13	4	1	NA	6
23. High efficiency service hot water circulation system	C406.2.10		3	6	2	1	NA	4
24. Low flow residential showerheads	C406.2.11	SWH	3	3	NA	NA	NA	NA
25. Enhanced envelope performance ^g	C406.2.12	Heat	24	20	13	5	19	14

Measure Title	Applicable Section	Prorating Flag	Occupancy Group					
			Group R-1	Group R-2	Group B	Group E	Group M	All Other
26. Base reduced air leakage ^g	((C406.2.13.2)) C406.2.13.1		29	24	6	3	9	11
27. Enhanced reduced air leakage ^g	((C406.2.13.3)) C406.2.13.2	Heat	53	44	11	5	16	20
28. Enhanced commercial kitchen equipment	C406.2.14	Heat	30 ^h	18 ^h	18 ^h	30 ^h	30 ^h	31 ^h
29. Enhanced residential kitchen equipment	C406.2.15	Heat	12	19	NA	NA	NA	NA
30. Enhanced residential laundry equipment	C406.2.16	Heat	NA	6	NA	NA	NA	NA
31. Heat pump clothes dryers	C406.2.17	Heat	6	6	NA	NA	NA	NA
32. Efficient elevator equipment	C406.2.18	Heat	3	5	5	5	4	4

- a Projects using Item 2 shall not use Items 3 ((through 5)), 4, or 7.
- b Projects using C406.2.2.5 shall not use C406.2.2.4.
- c For C406.2.2.6, occupancy Group A achieves 40 credits while other occupancy groups within the "all other" category achieve 21 credits.
- d Projects using C406.2.3.2 shall not use C406.2.3.1.
- e Service water heat recovery and heat pump water heating are available in Group M only for grocery stores larger than 10,000 ft². Large mixed retail with full grocery and butcher sections shall achieve half the credits. This credit is not available where refrigeration recovery to heat service hot water is used to meet the requirements of Section C403.9.2.3.
- f Heat pump water heating efficiency credits are available in the "all other" category only for Group A-2.
- g Buildings or building areas that are exempt from the thermal envelope requirements in accordance with Sections C402.1.1 and C402.1.2, do not qualify for this package.
- h Additional energy efficiency credits, up to the maximum shown in Table C406.2(2), shall be calculated according to Section C406.2.14.

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40622 Section C406.2.2—HVAC measures.

C406.2.2 More efficient HVAC system performance. All heating and cooling systems shall meet the minimum requirements of Section C403 and efficiency improvements shall be referenced to the minimum efficiency requirements listed in the tables in Section C403.3.2. Where multiple efficiency requirements are listed, equipment shall meet the seasonal efficiencies including SEER, EER/IEER, IPLV or AFUE. Equipment that is larger than the maximum capacity range indicated in the tables in Section C403.3.2 shall utilize the values listed for the largest capacity equipment for the associated equipment type shown in the table. Where multiple individual heating or cooling systems serve the project, the improvement shall be the weighted average improvement based on individual system capacity.

For occupancies and systems required to comply with Section C403.1.1, credits are permitted to be achieved by meeting the requirements of Section C406.2.2.1. Other systems are permitted to achieve credits by meeting the requirements of either:

1. Section C406.2.2.2, More efficient HVAC equipment cooling and fan performance.
2. Section C406.2.2.3, More efficient HVAC equipment heating performance.

3. Section ((~~C406.2.2.4~~) C406.2.2.6, High performance dedicated outdoor air system (DOAS).

4. Any combination of Sections C406.2.2.2, C406.2.2.3, and ((~~C406.2.2.4~~) C406.2.2.6.

In addition, energy credits are permitted to be achieved for Section C406.2.2.7, Fault detection and diagnostics, where not otherwise required by Section C403.2.3 or C403.6.10(15).

C406.2.2.1 Improved HVAC TSPR. For systems required to comply with Section C403.1.1, the HVAC TSPR shall exceed the minimum requirement by five percent. If improvement is greater, the credits in Table C406.2(1) are permitted to be prorated up to a 20 percent improvement.

C406.2.2.2 More efficient HVAC equipment cooling and fan performance. No less than 90 percent of the total HVAC capacity serving the total conditioned floor area of the entire building, building addition or tenant space in accordance with Section C406.1.1 shall comply with Sections C406.2.2.2.1 through C406.2.2.2.3. Where individual equipment efficiencies vary, weigh them based on capacity.

C406.2.2.2.1 HVAC system selection. Equipment installed shall be types that are listed in the tables in Section C403.3.2.

C406.2.2.2.2 Cooling equipment efficiency. Equipment shall exceed the minimum cooling efficiency requirements listed in the tables in Section C403.3.2 by at least 5 percent. Where equipment exceeds the minimum annual cooling efficiency and heat rejection efficiency requirements by more than 5 percent, energy efficiency credits for cooling shall be determined using Equation 4-15, rounded to the nearest whole number.

(Equation 4-15)

$$EEC_{HEC} = EEC_5 \times \left[1 + \frac{CEI - 0.05}{0.05} \right]$$

Where:

- EEC_{HEC} = Energy efficiency credits for cooling efficiency improvement.
- EEC₅ = Section C406.2.2.2 credits from Table C406.2(1).
- CEI = The lesser of the improvement above minimum cooling efficiency requirements, minimum heat rejection efficiency requirements, or 20 percent (0.20). Where cooling efficiency varies by system, use the capacity weighted average efficiency improvement for all cooling equipment combined. The CEI expressed as a fraction shall be determined one of the following ways:
For metrics that increase as efficiency increases, CEI shall be calculated as follows:

$$CEI = \frac{CM_{DES}}{CM_{MIN}} - 1$$

For metrics that decrease as efficiency increases, CEI shall be calculated as follows:

$$CEI = \frac{CM_{MIN}}{CM_{DES}} - 1$$

Where:

- CM_{DES} = Design cooling efficiency metric, part-load or annualized where available.
- CM_{MIN} = Minimum required cooling efficiency metric, part-load or annualized where available from Section C403.3.2.

For data centers using ASHRAE 90.4, CEI shall be calculated as follows:

$$CEI = \frac{AMLC_{MAX}}{AMLC_{DES}} - 1$$

Where:

- $AMLC_{DES}$ = As-designed annualized mechanical load component calculated in accordance with ASHRAE 90.4 Section 6.5.
- $AMLC_{MAX}$ = Maximum annualized mechanical load component from ASHRAE 90.4 Table 6.5.

C406.2.2.2.3 Minimum fan efficiency. Where fan energy is not included in packaged equipment rating or it is and the fan size has been increased from the as-rated equipment condition, fan power or horsepower shall be less than 95 percent of the allowed fan power in Section C403.8.1.

C406.2.2.3 More efficient HVAC equipment heating performance. No less than 90 percent of the total HVAC capacity serving the total conditioned floor area of the entire building, building addition or tenant space in accordance with Section C406.1.1 shall comply with Sections C406.2.2.3.1 through C406.2.2.3.2.

C406.2.2.3.1 HVAC system selection. Equipment installed shall be types that are listed in the tables in Section C403.3.2. Electric resistance heating shall be limited to 20 percent of system capacity, with the exception of heat pump supplemental heating.

C406.2.2.3.2 Heating equipment efficiency. Equipment shall exceed the minimum heating efficiency requirements of the tables in Section C403.3.2 by at least 5 percent. Where equipment exceeds the minimum annual heating efficiency requirements by more than 5 percent, energy efficiency credits for heating shall be determined using Equation 4-16, rounded to the nearest whole number.

(Equation 4-16)

$$EEC_{HEH} = EEC_5 \times \left[1 + \frac{HEI - 0.05}{0.05} \right]$$

Where:

- EEC_{HEH} = Energy efficiency credits for heating efficiency improvement.
- EEC₅ = Section C406.2.2.2 credits from Table C406.2(1).
- HEI = The lesser of the improvement above minimum heating efficiency requirements or 20 percent (0.20). Where heating efficiency varies by system, use the capacity weighted average percentage for all heating equipment combined. For metrics that increase as efficiency increases, HEI shall be calculated as follows:

$$HEI = \frac{HM_{DES}}{HM_{MIN}} - 1$$

Where:

- HM_{DES} = Design heating efficiency metric, part-load or annualized where available.
- HM_{MIN} = Minimum required heating efficiency metric, part-load or annualized where available from Section C403.3.2.

EXCEPTION: In low energy spaces complying with Section C402.1.1 and *semi-heated spaces* complying with Section C402.1.1.2, no less than 90 percent of the installed heating capacity is provided by electric infrared or gas-fired radiant heating equipment for localized heating applications. Such spaces shall achieve credits for EEC₅.

C406.2.2.4 Improved low-carbon district energy systems (10 percent better). Not less than 90 percent of the annual service hot water and space heating load, or not less than 90 percent of the annual service hot water, space heating, and space cooling load shall meet the criteria of Section C406.2.2.4.1 or C406.2.2.4.2.

Documentation for the low-carbon district system that is operational prior to the final inspection shall be provided to demonstrate that the definition as modified in Section C406.2.2.4.1 or C406.2.2.4.2 of *low-carbon district energy exchange system* is satisfied.

C406.2.2.4.1 Improved low-carbon district energy exchange systems (10 percent better). Low-carbon district energy exchange systems must demonstrate the following:

1. Forty-five percent of the annual district-system-net-load-met (sum of heating and cooling energy provided to attached buildings) comes from heat recovery between connected buildings, waste heat, or renewable energy resources; and
2. No more than 25 percent of the annual heat input to the system comes from fossil fuel or electric-resistance sources.

C406.2.2.4.2 Improved low-carbon district energy heating and cooling or heating only systems (10 percent better). Distribution losses must be accounted for and may not exceed 5 percent of the annual load delivered to buildings served by the system. *Low-carbon district energy heating and cooling or heating only systems* must demonstrate the following:

1. Forty-five percent of the annual district-system-net-load-met (sum of heating and cooling energy provided to attached buildings) comes from heat recovery between connected buildings, waste heat, or

renewable energy resources and no more than 25 percent of the annual heat input to the system comes from fossil fuel or electric-resistance sources; or

2. No more than 10 percent of the system annual heat input to the system comes from fossil fuels or electric-resistance sources. The remaining annual heat input must be provided using heat pump technology with a minimum annual operating COP of 3.0.

C406.2.2.5 Improved low-carbon district energy systems (20 percent better). Not less than 90 percent of the annual service hot water and space heating load, or not less than 90 percent of the annual service hot water, space heating, and space cooling load shall meet the criteria of Section C406.2.2.5.1 or C406.2.2.5.2.

Documentation for the low-carbon district system that is operational prior to the final inspection shall be provided to demonstrate that the definition as modified in Section C406.2.2.4.1 or C406.2.2.4.2 of *low-carbon district energy exchange system* is satisfied.

C406.2.2.5.1 Improved low-carbon district energy exchange systems (20 percent better). Low-carbon district energy exchange systems must demonstrate the following:

1. Fifty percent of the annual district-system-net-load-met (sum of heating and cooling energy provided to attached buildings) comes from heat recovery between connected buildings, waste heat, or renewable energy resources; and

2. No more than 10 percent of the annual heat input to the system comes from fossil fuel or electric-resistance sources.

C406.2.2.5.2 Improved low-carbon district energy heating and cooling or heating only systems (20 percent better). Distribution losses must be accounted for and may not exceed 5 percent of the annual load delivered to buildings served by the system. *Low-carbon district energy heating and cooling or heating only systems* must demonstrate the following:

1. Fifty percent of the annual district-system-net-load-met (sum of heating and cooling energy provided to attached buildings) comes from heat recovery between connected buildings, waste heat, or renewable energy resources and no more than 10 percent of the annual heat input to the system comes from fossil fuel or electric-resistance sources; or

2. No more than 10 percent of the system annual heat input to the system comes from fossil fuels or electric-resistance sources. The remaining annual heat input must be provided using heat pump technology with a minimum annual operating COP of 4.0.

C406.2.2.6 High performance dedicated outdoor air system (DOAS). No less than 90 percent of the total conditioned floor area of the whole project, excluding floor area of unoccupied spaces that do not require ventilation as specified by the *International Mechanical Code*, shall be served by DOAS installed in accordance with Section C403.3.5 with the following adjustments:

1. Minimum heat recovery sensible effectiveness of 80 percent, calculated in accordance with Section C403.3.5.1.

2. Where design outdoor airflow is greater than 500 cfm (250 L/s), the DOAS shall be equipped with an economizer bypass, damper control, or wheel speed control that is active between 55°F (13°C) and 75°F (24°C) outdoor air temperature and minimizes energy recovery or maintains an appropriate DOAS leaving air temperature when the build-

ing is generally in cooling, based either on outdoor air temperature or a DDC zone-based cooling system reset.

3. DOAS total combined fan power shall be less than either:

3.1. 0.769 W/cfm (1.55 W/L/s) when calculated in accordance with Section C403.3.5.2.

3.2. Eighty percent of fan power allowance for a constant volume system when calculated in accordance with Section ((C406.8.1)) C403.8.1.

This option is not available to areas served by systems utilizing Section C403.2.2.1 exception 5.

C406.2.2.7 Fault detection and diagnostics system. A project not required to comply with Section C403.2.3 or C403.6.10(16) shall achieve energy credits for installing a fault detection and diagnostics system to monitor the HVAC system's performance and automatically identify faults. The installed system shall comply with items 1 through 6 in Section C403.2.3.

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

AMENDATORY SECTION (Amending WSR 19-24-040, filed 11/26/19, effective 7/1/20)

WAC 51-11C-40903 Section C409.3—End-use metering.

C409.3 End-use metering. Meters shall be provided to collect energy use data for each end-use category listed in Sections C409.3.1 through C409.3.7. These meters shall collect data for the whole building or for each separately metered portion of the building where not exempted by the exception to Section C409.1. Not more than 10 percent of the total connected load of any of the end-use metering categories in Sections C409.3.1 through C409.3.6 is permitted to be excluded from that end-use data collection. Not more than 10 percent of the total connected load of any of the end-use metering categories in Sections C409.3.1 through C409.3.6 is permitted to consist of loads not part of that category. Multiple meters may be used for any end-use category, provided that the data acquisition system totals all of the energy used by that category. Full-floor tenant space submetering data shall be provided to the tenant in accordance with Section C409.7, and the data shall not be required to be included in other end-use categories.

EXCEPTIONS:

1. HVAC and service water heating equipment serving only an individual dwelling unit or sleeping unit does not require end-use metering.
2. Separate metering is not required for fire pumps, stairwell pressurization fans or other life safety systems that operate only during testing or emergency.
3. End use metering is not required for individual tenant spaces not exceeding 2,500 square feet in floor area when a dedicated source meter meeting the requirements of Section C409.4.1 is provided for the tenant space.
4. Health care facilities with loads in excess of 150 kVA are permitted to have submetering that measures electrical energy usage in accordance with the normal and essential electrical systems except that submetering is required for the following load categories:
 - 4.1. HVAC system energy use in accordance with the requirements of Section C409.3.1.
 - 4.2. Service water heating energy use in accordance with the requirements of Section C409.3.2.
 - 4.3. Process load system energy in accordance with the requirements of Section ((C409.3.5)) C409.3.6 for each significant facility not used in direct patient care including, but not limited to, food service, laundry and sterile processing facilities, where the total connected load of the facility exceeds 100 kVA.
5. End-use metering is not required for electrical circuits serving only sleeping rooms and guest suites within Group R-1 occupancies. This exception does not apply to common areas or to equipment serving multiple sleeping rooms.

C409.3.1 HVAC system energy use. This category shall include all energy including electrical, gas, liquid fuel, district steam and district chilled water that is used by boilers, chillers, pumps, fans and other equipment used to provide space heating, space cooling, dehumidification and ventilation to the building, but not including energy that

serves process loads, service water heating or miscellaneous loads as defined in Section C409.3. Multiple HVAC energy sources, such as gas, electric and steam, are not required to be summed together.

EXCEPTIONS:

1. 120 volt equipment.
2. An HVAC branch circuit where the total MCA of equipment served equates to less than 10 kVA.
3. Individual fans or pumps that are not on a variable frequency drive.

C409.3.2 Service water heating energy use. This category shall include all energy used for heating of domestic and service hot water, but not energy used for space heating.

EXCEPTION: Service water heating energy use less than 50 kVA does not require end-use metering.

C409.3.3 Lighting system energy use. This category shall include all energy used by interior and exterior lighting, including lighting in parking structures and lots, but not including plug-in task lighting.

C409.3.4 Electric vehicle charging energy use. This category shall include all energy used for electric vehicle charging. For buildings exempt from data collection systems, the data from these meters is permitted to either be stored locally using a manual totalizing meter or other means at the meter or fed into a central data collection system.

C409.3.5 Plug load system energy use. This category shall include all energy used by appliances, computers, plug-in task lighting, and other equipment or equipment covered by other end-use metering categories listed in Section C409.3. In a building where the main service is 480/277 volt, each 208/120 volt panel is permitted to be assumed to serve only plug load for the purpose of Section C409, unless it serves nonresidential refrigeration or cooking equipment.

EXCEPTION: Where the total connected load of all plug load circuits is less than 50 kVA, end-use metering is not required.

C409.3.6 Process load system energy use. This category shall include all energy used by any nonbuilding process load including, but not limited to, nonresidential refrigeration and cooking equipment, laundry equipment, industrial equipment, and stage lighting.

EXCEPTION: Where the process load energy use is less than 50 kVA end-use metering is not required.

C409.3.7 Full-floor tenant space electrical submetering. In a multi-tenant building where more than 90 percent of the leasable area of a floor is occupied by a single tenant, an electrical energy use display shall be provided to the tenant in accordance with the requirements of Section C409.4.3. Electrical loads from areas outside of the tenant space or from equipment that serves areas outside the tenant space shall not be included in the tenant space submetering. A single display is permitted to serve multiple floors occupied by the same tenant.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-41000 Section C410—Refrigeration system requirements.

C410.1 General. Walk-in coolers, walk-in freezers, refrigerated warehouse coolers, refrigerated warehouse freezers, and refrigerated display cases shall comply with this Section.

Table C410.2

Minimum Efficiency Requirements: Commercial Refrigerators and Freezers and Refrigeration

Equipment Category	Condensing Unit Configuration	Equipment Family	Rating Temp. °F	Operating Temp. °F	Equipment Classification ^c	Maximum Daily Energy Consumption kWh/day ^{d,e}	Test Standard	
Remote condensing commercial refrigerators and commercial freezers	Remote (RC)	Vertical open (VOP)	38 (M)	≥32	VOP.RC.M	0.64 × TDA + 4.07	AHRI 1200	
			0 (L)	<32	VOP.RC.L	2.20 × TDA + 6.85		
		Semivertical open (SVO)	38 (M)	≥32	SVO.RC.M	0.66 × TDA + 3.18		2.20 × TDA + 6.85
			0 (L)	<32	SVO.RC.L			
		Horizontal open (HZO)	38 (M)	≥32	HZO.RC.M	0.35 × TDA + 2.88		0.55 × TDA + 6.88
			0 (L)	<32	HZO.RC.L			
		Vertical closed transparent (VCT)	38 (M)	≥32	VCT.RC.M	0.15 × TDA + 1.95		0.49 × TDA + 2.61
			0 (L)	<32	VCT.RC.L			
		Horizontal closed transparent (HCT)	38 (M)	≥32	HCT.RC.M	0.16 × TDA + 0.13		0.34 × TDA + 0.26
			0 (L)	<32	HCT.RC.L			
		Vertical closed solid (VCS)	38 (M)	≥32	VCS.RC.M	0.10 × V + 0.26		0.21 × V + 0.54
			0 (L)	<32	VCS.RC.L			
		Horizontal closed solid (HCS)	38 (M)	≥32	HCS.RC.M	0.10 × V + 0.26		0.21 × V + 0.54
			0 (L)	<32	HCS.RC.L			
Service over counter (SOC)	38 (M)	≥32	SOC.RC.M	0.44 × TDA + 0.11	0.93 × TDA + 0.22			
	0 (L)	<32	SOC.RC.L					
Self-contained commercial refrigerators and commercial freezers with and without doors	Self-contained (SC)	Vertical open (VOP)	38 (M)	≥32	VOP.RC.M	1.69 × TDA + 4.71	AHRI 1200	
			0 (L)	<32	VOP.RC.L	4.25 × TDA + 11.82		
		Semivertical open (SVO)	38 (M)	≥32	SVO.RC.M	1.70 × TDA + 4.59		4.26 × TDA + 11.51
			0 (L)	<32	SVO.RC.L			
		Horizontal open (HZO)	38 (M)	≥32	HZO.RC.M	0.72 × TDA + 5.55		1.90 × TDA + 7.08
			0 (L)	<32	HZO.RC.L			
		Vertical closed transparent (VCT)	38 (M)	≥32	VCT.RC.M	0.10 × V + 0.86		0.29 × V + 2.95
			0 (L)	<32	VCT.RC.L			
		Vertical closed solid (VCS)	38 (M)	≥32	VCS.RC.M	0.05 × V + 1.36		0.22 × V + 1.38
			0 (L)	<32	VCS.RC.L			
Self-contained commercial refrigerators and commercial freezers with and without doors	Self-contained (SC)	Horizontal closed transparent (HCT)	38 (M)	≥32	HCT.RC.M	0.06 × V + 0.37	AHRI 1200	
			0 (L)	<32	HCT.RC.L	0.08 × V + 1.23		
		Horizontal closed solid (HCS)	38 (M)	≥32	HCS.RC.M	0.05 × V + 0.91		0.06 × V + 1.12
			0 (L)	<32	HCS.RC.L			
		Service over counter (SOC)	38 (M)	≥32	SOC.RC.M	0.52 × TDA + 1.00		1.10 × TDA + 2.10
			0 (L)	<32	SOC.RC.L			
Self-contained commercial refrigerators with transparent doors for pull-down temperature applications	Self-contained (SC)	Pull-down	38(M)	≥32	PD.SC.M	0.11 × V + 0.81	AHRI 1200	

Equipment Category	Condensing Unit Configuration	Equipment Family	Rating Temp. °F	Operating Temp. °F	Equipment Classification ^c	Maximum Daily Energy Consumption kWh/day ^{d,e}	Test Standard
Commercial ice cream freezers	Remote (RC)	Vertical open (VOP)	-15 (I)	≤-5 ^b	VOP.RC.I	2.79 × TDA + 8.70	AHRI 1200
		Semivertical open (SVO)			SVO.RC.I	2.79 × TDA + 8.70	
		Horizontal open (HZO)			HZO.RC.I	0.70 × TDA + 8.74	
		Vertical closed transparent (VCT)			VCT.RC.I	0.58 × TDA + 3.05	
		Horizontal closed transparent (HCT)			HCT.RC.I	0.40 × TDA + 0.31	
		Vertical closed solid (VCS)			VCS.RC.I	0.25 × V + 0.63	
		Horizontal closed solid (HCS)			HCS.RC.I	0.25 × V + 0.63	
		Service over counter (SOC)			SOC.RC.I	1.09 × TDA + 0.26	
	Self-contained (SC)	Vertical open (VOP)	-15 (I)	≤-5 ^b	VOP.SC.I	× TDA +	AHRI 1200
		Semivertical open (SVO)			SVO.SC.I	× TDA +	
		Horizontal open (HZO)			HZO.SC.I	× TDA +	
		Vertical closed transparent (VCT)			VCT.SC.I	× TDA +	
		Horizontal closed transparent (HCT)			HCT.SC.I	× TDA +	
		Vertical closed solid (VCS)			VCS.SC.I	× V +	
		Horizontal closed solid (HCS)			HCS.SC.I	× V +	
		Service over counter (SOC)			SOC.SC.I	× TDA +	

For SI: 1 square foot = 0.0929 m², 1 cubic foot = 0.02832 m³, °C = (°F - 32)/1.8.

- ^a The meaning of the letters in this column is indicated in the columns to the left.
- ^b Ice cream freezer is defined in DOE 10 C.F.R. Part 431.62 as a commercial freezer that is designed to operate at or below -5°F and that the manufacturer designs, markets or intends for the storing, displaying, or dispensing of ice cream.
- ^c Equipment class designations consist of a combination [(in sequential order separated by periods (AAA).(BB).(C))]:
 - (AAA) An equipment family code where:
 - VOP = Vertical open
 - SVO = Semi-vertical open
 - HZO = Horizontal open
 - VCT = Vertical transparent doors
 - VCS = Vertical solid doors
 - HCT = Horizontal transparent doors
 - HCS = Horizontal solid doors
 - SOC = Service over counter
 - (BB) An operating mode code:
 - RC = Remote condensing
 - SC = Self-contained
 - (C) A rating temperature code:
 - M = Medium temperature (38°F)
 - L = Low temperature (0°F)
 - I = Ice cream temperature (15°F)

For example, "VOP.RC.M" refers to the "vertical-open, remote-condensing, medium-temperature" equipment class.

- ^d V is the volume of the case (ft³) as measured in AHRI 1200, Appendix C.
- ^e TDA is the total display area of the case (ft²) as measured in AHRI 1200, Appendix D.

C410.2 Commercial refrigerators, freezers and refrigerator-freezers.

Refrigeration equipment, defined in DOE 10 C.F.R. Part 431.62, shall have an energy use in kWh/day not greater than the values of Table C410.2 when tested and rated in accordance with AHRI Standard 1200. The energy use shall be verified through certification under an approved certification program or, where a certification program does not exist, the energy use shall be supported by data furnished by the equipment manufacturer.

C410.2.1 Refrigerated display cases. Refrigerated display cases shall comply with the following:

1. Lighting in refrigerated display cases shall be controlled by one of the following:
 - 1.1. Time switch controls to turn off lights during nonbusiness hours. Timed overrides for display cases shall turn the lights on for up to 1 hour and shall automatically time out to turn the lights off.
 - 1.2. Motion sensor controls on each display case section that reduce lighting power by at least 50 percent within 3 minutes after the area within the sensor range is vacated.
2. Low-temperature display cases shall incorporate temperature-based defrost termination control with a time-limit default. The defrost cycle shall terminate first on an upper temperature limit breach and second upon a time limit breach.
3. Antisweat heater controls shall reduce the energy use of the antisweat heater as a function of the relative humidity in the air outside the door or to the condensation on the inner glass pane.

C410.3 Walk-in coolers, walk-in freezers, refrigerated warehouse coolers and refrigerated warehouse freezers. Site-assembled and site-constructed *walk-in coolers* and *walk-in freezers* and *refrigerated warehouse coolers* and *refrigerated warehouse freezers* shall comply with the following:

1. Automatic door-closers shall be provided that fully close walk-in doors that have been closed to within 1 inch (25 mm) of full closure.

EXCEPTION: Automatic closers are not required for doors more than 45 inches (1143 mm) in width or more than 7 feet (2134 mm) in height.

2. Doorways shall be provided with strip doors, curtains, spring-hinged doors or other method of minimizing infiltration when doors are open.

3. *Walk-in coolers* and *refrigerated warehouse coolers* shall be provided with wall, ceiling, and door insulation of not less than R-25 or have wall, ceiling and door assembly *U*-factors no greater than *U*-0.039. *Walk-in freezers* and *refrigerated warehouse freezers* shall be provided with wall, ceiling and door insulation of not less than R-32 or have wall, ceiling and door assembly *U*-factors no greater than *U*-0.030.

EXCEPTION: Insulation is not required for glazed portions of doors or at structural members associated with the walls, ceiling or door frame.

4. The floor of *walk-in coolers* shall be provided with floor insulation of not less than R-25 or have a floor assembly *U*-factor no greater than *U*-0.40. The floor of *walk-in freezers* shall be provided with floor insulation of not less than R-28 or have a floor assembly *U*-factor no greater than *U*-0.035.

EXCEPTION: Insulation is not required in the floor of a *walk-in cooler* that is mounted directly on a slab on grade.

5. Transparent fixed window and reach-in doors for *walk-in freezers* and windows in *walk-in freezer* doors shall be provided with triple-pane glass, with the interstitial spaces filled with inert gas or be provided with heat-reflective treated glass.

6. Transparent fixed window and reach-in doors for *walk-in coolers* and windows for *walk-in coolers* doors shall be provided with double-pane or triple-pane glass, with interstitial space filled with inert gas, or be provided with heat-reflective treated glass.

7. Evaporator fan motors that are less than 1 hp (0.746 kW) and less than 460 volts shall be provided with electronically commutated motors, brushless direct-current motors, or 3-phase motors.

8. Condenser fan motors that are less than 1 hp (0.746 kW) shall use electronically commutated motors, permanent split capacitor-type motors or 3-phase motors.

9. Antisweat heaters that are not provided with antisweat heater controls shall have a total door rail, glass and frame heater power draw of not greater than 7.1 W/ft² (76 W/m²) of door opening for *walk-in freezers* and not greater than 3.0 W/ft² (32 W/m²) of door opening for *walk-in coolers*.

10. Where antisweat heater controls are provided, they shall be capable of reducing the energy use of the antisweat heater as a function of the relative humidity in the air outside the door or to the condensation on the inner glass pane.

11. Lights in *walk-in coolers*, *walk-in freezers*, *refrigerated warehouse coolers* and *refrigerated warehouse freezers* shall either be provided with light sources with an efficacy of not less than 40 lumens per watt, including ballast losses, or shall be provided with a device that automatically turns off the lights within 15 minutes of when the *walk-in cooler* or *walk-in freezer* space is not occupied.

C410.3.1 Performance standards. Site-assembled and site-constructed *walk-in coolers* and *walk-in freezers* shall meet the requirements of Tables C410.3.1(1), C410.3.1(2), and C410.2.1(3).

Table C410.3.1(1)
Walk-in Cooler and Freezer Display
Doors Efficiency Requirements

Class ((Description)) Descriptor	Class	Maximum Energy Consumption (kWh/day) ^a
Display door, medium temperature	DD, M	0.04 × A _{dd} + 0.41
Display door, low temperature	DD, L	0.15 × A _{dd} + 0.29

^a A_{dd} is the surface area of the display door.

Table C410.3.1(2)
Walk-in Cooler and Freezer Nondisplay
Doors Efficiency Requirements

Class ((Description)) Descriptor	Class	Maximum Energy Consumption (kWh/day) ^a
Passage door, medium temperature	PD, M	0.05 × A _{nd} + 1.7
Passage door, low temperature	PD, L	0.14 × A _{nd} + 4.8
Freight door, medium temperature	FD, M	0.04 × A _{nd} + 1.9
Freight door, low temperature	FD, L	0.12 × A _{nd} + 5.6

^a A_{nd} is the surface area of the ((display)) nondisplay door.

Table C410.3.1(3)
Walk-in Cooler and Freezer Refrigeration
Systems Efficiency Requirements

Class ((Description)) Descriptor	Class	Minimum Annual Walk-in Energy Factor AWEF (Btu/hW-h)	Test Procedure
Dedicated condensing, medium temperature, indoor system	DC.M.I	5.61	AHRI 1250
Dedicated condensing, medium temperature, outdoor system	DC.M.O	7.60	<u>AHRI 1250</u>
Dedicated condensing, low temperature, indoor system, net capacity (q_{net}) < 6,500 Btu/h	DC.L.I, < 6,500	$9.091 \times 10^{-5} \times q_{net} + 1.81$	<u>AHRI 1250</u>
Dedicated condensing, low temperature, indoor system, net capacity (q_{net}) \geq 6,500 Btu/h	DC.L.I, \geq 6,500	2.40	<u>AHRI 1250</u>
Dedicated condensing, low temperature, outdoor system, net capacity (q_{net}) < 6,500 Btu/h	DC.L.O, < 6,500	((9.091)) $\frac{6.522}{2.73} \times 10^{-5} \times q_{net} +$	<u>AHRI 1250</u>
Dedicated condensing, low temperature, outdoor system, net capacity (q_{net}) \geq 6,500 Btu/h	DC.L.O, \geq 6,500	3.15	<u>AHRI 1250</u>
Unit cooler, medium	UC.M	9.00	<u>AHRI 1250</u>
Unit cooler, low temperature, net capacity (q_{net}) < 15,500 Btu/h	UC.L, < 15,500	((9.091)) $\frac{1.575}{(2.73)} \times 10^{-5} \times q_{net} +$ <u>3.91</u>	<u>AHRI 1250</u>
Unit cooler, low temperature, net capacity (q_{net}) \geq 15,500 Btu/h	UC.L, \geq 15,500	4.15	<u>AHRI 1250</u>

C410.4 Refrigerated case and ((walk-on)) walk-in display doors. Lighting in glass doors in all *walk-in coolers* and *walk-in freezers* and all *refrigerated warehouse coolers* and *refrigerated warehouse freezers* shall comply with the following:

1. Time switch controls to turn off lights during nonbusiness hours. Timed overrides for display cases shall turn the lights on for up to 1 hour and shall automatically time out to turn the lights off.
2. Motion sensor controls on each display case section that reduce lighting power by at least 50 percent within 3 minutes after the area within the sensor range is vacated.

C410.5 Refrigeration systems. Refrigerated display cases, *walk-in coolers* or *walk-in freezers* that are served by remote compressors and remote condensers not located in a *condensing unit*, shall comply with Sections C410.5.1, C410.5.2, and C403.9.2.3.

EXCEPTION: Systems where the working fluid in the refrigeration cycle goes through both subcritical and supercritical states (transcritical) or that use ammonia refrigerant are exempt.

C410.5.1 Condensers serving refrigeration systems. Fan-powered condensers shall comply with the following:

1. The design *saturated condensing temperatures* for air-cooled condensers shall not exceed the design dry-bulb temperature plus 10°F (5.6°C) for *low-temperature refrigeration systems*, and the design dry-bulb temperature plus 15°F (8°C) for *medium temperature refrigeration systems* where the *saturated condensing temperature* for blend refrigerants shall be determined using the average of liquid and vapor temperatures as converted from the condenser drain pressure.
2. Condenser fan motors that are less than 1 hp (0.75 kW) shall use electronically commutated motors, permanent split-capacitor-type motors or 3-phase motors.
3. Condenser fans for air-cooled condensers, evaporatively cooled condensers, air- or water-cooled fluid coolers or cooling towers shall reduce fan motor demand to not more than 30 percent of design wattage

at 50 percent of design air volume, and incorporate one of the following continuous variable speed fan control approaches:

3.1. Refrigeration system condenser control for air-cooled condensers shall use variable setpoint control logic to reset the condensing temperature setpoint in response to ambient dry-bulb temperature.

3.2. Refrigeration system condenser control for evaporatively cooled condensers shall use variable setpoint control logic to reset the condensing temperature setpoint in response to ambient wet-bulb temperature.

4. Multiple fan condensers shall be controlled in unison.

5. The minimum condensing temperature setpoint shall be not greater than 70°F (21°C).

C410.5.2 Compressor systems. Refrigeration compressor systems shall comply with the following:

1. Compressors and multiple-compressor system suction groups shall include control systems that use floating suction pressure control logic to reset the target suction pressure temperature based on the temperature requirements of the attached refrigeration display cases or walk-ins.

EXCEPTION: Controls are not required for the following:

1. Single-compressor systems that do not have variable capacity capability.
2. Suction groups that have a design saturated suction temperature of 30°F (-1.1°C) or higher, suction groups that comprise the high stage of a two-stage or cascade system, or suction groups that primarily serve chillers for secondary cooling fluids.

2. Liquid subcooling shall be provided for all low-temperature compressor systems with a design cooling capacity equal to or greater than 100,000 Btu/hr (29.3 kW) with a design-saturated suction temperature of -10°F (-23°C) or lower. The subcooled liquid temperature shall be controlled at a maximum temperature setpoint of 50°F (10°C) at the exit of the subcooler using either compressor economizer (interstage) ports or a separate compressor suction group operating at a saturated suction temperature of 18°F (-7.8°C) or higher.

2.1. Insulation for liquid lines with a fluid operating temperature less than 60°F (15.6°C) shall comply with Table C403.2.10.

3. Compressors that incorporate internal or external crankcase heaters shall provide a means to cycle the heaters off during compressor operation.

C410.6 Commissioning. Refrigeration systems shall be commissioned in accordance with Section C408.

EXCEPTION: Self-contained units.

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

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-41100 Section C411—Renewable energy.

C411.1 On-site renewable energy. Each new building((~~τ~~)) or addition larger than 10,000 square feet of gross *conditioned floor area*((~~τ~~)) shall include a renewable energy generation system consisting of not less than 0.5 W/ft² or 1.7 Btu/ft² multiplied by the sum of the gross *conditioned floor area*.

EXCEPTIONS: 1. Any building where more than 50 percent of the roof area is shaded from direct beam sunlight by natural objects or by structures that are not part of the building for more than 2500 annual hours between 8:00 a.m. and 4:00 p.m.

- 2. Any building where more than 80 percent of the roof area is covered by any combination of equipment other than for on-site renewable energy systems, planters, vegetated space, skylights or occupied roof deck.
- 3. Buildings which can document they do not have adequate roof area to install the required on-site solar and that comply with Section C411.1.1 may install a lesser amount of on-site renewables but not zero.

C411.1.1 Additional efficiency credits. Buildings which qualify for one of the exceptions in Section C411.1 to omit installation of on-site renewable energy must achieve an additional 18 efficiency package credits from Table C406.2(1). The additional 18 credits can be reduced based on a prorated fraction of renewable capacity that is installed on-site.

On-site renewable energy installations of lower than required capacity can be counted proportionally toward achievement of required or additional efficiency credits in Section C411.1.1 based on the capacity of renewable energy installed compared to the requirements of Section C411.1.

C411.2 On-site and off-site renewable energy accounting. Qualifying on-site and off-site renewable energy delivered or credited to the building project to comply with this code shall meet the requirements of this section. Renewable energy certificates for an on-site or off-site renewable energy system shall be retired on behalf of the building owner for a period of not less than 15 years and tracked in accordance with Section C411.2.3 and submitted to the code official as part of the permit application.

C411.2.1 Qualifying types of off-site renewable energy systems. The following are considered qualifying off-site renewable energy systems:

- 1. Self-generation (an off-site renewable energy system owned by the building project owner) systems complying with Section C411.2.2.
- 2. Community renewable energy facility systems complying with Section C411.2.2.
- 3. Purchase contracts complying with Section C411.2.3.
- 4. Each source of renewable energy delivered to or credited to the building project shall be connected to the Western Interconnection and energy or capacity multiplied by the factors in Table C411.2.1.

**Table C411.2.1
Multipliers for Renewable Energy Procurement Methods**

Location	Renewable Energy Source	Renewable Energy Factor		
		In the state of Washington	Western Interconnected	In the states of Oregon or Idaho
On-site	On-site renewable energy system	1	NA	NA
Off-site	Directly owned off-site renewable energy system that begins operation after submission of the initial permit application	0.95	0.75	0.85
Off-site	Community renewable energy facility that begins operation after submission of the initial permit application	0.95	0.75	0.85
Off-site	Directly owned off-site renewable energy system that begins operation before submission of the initial permit application	0.75	0.55	0.65
Off-site	Community renewable energy facility that begins operation before submission of the initial permit application	0.75	0.55	0.65
Off-site	Renewable Power Purchase Agreement (PPA)	0.75	0.55	0.65

C411.2.2 Documentation requirements for off-site renewable energy systems. Off-site renewable energy delivered or credited to the building project to comply with Section C407.3 item 2.2 shall be subject to a legally binding contract to procure qualifying off-site renewable energy. Qualifying off-site renewable energy shall meet the following requirements:

1. Documentation of off-site renewable energy procurement shall be submitted to the *code official*.
2. The purchase contract shall have a duration of not less than 15 years. The contract shall be structured to survive a partial or full transfer of ownership of the building property.
3. Records on renewable power purchased by the building owner from the off-site renewable energy generator that specifically assign the RECs to the building owner shall be retained or retired by the building owner on behalf of the entity demonstrating financial or operational control over the building seeking compliance to this standard and made available for inspection by the *code official* upon request.
4. Where multiple buildings in a building project are allocated energy procured by a contract subject to this section, the owner shall allocate for not less than 15 years the energy procured by the contract to the buildings in the building project. A plan on operation shall be developed which shall indicate how renewable energy produced from on-site or off-site systems that is not allocated before issuance of the certificate of occupancy will be allocated to new or existing buildings included in the building project.

C411.2.3 Renewable energy certificate (REC) tracking. For multitenant buildings where RECs are transferred to tenants, the plan for operation shall include procedures for tracking the quantity and vintage of RECs that are required to be retained and retired. The plan shall include provisions to transfer the RECs to building tenants, or to retire RECs on their behalf, in proportion to the gross conditioned and semi-heated floor area leased or rented. The plan shall include provisions to use a REC tracking system that meets the requirements of Section V.B of the Green-e Framework for Renewable Energy Certification. The plan shall describe how the building owner will procure alternative qualifying renewable energy in the case that the renewable energy producer ceases.

C411.3 Solar readiness. A solar zone shall be provided on buildings that are 20 stories or less in height above grade plan. The solar zone shall be located on the roof of the building or on another structure elsewhere on the site. The solar zone shall be in accordance with this section and the *International Fire Code*.

EXCEPTION:

A solar zone is not required under the following conditions:

1. Where the solar exposure of the building's roof area is less than 75 percent of that of an unshaded area, as defined in Section ((C411.5)) C411.3.4, in the same location, as measured by one of the following:

1.1. Incident solar radiation expressed in kWh/ft²-yr using typical meteorological year (TMY) data.

1.2. Annual sunlight exposure expressed in cumulative hours per year using TMY data.

1.3. Shadow studies indicating that the roof area is more than 25 percent in shadow, on September 21st at 10 a.m., 11 a.m., 12 p.m., 1 p.m., and 2 p.m. solar time.

2. Buildings, building additions, changes in space conditioning or occupancy where the total floor area is equal to or less than 500 square feet.

C411.3.1 Minimum area. The minimum area of the solar zone shall be determined by one of the following methods, whichever results in the smaller area:

1. Forty percent of roof area. The roof area shall be calculated as the horizontally projected gross roof area less the area covered by

skylights, occupied roof decks, mechanical equipment, mechanical equipment service clearances, and planted areas.

2. Twenty percent of electrical service size. The electrical service size is the rated capacity of the total of all electrical services to the building, and the required solar zone size shall be based upon 10 peak watts of photovoltaic per square foot.

EXCEPTION: Subject to the approval of the code official, buildings with extensive rooftop equipment that would make full compliance with this section impractical shall be permitted to reduce the size of the solar zone required by Section C411.3 to the maximum practicable area.

C411.3.2 Contiguous area. The solar zone is permitted to be comprised of separated subzones. Each subzone shall be at least 5 feet wide in the narrowest dimension.

C411.3.3 Obstructions. The solar zone shall be free of pipes, vents, ducts, HVAC equipment, skylights and other obstructions, except those serving photovoltaic systems within the solar zone. The solar zone is permitted to be located above any such obstructions, provided that the racking for support of the future system is installed at the time of construction, the elevated solar zone does not shade other portions of the solar zone, and its height is permitted by the *International Building Code*. Photovoltaic or solar water heating systems are permitted to be installed within the solar zone.

C411.3.4 Shading. The solar zone shall be set back from any existing or new object on the building or site that is located south, east or west of the solar zone a distance at least two times the object's height above the nearest point on the roof surface. Such objects include, but are not limited to, taller portions of the building itself, parapets, chimneys, antennas, signage, rooftop equipment, trees, and roof plantings. No portion of the solar zone shall be located on a roof slope greater than 2:12 that faces within 45 degrees of true north.

C411.3.5 Access. Areas contiguous to the solar zone shall provide access pathways and provisions for emergency smoke ventilation as required by the *International Fire Code*.

C411.3.6 Structural integrity. The as-designed dead load and live load for the solar zone shall be clearly marked on the record drawings and shall accommodate future photovoltaic system arrays at an assumed dead load of 4 pounds per square foot in addition to other required live and dead loads. A location for future inverters shall be designated either within or adjacent to the solar zone, with a minimum area of 2 square feet for each 1000 square feet of solar zone area, and shall accommodate an assumed dead load of 175 pounds per square foot. Where photovoltaic systems are installed in the solar zone, structural analysis shall be based upon calculated loads, not upon these assumed loads.

C411.3.7 Photovoltaic interconnection. Interconnection of the future photovoltaic system shall be provided for at the main service panel, either ahead of the service disconnecting means or at the end of the bus opposite the service disconnecting means, in one of the following forms:

1. A space for the mounting of a future overcurrent device, sized to accommodate the largest standard rated overcurrent device that is less than 20 percent of the bus rating.

2. Lugs sized to accommodate conductors with an ampacity of at least 20 percent of the bus rating, to enable the mounting of an external overcurrent device for interconnection.

The electrical construction documents shall indicate all of the following:

1. Solar zone boundaries and access pathways.
2. Location for future inverters and metering equipment.
3. Route for future wiring between the photovoltaic panels and the inverter, and between the inverter and the main service panel.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-41200 Section C412—Compressed air systems.

C412.1 General. All new *compressed air systems*, and all additions or alterations of *compressed air systems* where the total combined horsepower (hp) of the compressor(s) is 25 hp or more, shall meet the requirements of this section. These requirements apply to the compressors, related piping systems, and related controls that provide compressed air and do not apply to any equipment or controls that use or process the compressed air.

EXCEPTION: Medical gas compressed air systems in health care facilities.

C412.2 Trim compressor and storage. The compressed air system shall be equipped with an appropriately sized trim compressor and primary storage to provide acceptable performance across the range of the system and to avoid control gaps. The compressed air system shall comply with 1 or 2 below:

1. The *compressed air system* shall include one or more variable speed drive (VSD) compressors. For systems with more than one compressor, the total combined capacity of the VSD compressor(s) acting as trim compressors must be at least 1.25 times the *largest net capacity increment* between combinations of compressors. The *compressed air systems* shall include *primary storage* of at least one gallon per actual cubic feet per minute (acfm) of the largest trim compressor; or

2. The *compressed air system* shall include a compressor or set of compressors with total effective trim capacity at least the size of the *largest net capacity increment* between combinations of compressors, or the size of the smallest compressor, whichever is larger. The total effective trim capacity of single compressor systems shall cover at least the range from 70 percent to 100 percent of rated capacity. The effective trim capacity of a compressor is the size of the continuous operational range where the specific power of the compressor (kW/100 acfm) is within 15 percent of the specific power at its most efficient operating point. The total effective trim capacity of the system is the sum of the effective trim capacity of the trim compressors. The system shall include *primary storage* of at least 2 gallons per acfm of the largest trim compressor.

EXCEPTIONS:

1. Alterations where the total combined added or replaced compressor horsepower is less than the average per-compressor horsepower of all compressors in the system.
2. Alterations where all added or replaced compressors are variable speed drive (VSD) compressors and *compressed air systems* includes *primary storage* of at least one gallon per acfm of the largest trim compressor.
3. *Compressed air systems* that have been *preapproved* as having demonstrated that the system serves loads for which typical air demand fluctuates less than 10 percent.
4. Alterations of existing *compressed air systems* that include one or more centrifugal compressors.

C412.3 Controls. *Compressed air systems* with three or more compressors and a combined horsepower rating of more than 100 hp, shall operate with controls that are able to choose the most energy efficient combi-

nation and loading of compressors within the system based on the current compressed air demand.

C412.4 Monitoring. *Compressed air systems* having a combined horsepower rating equal to or greater than 100 hp shall have an energy and air demand monitoring system with the following minimum requirements:

1. Measurement of system pressure.
2. Measurement of amps or power of each compressor.
3. Measurement or determination of total airflow from compressors in cfm.
4. Data logging of pressure, power in kW, airflow in cfm, and *compressed air system* specific efficiency in kW/100 cfm at intervals of five minutes or less.
5. Maintained data storage of at least the most recent 24 months.
6. Visual trending display of each recorded point, load and specific efficiency.

C412.5 Leak testing of compressed air piping. *Compressed air system* piping greater than 50 adjoining feet in length shall be pressure tested after being isolated from the compressed air supply and end-uses. The piping shall be pressurized to the design pressure and test pressures shall be held for a length of time at the discretion of the local jurisdiction, but in no case for less than 30 minutes, with no perceptible drop in pressure.

If dial gauges are used for conducting this test, for pressure tests less than or equal to 100 psi (689 kPa) gauges shall be incremented in units of 1 psi (7 kPa) less, for pressure tests greater than 100 psi (689 kPa) gauges shall be incremented in units less than 2 percent of the test pressure. Test gauges shall have a pressure range not exceeding twice the test pressure.

Piping less than or equal to 50 adjoining feet in length shall be pressurized and inspected. Connections shall be tested with a noncorrosive leak-detecting fluid or other leak-detecting methods as preapproved by the local jurisdiction.

C412.6 Pipe sizing. Compressed air piping greater than 50 adjoining feet in length shall be designed and installed to minimize frictional losses in the distribution network. These piping installations shall meet the requirements of Section C412.6.1 and either Section C412.6.2 or C412.6.3.

C412.6.1 Service line piping. Service line piping shall have inner diameters greater than or equal to 3/4 inch. Service line piping are pipes that deliver compressed air from distribution piping to end uses.

C412.6.2 Piping section average velocity. Compressor room interconnection and main header piping shall be sized so that at coincident peak flow conditions, the average velocity in the segment of pipe is no greater than 20 ft/sec. Compressor room interconnection and main header piping are the pipes that deliver compressed air from the compressor outlets to the inlet to the distribution piping. Each segment of distribution and service piping shall be sized so that at coincident peak flow conditions, the average velocity in the segment of pipe is no greater than 30 ft/sec. Distribution piping are pipes that deliver compressed air from the compressor room interconnection piping or main header piping to the service line piping.

C412.6.3 Piping total pressure drop. Piping shall be designed such that piping frictional pressure loss at coincident peak loads are less

than 5 percent of operating pressure between the compressor and end use or end use regulator.

~~((C412.6))~~ **C412.7 Compressed air system acceptance.** Before an occupancy permit is granted for a *compressed air system*, a certificate of acceptance shall be submitted to the enforcement agency that certifies that the equipment and systems meet the requirements of this code.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-50200 Section C502—Additions.

C502.1 General. *Additions* to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this code. *Additions* shall not create an unsafe or hazardous condition or overload existing building systems. An *addition* shall be deemed to comply with this code if the *addition* alone complies or if the existing building and *addition* comply with this code as a single building. This allowance applies to prescriptive compliance in accordance with Section C502.2 or total building performance in accordance with Section C407.

C502.1.1 Additional energy efficiency credits. Additions shall comply with Section C406.1. The addition shall be deemed to comply with this section if the addition alone complies or if the addition area is combined with existing building areas to demonstrate compliance with an additional efficiency credit.

C502.1.2 Renewable energy. Additions shall comply with Section C411. The addition shall be deemed to comply with this section if the addition alone complies or if the addition area is combined with existing building areas to demonstrate compliance with the requirements for on-site renewable energy or solar readiness, as applicable.

C502.2 Prescriptive compliance. *Additions* shall comply with Sections ~~((C502.3 through C502.8))~~ C502.2.1 through C502.2.6.2.

~~((C502.2.2 Skylights. Additions with skylights shall comply with the following:~~

~~1. Where an addition with skylight area results in a total building skylight area less than or equal to the maximum allowed by Section C402.4.1, the addition shall comply with Section C402.4.~~

~~2. Where an addition with skylight area results in a total building skylight area greater than the maximum allowed by Section C402.4.1 (regardless of the ratio prior to the addition), the addition shall comply with one of the following:~~

~~2.1. Component performance alternative with target area adjustment per Section C402.1.5 for the addition area of the building only.~~

~~2.2. Existing building and addition area are combined to demonstrate compliance with the component performance alternative for the whole building. U-factors applied to existing envelope assemblies in the UA calculation shall comply with Section C501.2.1.~~

~~2.3. Total building performance in accordance with Section C407 for the addition area of the building only.~~

~~2.4. Total building performance for the whole building.)~~

~~((C502.2.4))~~ **C502.2.1 Building mechanical systems.** New mechanical systems and equipment serving the building heating, cooling or ventilation needs, that are installed as a part of the *addition* shall comply with Sections C403, C408.2, ~~((C409.5, and))~~ C501.6, and C506.1.

~~((C502.2.5))~~ **C502.2.2 Service water heating systems.** New service water-heating systems and equipment that are installed as a part of the *addition* shall comply with Sections C404, C408.3, ~~((C409.5, and))~~ C501.6, and C506.1.

~~((C502.2.6))~~ **C502.2.3 Pools and permanent spas.** Systems and equipment serving new pools and permanent spas that are installed as a part of the *addition* shall comply with Sections C404.11, C408.3, ~~((C409.5, and))~~ C501.6, and C506.1.

~~((C502.2.7))~~ **C502.2.4 Electrical power and lighting systems and motors.** New electrical power and lighting systems and motors that are installed as a part of the *addition* shall comply with Sections C405, C408.4, ~~((C409.5, and))~~ C501.6, and C506.1.

~~((C502.2.7.1))~~ **C502.2.4.1 Interior lighting power.** The total interior lighting power for the *addition* shall comply with Section C405.4.2 for the *addition* alone, or the existing building and the *addition* shall comply as a single building.

~~((C502.2.7.2))~~ **C502.2.4.2 Exterior lighting power.** The total exterior lighting power for the *addition* shall comply with Section C405.5.2 for the *addition* alone, or the existing building and the *addition* shall comply as a single building.

~~((C502.2.8))~~ **C502.2.5 Refrigeration systems.** New refrigerated spaces and refrigeration systems and equipment that are installed as a part of the *addition* shall comply with Sections C408.7, ~~((C409.5,))~~ C410, ~~((and))~~ C501.6, and C506.1.

~~((C502.3))~~ **C502.2.6 Building envelope.** Additions shall comply with Sections C402.1 through C402.5, ~~((C502.3.1, and C502.3.2))~~ C502.2.6.1 and C502.2.6.2.

~~((C502.3.1))~~ **C502.2.6.1 Vertical fenestration.** Additions with *vertical fenestration* shall comply with the following:

1. Where an *addition* with *vertical fenestration* area results in a total building *vertical fenestration* area less than or equal to the maximum allowed by Section C402.4.1, the *addition* shall comply with Section C402.4.

2. Where an *addition* with *vertical fenestration* area results in a total building *vertical fenestration* area greater than the maximum allowed by Section C402.4.1 (regardless of the ratio prior to the *addition*), the *addition* shall comply with one of the following:

2.1. Component performance alternative with target area adjustment per Section C402.1.5 for the *addition* area of the building only.

2.2. Existing building and *addition* area are combined to demonstrate compliance with the component performance alternative for the whole building. *U*-factors applied to existing envelope assemblies in the UA calculation shall comply with Section C501.2.1.

2.3. Total building performance in accordance with Section C407 for the *addition* area of the building only.

2.4. Total building performance for the whole building.

C502.2.6.2 Skylights. Additions with skylights shall comply with the following:

1. Where an addition with skylight area results in a total building skylight area less than or equal to the maximum allowed by Section C402.4.1, the addition shall comply with Section C402.4.

2. Where an addition with skylight area results in a total building skylight area greater than the maximum allowed by Section C402.4.1 (regardless of the ratio prior to the addition), the addition shall comply with one of the following:

2.1. Component performance alternative with target area adjustment per Section C402.1.5 for the addition area of the building only.

2.2. Existing building and addition area are combined to demonstrate compliance with the component performance alternative for the whole building. U-factors applied to existing envelope assemblies in the UA calculation shall comply with Section C501.2.1.

2.3. Total building performance in accordance with Section C407 for the addition area of the building only.

2.4. Total building performance for the whole building.

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-50300 Section C503—Alterations.

C503.1 General. Alterations to any building or structure shall comply with the requirements of Section C503 and the code for new construction. Alterations to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this code. Alterations shall be such that the existing building or structure is no less conforming with the provisions of this code than the existing building or structure was prior to the alteration. The additional energy efficiency credit requirements in Section C406.1 and the renewable energy requirements in Section C411 do not apply to alterations.

EXCEPTION: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Surface applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the code does not require the glazing fenestration to be replaced.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are insulated to full depth with insulation having a minimum nominal value of R-3.0 per inch installed per Section C402.
4. Construction where the existing roof, wall or floor cavity is not exposed.
5. *Roof recover.*
6. *Air barriers* shall not be required for *roof recover* and roof replacement where the *alterations* or renovations to the building do not include *alterations, renovations or repairs* to the remainder of the building envelope.
7. Replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided however that an existing vestibule that separates a conditioned space from the exterior shall not be removed.

C503.2 Reserved.

C503.3 Building envelope. New building envelope assemblies that are part of the alteration shall comply with Sections C402.1 through C402.5 and Sections C503.3.1 through C503.3.3.

EXCEPTION: Air leakage testing is not required for alterations and repairs, unless the project includes a change in space conditioning according to Section C503.2 or a change of occupancy or use according to Section C505.1.

C503.3.1 Roof replacement. *Roof replacements* shall comply with Table C402.1.3 or C402.1.4 where the existing roof assembly is part of the *building thermal envelope* and contains no insulation or the insulation is located entirely above the roof deck. In no case shall the R-value of the roof insulation be reduced or the U-factor of the roof assembly be increased as part of the *roof replacement*.

C503.3.2 Vertical fenestration. Alterations that include the addition of new vertical fenestration area shall comply with the following:

1. Where the addition of new *vertical fenestration* area results in a total building vertical fenestration area less than or equal to the maximum allowed by Section C402.4.1, the alteration shall comply with Section C402.4.

2. Where the addition of new *vertical fenestration* area result in a total building *vertical fenestration* area greater than the maximum allowed by Section C402.4.1 (regardless of the ratio prior to the addition), the alteration shall comply with one of the following:

2.1. Vertical fenestration alternate in accordance with Section ((C402.1.3)) C402.4.1.1 for the new vertical fenestration added.

2.2. Vertical fenestration alternate in accordance with Section C402.4.1.1 for the area adjacent to the new vertical fenestration added.

2.3. Existing building and alteration areas are combined to demonstrate compliance with the component performance alternate in accordance with Section C402.1.5 for the whole building. *U*-factors applied to existing envelope assemblies in the UA calculation shall comply with Section C501.2.1. The Proposed Total UA is allowed to be up to 110 percent of the Allowed Total UA.

2.4. Total building performance in accordance with Section C407 for the whole building. The total annual ((~~carbon emissions from energy consumption~~)) site energy use of the proposed design is allowed to be up to 110 percent of the annual ((~~carbon emissions from energy consumption~~)) site energy use allowed in accordance with Section C407.3.

EXCEPTION: Where *approved* by the *code official*, additional *fenestration* is permitted where sufficient envelope upgrades beyond those required by other sections of this code are included in the project so that the addition of new *vertical fenestration* does not cause an increase in the overall energy use of the building.

C503.3.2.1 Replacement fenestration products. Where some or all of an existing *fenestration* unit is replaced with a new *fenestration* product, including sash and glazing, the replacement *fenestration* unit shall meet the applicable requirements for *U*-factor and *SHGC* in Table C402.4.

EXCEPTION: An area-weighted average of the *U*-factor of replacement fenestration products being installed in the building for each fenestration product category listed in Table C402.4 shall be permitted to satisfy the *U*-factor requirements for each fenestration product category listed in Table C402.4. Individual fenestration products from different product categories listed in Table C402.4 shall not be combined in calculating the area-weighted average *U*-factor.

C503.3.3 Skylights. Alterations that include the addition of new skylight area shall comply with the following:

1. Where the addition of new *skylight* area results in a total building skylight area less than or equal to the maximum allowed by Section C402.4.1, the alteration shall comply with Section C402.4.

2. Where the addition of new *skylight* area results in a total building skylight area greater than the maximum allowed by Section C402.4.1 (regardless of the ratio prior to the addition), the alteration shall comply with one of the following:

2.1. Existing building and alteration area are combined to demonstrate compliance with the component performance alternative with target area adjustment in accordance with Section C402.1.5 for the whole building. *U*-factors applied to existing envelope assemblies in the UA calculation shall comply with Section C501.2.1. The Proposed Total UA is allowed to be up to 110 percent of the Allowed Total UA.

2.2. Total building performance in accordance with Section C407 for the whole building. The annual ((~~carbon emissions from energy consumption~~)) site energy use of the proposed design is allowed to be up

to 110 percent of the annual ((carbon emissions from energy consumption)) site energy use allowed in accordance with Section C407.3.

EXCEPTION: Additional envelope upgrades are included in the project so the addition of new skylights does not cause a reduction in overall building energy efficiency, as *approved by the code official*.

C503.4 Building mechanical systems. Components of existing mechanical systems that are altered or replaced shall comply with Section C403 or Section C407, unless specifically exempted in Section C503.4, and Sections C408.2, ((C409.5,)) C501.2.2, C501.6, ((and)) C503.4.2 through C503.4.6, and C506.1. Additions or alterations shall not be made to an existing mechanical system that will cause the existing system to become out of compliance.

EXCEPTIONS:

- Existing mechanical systems are not required to be modified to comply with Section C403.3.5 where mechanical cooling capacity is not added to a system that did not have cooling capacity prior to the alteration.
- Compliance with Section C403.1.4 is not required where the alteration does not include replacement of a heating appliance.
- Alternate mechanical system designs that are not in full compliance with this code may be approved when the code official determines that existing building constraints including, but not limited to, available mechanical space, limitations of the existing structure, or proximity to adjacent air intakes or exhausts makes full compliance impractical. Alternate designs shall include additional energy saving strategies not prescriptively required by this code for the scope of the project including, but not limited to, demand control ventilation, energy recovery, or increased mechanical cooling or heating equipment efficiency above that required by Tables C403.3.2(1) through C403.3.2(16).
- Only those components of existing HVAC systems that are altered or replaced shall be required to comply with Section C403.8.1. Section C403.8.1 does not require the removal and replacement of existing system ductwork. Additional fan power allowances are available when determining the fan power budget (Fan kW_{budget}) as specified in Table C503.4. These values can be added to the fan power allowance values in Tables C403.8.1.1(1) and C403.8.1.1(2) when calculating a new Fan kW_{budget} for the fan system being altered. The additional fan power allowance is not applicable to alterations that add or change passive components which do not increase the fan system static pressure.

**Table C503.4
Additional Fan Power Allowances (W/CFM)**

Airflow	Multi-Zone VAV Systems ^a ≤5,000 cfm	Multi-Zone VAV Systems ^a >5,000 and ≤10,000 cfm	Multi-Zone VAV Systems ^a >10,000 cfm	All Other Fan Systems ≤5,000 cfm	All Other Fan Systems >5,000 and ≤10,000 cfm	All Other Fan Systems >10,000 cfm
Supply <i>Fan System</i> additional allowance	0.135	0.114	0.105	0.139	0.120	0.107
Supply <i>Fan System</i> additional allowance in unit with adapter curb	0.033	0.033	0.043	0.000	0.000	0.000
Exhaust/ Relief/ Return/ Transfer <i>Fan System</i> additional allowance	0.070	0.061	0.054	0.070	0.062	0.055
Exhaust/ Relief/ Return/ Transfer <i>Fan System</i> additional allowance with adapter curb	0.016	0.017	0.220	0.000	0.000	0.000

^a See definition of *FAN SYSTEM, MULTI-ZONE VARIABLE AIR VOLUME (VAV)*.

C503.4.1 New building mechanical systems. All new mechanical systems and equipment in existing buildings shall comply with Sections C403, C408.2, ((C409.5, and)) C501.6, and C506.1.

C503.4.2 Addition of cooling capacity. Where mechanical cooling is added to a space that was not previously cooled, the mechanical system shall comply with either Section C403.3.5 or C403.5.

EXCEPTIONS:

- Qualifying small equipment: Economizers are not required for cooling units and split systems serving one zone with a total cooling capacity rated in accordance with Section C403.3.2 of less than 33,000 Btu/h (hereafter referred to as qualifying small systems) provided that these are high-efficiency cooling equipment with SEER and EER values more than 15 percent higher than minimum efficiencies listed in Tables C403.3.2 (1), (2), (4), (8), (9), and (14), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify for this exception. The total capacity of all qualifying small equipment without economizers shall not exceed 72,000 Btu/h per building, or 5 percent of the building total air economizer capacity, whichever is greater.
Notes and exclusions for Exception 1:

- 1.1. The portion of the equipment serving Group R occupancies is not included in determining the total capacity of all units without economizers in a building.
 - 1.2. Redundant units are not counted in the capacity limitations.
 - 1.3. This exception shall not be used for the initial tenant improvement of a shell-and-core building or space, or for Total Building Performance in accordance with Section C407.
 - 1.4. This exception shall not be used for unitary cooling equipment installed outdoors or in a mechanical room adjacent to the outdoors.
 - 2. Chilled water terminal units connected to systems with chilled water generation equipment with IPLV values more than 25 percent higher than minimum part load equipment efficiencies listed in Table C403.3.2 (3), in the appropriate size category, using the same test procedures. Equipment shall be listed in the appropriate certification program to qualify for this exception. The total capacity of all systems without economizers shall not exceed 480,000 Btu/h per building, or 20 percent of the building total air economizer capacity, whichever is greater.
- Notes and exclusions for Exception 2:
- 2.1. The portion of the equipment serving Group R occupancy is not included in determining the total capacity of all units without economizers in a building.
 - 2.2. This exception shall not be used for the initial tenant improvement of a shell-and-core building or space, or for total building performance in accordance with Section C407.

C503.4.3 Alterations or replacement of existing cooling systems. Alterations to, or replacement of, existing mechanical cooling systems shall not decrease the building total economizer capacity unless the system complies with either Section C403.3.5 or C403.5. System alterations or replacement shall comply with Table C503.4.3 when either the individual cooling unit capacity or the building total capacity of all cooling equipment without economizer does not comply with the exceptions in Section C403.5. Equipment replacements that include space heating shall also comply with Section C503.4.6.

**Table C503.4.3
Economizer Compliance Options for Mechanical Alterations**

	Option A	Option B (alternate to A)	Option C (alternate to A)	Option D (alternate to A)
Unit Type	Any alteration with new or replacement equipment	Replacement unit of the same type with the same or smaller output capacity	Replacement unit of the same type with a larger output capacity	New equipment added to existing system or replacement unit of a different type
1. Packaged Units	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: min. ^a Economizer: C403.5 ^b
2. Split Systems	Efficiency: min. ^a Economizer: C403.5 ^b	For units ≤ 60,000 Btuh, comply with two of two measures: 1. Efficiency: + 10% ^c 2. Economizer: shall not decrease existing economizer capability	For units ≤ 60,000 Btuh replacing unit installed prior to 1991 comply with at least one of two measures: 1. Efficiency: + 10% ^c 2. Economizer: 50% ^f	Efficiency: min. ^a Economizer: C403.5 ^b
		For all other capacities: Efficiency: min. ^a Economizer: C403.5 ^b	For all other capacities: Efficiency: min. ^a Economizer: C403.5 ^b	
3. Water Source Heat Pump	Efficiency: min. ^a Economizer: C403.5 ^b	For units ≤ 72,000 Btuh, comply with at least two of three measures: 1. Efficiency: +10% ^e 2. Flow control valve ^g 3. Economizer: 50% ^f	For units ≤ 72,000 Btuh, comply with at least three of three measures: 1. Efficiency: +10% ^e 2. Flow control valve ^g 3. Economizer: 50% ^f (except for certain pre-1991 systems ^q)	Efficiency: min. ^a Economizer: C403.5 ^b (except for certain pre-1991 systems ^q)
		For all other capacities: Efficiency: min. ^a Economizer: C403.5 ^b	For all other capacities: Efficiency: min. ^a Economizer: C403.5 ^b	
4. Water Economizer using Air-Cooled Heat Rejection Equipment (Dry Cooler)	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: + 5% ^d Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: min. ^a Economizer: C403.5 ^b
5. Air-Handling Unit (including fan coil units) where the system has an air-cooled chiller	Efficiency: min. ^a Economizer: C403.5 ^b	Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b (except for certain pre-1991 systems ^q)	Efficiency: min. ^a Economizer: C403.5 ^b (except for certain pre-1991 systems ^q)

	Option A	Option B (alternate to A)	Option C (alternate to A)	Option D (alternate to A)
Unit Type	Any alteration with new or replacement equipment	Replacement unit of the same type with the same or smaller output capacity	Replacement unit of the same type with a larger output capacity	New equipment added to existing system or replacement unit of a different type
6. Air-Handling Unit (including fan coil units) and Water-cooled Process Equipment, where the system has a water-cooled chiller ¹⁰	Efficiency: min. ^a Economizer: C403.5 ^b	Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b (except for certain pre-1991 systems ^q and certain 1991-2016 systems ¹)	Efficiency: min. ^a Economizer: C403.5 ^b (except for certain pre-1991 systems ^q and certain 1991-2016 systems ¹)
7. Cooling Tower	Efficiency: min. ^a Economizer: C403.5 ^b	No requirements	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: min. ^a Economizer: C403.5 ^b
8. Air-Cooled Chiller	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: + 10% ^k Economizer: shall not decrease existing economizer capacity	Efficiency: Comply with two of two measures: 1. + 10% ^{k,l} and 2. Multistage compressor(s) Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b
9. Water-Cooled Chiller	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: Comply with at least one of two measures: 1. Part load IPLV + 15% ⁿ or 2. Plate frame heat exchanger ^o Economizer: shall not decrease existing economizer capacity	Efficiency: Comply with two of two measures: 1. Part load IPLV + 15% ⁿ 2. Plate-frame heat exchanger ^o Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b
10. Package Terminal Air Conditioner	Efficiency: min. ^a Economizer: C403.5 ^b	Efficiency: + 5% ^a Economizer: shall not decrease existing economizer capacity	Efficiency: + 5% ^a Economizer: shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b
11. Package Terminal Heat Pump	Efficiency: min. ^a Economizer: C403.5 ^b	Cooling efficiency: + 5% ^d Heating efficiency: + 10% ^e Shall not decrease existing economizer capacity	Cooling efficiency: + 5% ^d Heating efficiency: + 10% ^e Shall not decrease existing economizer capacity	Efficiency: min. ^a Economizer: C403.5 ^b

- a Minimum equipment efficiency shall comply with Section C403.3.2 and the tables in Section C403.3.2.
- b All separate new equipment and replacement equipment shall have air economizer complying with Section C403.5 including both the individual unit size limits and the total building capacity limits on units without economizer. It is acceptable to comply using one of the exceptions to Section C403.5.
- c Reserved.
- d Equipment shall have a capacity-weighted average cooling system efficiency that is 5% better than the requirements in the tables in Section C403.3.2 (1.05 × values in the tables).
- e Equipment shall have a capacity-weighted average cooling system efficiency that is 10% better than the requirements in the tables in Section C403.3.2 (1.10 × values in the tables).
- f Minimum of 50% air economizer that is ducted in a fully enclosed path directly to every heat pump unit in each zone, except that ducts may terminate within 12 inches of the intake to an HVAC unit provided that they are physically fastened so that the outside air duct is directed into the unit intake. If this is an increase in the amount of outside air supplied to this unit, the outside air supply system shall be configured to provide this additional outside air and be equipped with economizer control.
- g Water-source heat pump systems shall have a flow control valve to eliminate flow through the heat pumps that are not in operation and variable speed pumping control complying with Section C403.4.3 for that heat pump.
 - When the total capacity of all units with flow control valves exceeds 15% of the total system capacity, a variable frequency drive shall be installed on the main loop pump.
 - As an alternate to this requirement, the capacity-weighted average cooling system efficiency shall be 5% better than the requirements in footnote ^e for water-source heat pumps (i.e., a minimum of 15% greater than the requirements in Table C403.3.2(14)).
- h Water economizer equipment shall have a capacity-weighted average cooling system efficiency that is 10% better than the requirements in Tables C403.3.2(7), C403.3.2(10), and C403.3.2(16) (1.10 × values in Tables C403.3.2(7), C403.3.2(10), and C403.3.2(16)).
- i Air economizer is not required for systems installed with water economizer plate and frame heat exchanger complying with previous codes between 1991 and June 2016, provided that the total fan coil load does not exceed the existing or added capacity of the heat exchangers.
- j For water-cooled process equipment where the manufacturers specifications require colder temperatures than available with waterside economizer, that portion of the load is exempt from the economizer requirements.
- k The air-cooled chiller shall have an IPLV efficiency that is a minimum of 10% greater than the IPLV requirements in EER in Table C403.3.2(3) (1.10 × IPLV values in EER in Table C403.3.2(3)).
- l The air-cooled chiller shall be multistage with a minimum of two compressors.
- m The water-cooled chiller shall have full load and part load IPLV efficiency that is a minimum of 5% greater than the IPLV requirements in Table C403.3.2(3).

- n The water-cooled chiller shall have an IPLV value that is a minimum of 15% lower than the IPLV requirements in Table C403.3.2(3) ($0.85 \times$ IPLV values in Table C403.3.2 (3)). Water-cooled centrifugal chillers designed for nonstandard conditions shall have an NPLV value that is at least 15% lower than the adjusted maximum NPLV rating in kW per ton defined in Section C403.3.2.3 ($0.85 \times$ NPLV).
- o Economizer cooling shall be provided by adding a plate-frame heat exchanger on the waterside with a capacity that is a minimum of 20% of the chiller capacity at standard AHRI rating conditions.
- p Reserved.
- q Systems installed prior to 1991 without fully utilized capacity are allowed to comply with Option B, provided that the individual unit cooling capacity does not exceed 90,000 Btuh.

C503.4.4 Controls for cooling equipment replacement. When space cooling equipment is replaced, controls shall comply with all requirements under Section C403.3.5 and related subsections, and Section C403.5.1 for integrated economizer control.

C503.4.5 Mechanical equipment relocation. Existing equipment currently in use may be relocated within the same floor or same tenant space if removed and reinstalled within the same permit.

C503.4.6 Addition or replacement of heating appliances. Where a mechanical heating appliance is added or replaced, the added or replaced appliance shall comply with Section C401.3, Section C403.1.4, or with an alternate compliance option in Table C503.4.6. Where use of heat pump equipment for space heating is required by this section, it is permissible to utilize the Fossil Fuel Compliance Path in Section C401.3 to attain the credits required for building additions shown in Table C401.3.3.

- EXCEPTIONS:
1. Terminal unit equipment including, but not limited to, hydronic VAV boxes, electric resistance VAV boxes, electric duct heaters, water source heat pumps, fan coils, or VRF indoor units that are served by an unaltered central system.
 2. Air handling equipment with hydronic coils.
 3. Air handling equipment designed for 100 percent outdoor air that is not subject to the requirements in Section C403.3.5 or that qualifies for an exception to Section C403.3.5.
 4. Replacement of existing oil-fired boilers.
 5. Replacement of existing steam boilers with steam distribution to terminal units and the associated boiler feed equipment.
 6. Where compliance with Section C403.1.4 would trigger an unplanned utility electrical service upgrade based on the NEC 220.87 method for determining existing loads.
 7. Replacement of heating equipment with equipment that is the same type and where the rated capacity of the new equipment does not exceed the rated capacity of the existing equipment.

**Table C503.4.6
Compliance Options for Mechanical Heating Equipment Alterations**

	Proposed Heating Equipment Type^a	Heating Efficiency Table Reference	Alternate Compliance Options to Section C403.1.4
1	Air-Cooled Unitary Heat Pumps	Table C403.3.2(2)	1. Compliance with C403.1.4, except heat pump rated capacity in accordance with Section C403.1.4 exception 5d is permitted to be sized equal to the supplemental internal resistance heating capacity in Climate Zone 4 or 5 ^c 2. Compliance with C403.1.4, except electric resistance mixed air preheat is permissible ^c
2	Packaged terminal, single-package vertical, and room air-conditioner heat pumps	Table C403.3.2(4)	1. Compliance with C403.1.4, except heat pump rated capacity in accordance with Section C403.1.4 Exception 5d is permitted to be sized equal to the supplemental internal resistance heating capacity in Climate Zone 4 or 5
3	Furnaces, duct furnaces, and unit heaters	Table C403.3.2(5)	1. Efficiency: + 5% ^b
4	Gas-fired hot water boilers with fewer than 80% of served coils replaced	Table C403.3.2(6)	1. Efficiency: + 5% ^b
5	Variable refrigerant flow air-to-air and applied heat pumps	Table C403.3.2(9)	No alternate compliance option

	Proposed Heating Equipment Type ^a	Heating Efficiency Table Reference	Alternate Compliance Options to Section C403.1.4
6	DX-DOAS equipment	Table C403.3.2(12) and Table C403.3.2(13)	1. DX-DOAS is provided with heat recovery if not required by C403.3.5.1.
7	Water-source heat pumps	Table C403.3.2(14)	No alternate compliance option

^a Includes replacement of equipment with a unit that is the same type or higher efficiency and the same or lower capacity, or a replacement of one equipment type with a different equipment type.

^b Equipment shall have a capacity-weighted average heating system efficiency that is five percent better than that shown in the reference table (1.05 x values in reference table).

^c Option 1 and Option 2 can be combined.

C503.4.6.1 Hydronic system alteration supply water temperature. Hydronic heating coils and appliances subject to Section C503.4.5 or Section C503.4.6 shall comply with Section C403.3.8.2.

C503.5 Service water heating equipment. All new service water heating systems, equipment, and components of existing systems that are altered or replaced shall comply with Section C407 or Sections C404, C408.3, (~~C409.5, and~~) C501.6, and C506.1. Additions or alterations shall not be made to an existing service water heating system that will cause the existing system to become out of compliance. Where use of heat pump equipment for service water heating is required by this section, it is permissible to utilize the Fossil Fuel Compliance Path in Section C401.3 to attain the credits required for building additions shown in Table C401.3.3.

EXCEPTION:

The following equipment is not required to comply with Section C401.3 or Section C404.2.1, as applicable:

1. Replacement of service water heating appliances with equipment that is the same type and has the same or higher efficiency and the same or lower capacity, provided there are no other alterations made to the existing service water heating system size or configuration.

2. Replacement of any of the following water heater appliances:

2.1. Electric water heaters with an input of 12 kW or less.

2.2. Gas storage water heaters with an input of 75,000 Btu/h or less.

2.3. Gas instantaneous water heaters with an input of 200,000 Btu/h or less and 2 gallons or less of storage.

3. Where it has been determined by the code official that existing building constraints including, but not limited to, available floor space or ceiling height, limitations of the existing structure, or electrical service capacity, make compliance technically infeasible.

C503.6 Pools and permanent spas. All new systems and equipment serving pools and permanent spas and components of existing systems that are altered or replaced, shall comply with Sections C404.11, C408.3, (~~C409.5, and~~) C501.6, and C506.1. Additions or alterations shall not be made to an existing system serving a pool or spa that will cause the existing system to become out of compliance.

C503.7 Electrical power and lighting systems and motors. Alterations or the addition of lighting, receptacles and motors shall comply with Sections C503.7.1 through C503.7.7. Additions or alterations shall not be made to an existing lighting or electrical system that will cause the existing system to become out of compliance.

C503.7.1 New lighting systems and controls. All new interior and exterior lighting systems within an existing building site shall be provided with lighting controls in accordance with Section C405.2 and shall comply with C408.4, (~~C409.5, and~~) C501.6, and C506.1.

C503.7.2 Luminaire additions and alterations. Alterations that add or replace 20 percent or more of the luminaires in a space enclosed by walls or ceiling-height partitions, replace 20 percent or more of parking garage luminaires, or replace 20 percent or more of the total installed wattage of exterior luminaires shall comply with Sections C405.4 and C405.5. Exterior power allowance shall be determined using the specific area allowances for the areas altered and shall not include the base site allowance. Where less than 20 percent of the fixtures in an interior space enclosed by walls or ceiling-height parti-

tions or in a parking garage are added or replaced, or less than 20 percent of the installed exterior wattage is replaced, the installed lighting wattage shall be maintained or reduced.

C503.7.3 Rewiring and recircuiting. Where new wiring is being installed to serve added fixtures and/or fixtures are being relocated to a new circuit, lighting controls shall comply with all applicable requirements in accordance with Sections C405.2.1, C405.2.3, C405.2.4, C405.2.5, C405.2.6, C405.2.7, C405.2.8, C408.4, and C501.6.

C503.7.4 New or moved lighting panel. Where a new lighting panel (or a moved lighting panel) with all new raceway and conductor wiring from the panel to the fixtures is being installed, lighting controls shall also comply with, in addition to the requirements of Section C503.7.3, all ((remaining)) requirements in Sections C405.2, C408.4, and C501.6.

C503.7.5 Newly-created rooms. Where new walls or ceiling-height partitions are added to an existing space and create a new enclosed space, but the lighting fixtures are not being changed, other than being relocated, the new enclosed space shall have lighting controls that comply with all applicable requirements in accordance with Sections C405.2.1, C405.2.2, C405.2.3, C405.2.4, C405.2.5, C405.2.6, C408.4 and C501.6.

C503.7.6 Motors. Motors that are altered or replaced shall comply with Section C405.8.

C503.7.7 Controlled receptacles. Where electric receptacles are added or replaced, controlled receptacles shall be provided in accordance with Section C405.10 and shall comply with Sections C408.4 and C501.6.

EXCEPTIONS:

1. Where an alteration project impacts an area smaller than 5,000 square feet, controlled receptacles are not required.
2. Where existing systems furniture or partial-height relocatable office cubical partitions are reconfigured or relocated within the same area, controlled receptacles are not required in the existing systems furniture or office cubicle partitions.
3. Where new or altered receptacles meet ((the)) exception 1 to Section ((C405.10)) C405.10.1, they are not required to be controlled receptacles or be located within 12 inches of noncontrolled receptacles.

C503.8 Refrigeration systems. Components of existing refrigeration systems that are altered or replaced shall comply with Sections C408.7, C410 and C501.6. Additions or alterations shall not be made to an existing refrigeration system that will cause the existing system to become out of compliance. All new refrigerated spaces and refrigeration systems and equipment in existing buildings, including new refrigerated display cases, shall comply with Sections C408.7, ((C409.5,)) C410 ((and)), C501.6, and C506.1.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-50500 Section C505—Change of space conditioning, occupancy or use.

C505.1 General. Buildings or spaces undergoing a change in space conditioning alteration shall comply with Sections C505.2 and C505.4. Buildings or spaces undergoing a change in occupancy alteration((s)) shall comply with Sections C505.3 and C505.4. Spaces changing from one use type to another shall comply with Section C505.5.

Buildings or spaces undergoing a change in space conditioning, change in occupancy or use shall conform to the provisions of this code without requiring the unaltered portion of the existing building

to comply with this code. Alterations shall be such that the existing building or structure is no less conforming to the provisions of this code than the existing building or structure was prior to the alteration.

A change in space conditioning alteration shall be deemed to comply with this code if the alteration area alone complies or if the alteration area is combined with all other spaces within the existing building that are of the same space conditioning category according to Section C505.2 to demonstrate compliance. A change in occupancy alteration shall be deemed to comply with this code if the alteration area alone complies or if the existing building and the alteration area are combined to demonstrate ~~((complete))~~ compliance for the whole building. This allowance applies to prescriptive compliance in accordance with Section C505.4 or total building performance in accordance with Section C407.

Buildings or spaces that were permitted prior to the 2009 Washington state energy code, or were originally permitted as unconditioned, may comply with this section as follows:

1. Where the component performance alternative in Section C402.1.5 is used to demonstrate compliance with this section, the Proposed Total UA is allowed to be up to 110 percent of the Allowable Total UA. This exception may be applied to the project area alone, or to the existing building and project area combined as a whole building.

2. Where total building performance in accordance with Section C407 is used to demonstrate compliance with this section, the total annual ~~((carbon emissions from energy consumption))~~ site energy use of the proposed design is allowed to be up to 110 percent of the annual ~~((carbon emissions from energy consumption))~~ site energy use allowed by Section C407.3. This exception may be applied to the project area alone, or to the existing building and project area combined as a whole building.

C505.1.1 Additional energy efficiency credits. Buildings or spaces that are required to comply with Sections C505.2 or C505.3 shall also comply with Section C502.1.1 in the same manner as an addition.

C505.1.2 Renewable energy. Buildings or spaces that are required to comply with Section C505.2 or C505.3 shall also comply with Section C502.1.2 in the same manner as an addition.

C505.2 Change in space conditioning. Spaces undergoing a change in space conditioning alteration shall be brought up to full compliance with this code for all disciplines in the following cases:

1. Any low energy space in accordance with Section C402.1.1.1 that is altered to become *conditioned space* or *semi-heated space* shall be brought into full compliance with this code.

2. Any semi-heated space in accordance with Section C402.1.1.2 that is altered to ~~((become conditioned))~~ no longer qualify as semi-heated space shall be brought into full compliance with this code.

For buildings with more than one space conditioning category, the interior partition walls, ceilings, floors and fenestration that separate space conditioning areas shall comply with the thermal envelope requirements per the area with the highest level of space conditioning.

C505.3 Change in occupancy. Spaces undergoing a change in occupancy alteration shall be brought up to full compliance with this code for all disciplines in the following cases:

1. Any space that is converted from a Group F, S or U occupancy to an occupancy other than Group F, S or U.
2. Any space that is converted to a Group R dwelling unit or portion thereof, from another use or occupancy.
3. Any Group R dwelling unit or portion thereof permitted prior to July 1, 2002, that is converted to a commercial use or occupancy.

C505.4 Prescriptive compliance. Change in space conditioning and change in occupancy alterations shall comply with Sections C505.4.1 through ((C505.4.6)) C505.4.7.

C505.4.1 Vertical fenestration. A change in space conditioning alteration with vertical fenestration shall comply with the following:

1. Where the vertical fenestration area of the alteration combined with the vertical fenestration area of all equivalent space conditioning areas in the existing building results in a total vertical fenestration area that is less than or equal to the maximum allowed by Section C402.4.1, the alteration shall comply with Section C402.4.

2. Where the vertical fenestration area of the alteration combined with the vertical fenestration area of all equivalent space conditioning areas in the existing building results in a total vertical fenestration area that is greater than the maximum allowed by Section C402.4.1, the alteration shall comply with one of the following:

- 2.1. Component performance alternative with target area adjustment in accordance with Section C402.1.5 for the alteration area of the building only.

- 2.2. Alteration area is combined with all equivalent space conditioning areas to demonstrate compliance with the component performance alternative.

- 2.3. Total building performance in accordance with Section C407 for the alteration area of the building only.

- 2.4. Alteration area is combined with all equivalent space conditioning areas to demonstrate total building performance compliance.

((C505.4.1.2)) C505.4.2 Skylights. A change in space conditioning alteration with skylights shall comply with the following:

1. Where the skylight area of the alteration combined with the skylight area of all equivalent space conditioning areas in the existing building results in a total skylight area that is less than or equal to the maximum allowed by Section C402.4.1, the alteration shall comply with Section C402.4.

2. Where the skylight area of the alteration combined with the skylight area of all equivalent space conditioning areas in the existing building results in a total skylight area that is greater than the maximum allowed by Section C402.4.1, the alteration shall comply with one of the following:

- 2.1. Component performance alternative with target area adjustment in accordance with Section C402.1.5 for the alteration area of the building only.

- 2.2. Alteration area is combined with all equivalent space conditioning areas to demonstrate compliance with the component performance alternative.

- 2.3. Total building performance in accordance with Section C407 for the alteration area of the building only.

- 2.4. Alteration area is combined with all equivalent space conditioning areas to demonstrate total building performance compliance.

((C505.4.2)) C505.4.3 Building mechanical systems. All new and existing mechanical systems and equipment that serve the new building heat-

ing, cooling and ventilation needs of the alteration area shall comply with Sections C403, C408.2, ~~((C409.5 and))~~ C501.6, and C506.1.

~~((C505.4.3))~~ **C505.4.4 Service water-heating systems.** All new and existing service water-heating systems and equipment that serve the new service water-heating needs of the alteration area shall comply with Sections C404, C408.3, ~~((C409.5 and))~~ C501.6, and C506.1.

~~((C505.4.4))~~ **C505.4.5 Pools and permanent spas.** All new and existing systems and equipment serving pools and permanent spas that are included in the alteration shall comply with Sections C404.11, C408.3, ~~((C409.5 and))~~ C501.6, and C506.1.

~~((C505.4.5))~~ **C505.4.6 Electrical power and lighting systems and motors.** All new and existing electrical power and lighting systems and motors that are included in the alteration shall comply with Sections C405, C408.4, ~~((C409.5 and))~~ C501.6, and C506.1.

~~((C505.4.6))~~ **C505.4.7 Refrigeration systems.** All new and existing refrigerated spaces and refrigeration systems and equipment that serve the new refrigeration needs of the alteration area shall comply with Sections C410, C408.7, ~~((C409.5 and))~~ C501.6, and C506.1.

C505.5 Change of use. Where the use in a space changes from one use in Table C405.4.2 (1) or (2) to another use in Table C405.4.2 (1) or (2), the installed lighting wattage in the space shall comply with Section C405.4 and the ventilation air flow provided to the space shall be in accordance with Chapter 4 of the *International Mechanical Code*.

AMENDATORY SECTION (Amending WSR 22-14-091, 23-12-101, and 23-20-021, filed 7/1/22, 6/7/23, and 9/25/23, effective 3/15/24)

WAC 51-11C-50600 Section C506—Metering for existing buildings.

C506.1 Metering in existing buildings ~~((that were constructed subject to the requirements of this section))~~. Where new or replacement systems or equipment are installed in an existing building that was constructed subject to the requirements of this section, metering shall be provided for such new or replacement systems or equipment so that their energy use is included in the corresponding end-use category defined in Section C409.2. This includes systems or equipment added in conjunction with additions or alterations to existing buildings.

C506.1.1 Small existing buildings. Metering and data acquisition systems shall be provided for additions over 25,000 square feet to buildings that were constructed subject to the requirements of this section, in accordance with the requirements of Sections C409.2 and C409.3.

WSR 24-16-147

PERMANENT RULES

BUILDING CODE COUNCIL

[Filed August 7, 2024, 11:45 a.m., effective September 7, 2024]

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

Purpose: Making editorial corrections to Section C401.3 of the 2021 Washington State Energy Code, Commercial, chapter 51-11C WAC.

Citation of Rules Affected by this Order: Amending WAC 51-11C-40100.

Statutory Authority for Adoption: RCW 19.27A.045.

Other Authority: Chapter 19.27A RCW.

Adopted under notice filed as WSR 24-12-059 on June 2 [3], 2024.

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

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

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

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

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

Date Adopted: August 7, 2024.

Daimon Doyle
Chair

OTS-5470.1

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40100 Section C401—General.

C401.1 Scope. The provisions in this chapter are applicable to commercial buildings and their building sites.

C401.2 Application. Commercial buildings shall comply with the fossil fuel compliance path according to Section C401.3, or with one of the following:

1. Prescriptive compliance. The prescriptive compliance option requires compliance with Sections C402 through C406, and Sections C408, C409, C410, C411, and C412.

2. Total building performance. The total building performance option requires compliance with Section C407.

3. When adopted by the local jurisdiction, the requirements of Appendix F, Outcome-Based Energy Budget, Sections C408, C409, C410, C411, C412 and any specific sections in Table C407.2 as determined by the local jurisdiction. The Proposed Total UA of the proposed building shall be no more than 20 percent higher than the Allowed Total UA as defined in Section C402.1.5.

C401.2.1 Application to existing buildings. Additions, alterations, repairs, and changes of space conditioning, occupancy, or use to existing buildings shall comply with Chapter 5.

C401.2.2 Application to process equipment. Energy using equipment used by a manufacturing, industrial, or commercial process other than for conditioning spaces or maintaining comfort and amenities for the occupants shall comply with Section C401.3.1 Item 2, C403.3.2, Tables C403.3.2(1) through (16) inclusive, Sections C403.3.4.1 through C403.3.4.3, C403.7.7, C403.9.2.1, C403.10.3, C403.11.2, C403.11.3, Table C404.2, and Sections C405.8, C410, and C412.

C401.3 Fossil fuel compliance path. Buildings complying with the fossil fuel compliance path shall comply with the prescriptive compliance path of this code as defined in Item 1 of Section C401.2, and as modified by this Section C401.3.

C401.3.1 Modification of code requirements. For use of this compliance path only, the following changes shall be made to this code:

1. **Section C403.1.4 - Space heating.** Strike the phrase "... or fossil fuel combustion ..." from the first sentence of Section C403.1.4.

2. **Section C404.2.1 - Service water heating.** Revise the first sentence of Section C404.2.1 to read: "Service hot water shall be provided by fossil fuel water heating equipment, electric air-source heat pump water heating equipment, electric resistance water heating equipment, or a combination of these equipment types meeting the requirements of this section."

3. **Section C406.2.5 - Renewable energy.** When determining renewable energy credits in Equation 4-17 of Section C406.2.5, strike the phrase "... limited to 50 percent of the required credits in Section C406.1" in the definition of the factor AEC_{RRa} .

4. **Table C406.2 - Efficiency measure credits.** Use Table C406.2(2) credit values in place of Table C406.2(1) credit values.

C401.3.2 Fossil fuel equipment. Fossil fuel combustion appliances are permitted for HVAC heating, and shall comply with the applicable efficiency standards referenced in Section C403.3.3.2. Fossil fuel combustion appliances are permitted for service water heating, and shall comply with applicable efficiency standards referenced in Table C404.2.

C401.3.3 Additional efficiency credits. The number of additional efficiency credits required by Table C406.1 shall be increased by the number required in Table C401.3.3, modified as permitted in this section, and is in addition to the energy efficiency credits and load management credits required by Section C406.

EXCEPTION:

The required number of space heating additional efficiency credits are permitted to be reduced in the following instances:

1. Low energy spaces in accordance with Section C402.1.1.1 and equipment buildings in accordance with Section C402.1.2 that are served by space heating systems shall comply with sufficient measures from Table C406.2(1) or Table C406.2(2) to achieve a minimum of 50 percent of the efficiency credits required for new construction by Table C401.3.3, modified as permitted in this section.
2. Building additions that have less than 1,000 square feet of conditioned floor area and that comply with sufficient measures from Table C406.2(1) or Table C406.2(2) to achieve a minimum of 50 percent of the additional efficiency credits required for additions by Table C401.3.3, modified as permitted in this section.
3. Semi-heated spaces in accordance with Section C402.1.1.2 that comply with sufficient measures from Table C406.2(1) or Table C406.2(2) to achieve a minimum of 50 percent of the space heating additional efficiency credits required by Table C401.3.3, modified as permitted in this section.
4. Unconditioned spaces, open parking garages and unheated enclosed parking garages are not required to achieve the additional efficiency credits for space heating required by Table C401.3.3.

**TABLE C401.3.3
ADDITIONAL CREDITS REQUIRED**

Measure Title	Applicable Section	Occupancy Group					
		Group R-1	Group R-2	Group B	Group E	Group M	All Other
New building - Additional efficiency credits required for space heating systems using the fossil fuel pathway	C401.3.3.1	7	24	101	38	111	56
New building - Additional efficiency credits required for service water heating systems using the fossil fuel pathway	C401.3.3.2	198	212	27	17	79	107
Building additions - Additional efficiency credits required for space heating systems using the fossil fuel pathway	C401.3.3.1	4	12	51	19	56	28
Building additions - Additional efficiency credits required for service water heating systems using the fossil fuel pathway	(C402.3.3.2) C401.3.3.2	99	106	14	9	40	54

C401.3.3.1 HVAC credit modification. The number of HVAC heating energy efficiency credits required by Table C401.3.3 is permitted to be decreased according to the following equation:

$$CR = A \times ((\cancel{B - C})) \underline{(C - B)} / D$$

Where:

- CR = Additional credits required, rounded to the nearest whole number.
- A = Baseline HVAC heating credits from Table C401.3.3.
- B = Installed fossil fuel space heating capacity in kBTU/h of appliances that comply with any of the exceptions to Section C403.1.4.
- C = Total installed fossil fuel space heating capacity in kBTU/h of all HVAC heating appliances.
- D = Total capacity in kBTU/h of all types of space heating appliances.

C401.3.3.2 Service water heating credit modification. The number of service water heating energy efficiency credits required by Table C401.3.3 is permitted to be decreased according to the following equation:

$$CR = A \times ((\cancel{B - C})) \underline{(C - B)} / D$$

Where:

- CR = Additional credits required, rounded to the nearest whole number.
- A = Baseline credits from Table C401.3.3.
- B = Installed service water heating appliances capacity in kBTU/h of service water heating appliances that comply with any of the exceptions to Section C404.2.1.
- C = Total installed fossil fuel service water heating capacity in kBTU/h of all service water heating appliances.

D = Total capacity in kBtu/h of all types
of service water heating appliances.

C401.3.4 Renewable energy credit limit. No more than 80 percent of the efficiency credits required by Sections C401.3.3.1 and C401.3.3.2 are permitted to be renewable energy credits defined in Section C406.2.5.

C401.3.5 Discrete area-weighting of additional required credits. In addition to the area-weighted credit requirements in Section C406.1.2, where a building includes multiple occupancies, the additional required credits per Table C401.3.3 shall be determined separately for each occupancy group. Additional required credits shall be prorated on an area-weighted basis for each occupancy group in the same manner as required project credits per Section C406.1.

1. Where a single space heating or service water heating system serves multiple occupancies, the number of additional required credits shall be prorated on an area-weighted basis for each occupancy served.

2. Additional required credits for envelope systems shall be prorated on an area-weighted basis for all occupancies.

3. Occupancies are permitted to be subdivided into discrete areas, with required and achieved credits for each area prorated on an area-weighted basis as required for the occupancy group.

C401.3.6 Electrification readiness. Additionally, the following provisions shall be required for new construction for each fossil fuel space heating or service water heating appliance installed:

1. Provide a spare electrical branch circuit conduit to the location of a future replacement heat pump appliance to support an equivalent heating capacity.

2. Provide spare electrical service entrance conduits for the purpose of upgrading the main electrical service to support all heat pump appliances throughout the building.

3. The main electrical room has sufficient space to accommodate increasing the main electrical service's size to support all heat pump appliances throughout the building.

4. Additional accommodations for the equipment comprised of transformer(s) and other equipment necessary to support an electrical service upgrade. These accommodations shall include adequate space on the site. If the equipment is located in a transformer vault, that vault must include not only the space to support electrical service upgrade but also include accommodations for additional cooling for larger transformer(s).

C401.4 Thermal envelope certificate. A permanent thermal envelope certificate shall be completed by an *approved* party. Such certificate shall be posted on a wall in the space where the space conditioning equipment is located, a utility room or other *approved* location. If located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. A copy of the certificate shall also be included in the construction files for the project. The certificate shall include:

1. R-values of insulation installed in or on ceilings, roofs, walls, foundations and slabs, crawlspace walls and floors, and ducts outside *conditioned spaces*.

2. U-factors and *solar heat gain coefficients* (SHGC) of fenestration.

3. Results from any building envelope air leakage testing performed on the building.

Where there is more than one value for any component of the building envelope, the certificate shall indicate the area-weighted average value where available. If the area-weighted average is not available, the certificate shall list each value that applies to 10 percent or more of the total component area.