

WSR 24-16-025
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed July 26, 2024, 12:54 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-14-087 [24-12-009].

Title of Rule and Other Identifying Information: WAC 181-85-045, 181-85-200, 181-85-220, and 181-85-222, educator certificate renewal requirements.

Hearing Location(s): On September 19, 2024, at 8 a.m., in Spokane, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website <https://www.pesb.wa.gov/about-us/board-meetings/>.

Date of Intended Adoption: September 19, 2024.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8 a.m. on Monday, September 16, 2024.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb.k12.wa.us [pesb@k12.wa.us], by Thursday, September 5, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Update certificate renewal requirements to align with recent legislation.

Reasons Supporting Proposal: In 2024, state legislators identified a need for a more in-depth and expanded clock hour provider approval and review process and directed PESB to take on that work. State legislators focused on a need for clock hour providers to align their clock hour courses with PESB standards through an updated application/approval process and a new complaint system. This rule will help PESB establish the systems needed to carry out the legislative direction provided in the bill.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Nguyen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-489-4471; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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

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

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

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

Scope of exemption for rule proposal:

Is fully exempt.

July 26, 2024
Michael Nguyen
Rules Coordinator

OTS-5593.3

AMENDATORY SECTION (Amending WSR 20-16-031, filed 7/25/20, effective 8/25/20)

WAC 181-85-045 Approved in-service education agency—Definition.

As used in this chapter, the term "approved in-service education agency" shall mean an agency approved by the professional educator standards board to provide in-service education programs and to grant continuing education credit hours to all or a selective group of educators. Such agency must demonstrate the following characteristics:

(1) The agency is one of the following entities or a department or section within such entities:

(a) A college or university referenced in WAC 181-85-025(1);

(b) (i) An organization which for the purpose of this chapter shall mean any local, state, regional, or national organization which offers in-service education programs to teachers, administrators, educational staff associates, or paraeducators. These organizations must be nonprofit or not-for-profit organizations;

(ii) Organizations shall provide documentation of their nonprofit or not-for-profit status to the superintendent of public instruction as part of their annual assurances of compliance with program and recordkeeping standards under WAC 181-85-210;

(iii) Organizations that are filed as a 501 (c) (4) with the Internal Revenue Service shall not be approved as continuing education providers.

(c) A school district, an educational service district, the superintendent of public instruction, or any local, state, or federal agency;

(d) An approved private school which for the purpose of this chapter shall mean the same as provided in WAC 180-90-112; or

(e) An educator preparation program provider approved under chapter 181-78A or 181-77A WAC by the professional educator standards board.

(2) The in-service education agency has either a committee or board of directors that provide prior approval to proposed in-service education programs on the basis that the proposed programs are designed to meet the program standards set forth in WAC 181-85-200, and the content standards in WAC 181-85-202.

The committee will be composed of individuals who may include teachers, educational staff associates, administrators, paraeducators, community members, or representatives from colleges and universities.

(3) Beginning in the 2025-26 school year, in-service education agencies providing continuing education under WAC 181-79A-244(3) shall submit the following as part of the application process:

(a) The entity's mission and vision;

(b) The entity's experience and expertise in providing professional development to educators generally, as well as specific experience and expertise in equity-based practices;

(c) Possible subject matter topics of continuing education to be provided by the entity;

(d) Information on clock hour pricing;

(e) Transcript processes.

(4) School districts, tribal compact schools, and the superintendent of public instruction shall be considered to be approved in-service education agencies.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-200 In-service education approval standards. All in-service education programs provided by approved in-service education agencies shall meet the following program standards if continuing education credit hours are to be offered:

(1) The objectives of the in-service program—i.e., intended outcomes—shall be written for each in-service education program.

(2) The content of the in-service education program shall be set forth in a program agenda which shall specify the program objectives, the dates of each session, the number of continuing education credit hours to be offered, and the names and a short description of the qualifications of each instructor, for example, the instructor's relevant experience, academic background, or current professional position.

(3) All in-service education instructors shall have academic or professional experience which specifically qualifies them to conduct the in-service education program, for example, expertise in a particular content area, field, or occupation.

(4) The program agenda and program materials, prepared, designed, or selected for the in-service education program shall be available to all attendees.

(5) The in-service education program must relate to one or more of the content standards in WAC 181-85-202.

(6) The in-service education agency shall provide program evaluations to the participants, and, to the extent possible, collect these evaluations, in order to determine:

(a) The extent to which the written objectives have been met;

(b) Participant perception of relevance and quality of the offering;

(c) The extent to which activities identified in subsection (5) of this section, addressed by the in-service program, have been met;

(d) The extent to which the in-service program provided the opportunity for participants to reflect on next steps or implementation of the learning in their practice; and

(e) Suggestions for improving the in-service education program if repeated.

(7) The in-service education agency shall compile the evaluations received in subsection (6) of this section in summary form. Summary evaluation results for each in-service education agency offering shall be accessible to office of superintendent of public instruction staff for review.

(8) The designated administrator of each in-service education agency shall assess the value and success of such program and periodically report his or her findings, along with a summary of the evaluation results, to the board of directors or in-service education agency committee that authorized the in-service program.

(9) The standards for recordkeeping as provided in WAC 181-85-205 shall apply.

(10) The in-service education agency must permit a designated representative of the superintendent of public instruction to attend the in-service education program at no charge and permit such representative to receive a copy of the program materials required by subsection (4) of this section also at no charge.

(11) The in-service education agency must provide each registrant with appropriate forms for claiming continuing education credit hours.

(12) The provisions of this section do not apply to credit or continuing education hours awarded by accredited institutions of higher education under WAC 181-79A-030; course work continuing education hours awarded by a vocational-technical college; hours awarded by the department of children, youth, and families under WAC 181-85-030; hours awarded under WAC 181-85-033; or hours awarded under WAC 181-85-077 which satisfy department of health licensure requirements.

(13) An entity providing an administrator or teacher continuing education program focused on equity-based school practices or the national professional standards for education leaders must publicly post the learning objectives of the program on its website. If the entity does not have a website, it must post the learning objectives of the program in a conspicuous place in the entity's main office and submit a copy of the learning objectives to the Washington professional educator standards board.

AMENDATORY SECTION (Amending WSR 19-15-143, filed 7/24/19, effective 8/24/19)

WAC 181-85-220 Noncompliance—Substantial compliance rule. (1)

If an audit by the superintendent of public instruction finds that an approved in-service education agency is not in substantial compliance with the provisions of this chapter, the superintendent of public instruction shall document violations of the regulations—i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such in-service education agency fails to provide an assurance within ~~((twenty))~~ 20 calendar days that such corrective action will be implemented, the superintendent of public instruction shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the superintendent of public instruction that corrective action will be implemented which will satisfy the substantial compliance standard. If the approved in-service agency has more than one department or section operating in-service programs, then only the department or section within such agency that fails to comply with the provisions of this chapter shall no longer be eligible to provide continuing education credit hours.

(2) If an audit by the professional educator standards board finds that an approved in-service education agency is not in substan-

tial compliance with the provisions of this chapter, the professional educator standards board shall document violations of the regulations —i.e., written findings of fact and conclusions of law—and notify such provider of corrective action necessary to achieve substantial compliance. If such in-service education agency fails to provide an assurance within 20 calendar days that such corrective action will be implemented, the professional educator standards board shall notify the agency that it is no longer eligible to provide continuing education credit hours in its in-service education program until the agency provides an assurance to the professional educator standards board that corrective action will be implemented which will satisfy the substantial compliance standard. If the approved in-service agency has more than one department or section operating in-service programs, then only the department or section within such agency that fails to comply with the provisions of this chapter shall no longer be eligible to provide continuing education credit hours.

NEW SECTION

WAC 181-85-222 Temporary or permanent revocation of continuing education provider status. (1) Continuing education provider status may be temporarily or permanently revoked for providers that meet any of the following criteria:

(a) Providers that receive a substantial number of complaints filed against the provider, as determined by the board;

(b) Providers found to not be in substantial compliance with RCW 28A.410.277; or

(c) Providers found to offer course material that is not in substantial alignment with the cultural competency, diversity, equity, and inclusion standards of practices adopted in RCW 28A.410.260, as determined by the board.

(2) The following entities are authorized to submit a complaint under this section:

(a) Educators; or

(b) Local education agencies; or

(c) The office of the superintendent of public instruction; or

(d) Organizations representing principals; or

(e) Organizations representing school board members; or

(f) Organizations representing school administrators; or

(g) Labor organizations representing classified instructional staff; or

(h) Labor organizations representing teachers.

(3) The process for reviewing complaints under subsections (1) and (2) of this section shall be published by the professional educator standards board.

(4) Only the professional educator standards board may permanently revoke approval status of a continuing education provider.

WSR 24-16-042

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed July 30, 2024, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-049.

Title of Rule and Other Identifying Information: WAC 4-30-053

Client records.

Hearing Location(s): On October 18, 2024, at 9:00 a.m., at Capital Event Center, 6005 Tyee Drive S.W., Tumwater, WA 98512; or via Microsoft Teams meeting. The link to join the meeting will be available on the board of accountancy's (board) website approximately two weeks before the hearing date at <https://acb.wa.gov/next-board-meeting>. A phone number will be provided as well in case you are unable to attend online.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Kirsten Donovan, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507, email Kirsten.donovan@acb.wa.gov, fax 360-664-9190, by October 16, 2024.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, rules coordinator, phone 360-664-9191, fax 360-664-9190, TTY 711, email Kirsten.donovan@acb.wa.gov, by October 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board proposes adoption of new rule to provide guidance to consumers regarding client records.

Reasons Supporting Proposal: See purposes above.

Statutory Authority for Adoption: RCW 18.04.055.

Statute Being Implemented: RCW 18.04.055.

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

Name of Proponent: Board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Sciba, Deputy Director, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0952.

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

A cost-benefit analysis is not required under RCW 34.05.328. The board is not a listed agency in RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2024
Jennifer Sciba
Deputy Director

OTS-5685.1

NEW SECTION

WAC 4-30-053 Client record requests. (1) For the purpose of this rule:

(a) "Client" includes current and former clients.

(b) "Client-provided records" are accounting or other records, including hard copy and electronic reproductions of such records, belonging to the client that were provided to a licensee by, or on behalf of, the client.

(c) "Licensee-prepared records" are accounting or other records that a licensee was not specifically engaged to prepare and that are not in the client's books and records or are otherwise not available to the client, thus rendering the client's financial information incomplete. Examples include adjusting, closing, combining, or consolidating journal entries (including computations supporting such entries) and supporting schedules and documents that a licensee proposed or prepared as part of an engagement (for example, an audit).

(d) "Licensee's work products" are deliverables set forth in the terms of the engagement, such as tax returns.

(e) "Working papers" are all other items prepared solely for purposes of the engagement and include items prepared by a licensee, such as audit programs, analytical review schedules, and statistical sampling results and analyses, or items prepared by the client at the request of a licensee and reflecting testing or other work done by a licensee.

(f) "Make records available" means to provide the records in any format that is usable and accessible, whether electronic or otherwise, regardless of the format in which they were received.

(2) When an initial request for client-provided records is received, a licensee should make those records in a licensee's custody or control available. A licensee may charge a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records; however, the client-provided records may not be withheld for nonpayment of such fees.

(3) A licensee and the client may agree to terms other than those stated in this rule. When this occurs, a licensee should respond in accordance with such agreement. Otherwise, a licensee should respond to a request for licensee-prepared records or a licensee's work products that are in a licensee's custody or control and that have not previously been made available to the client as follows:

(a) A licensee should make available licensee-prepared records relating to a completed and issued work product; however, such records may be withheld if fees are due to a licensee for that specific work product.

(b) Licensee's work products should be made available; however, such work products may be withheld if fees are due to a licensee for the specific work product; the work product is incomplete; for purposes of complying with professional standards (for example, withholding an audit report with outstanding audit issues); or threatened or outstanding litigation exists concerning the engagement or a licensee's work.

(4) Once a licensee has complied with this rule, a licensee is under no obligation to:

(a) Comply with any subsequent requests to again make records or copies of records available. However, if after complying with a request, a loss of records due to a natural disaster or an act of war is

experienced, a licensee should, when practicable, comply with an additional request to make such records available.

(b) Retain records for periods that exceed applicable professional standards, state and federal statutes and regulations, and contractual agreements relating to the service performed.

(c) Make the records available to any other associated party, such as the general partner, majority shareholder, or spouse.

(5) Working papers are a licensee's property, and a licensee is not required to make such information available.

(6) In fulfilling a request for a licensee's copy of client-provided records that was previously made available to the client, licensee-prepared records, or a licensee's work products, a licensee may:

(a) Charge a reasonable fee for the time and expense incurred to retrieve, copy, and ship such records and require payment before a licensee makes the records available.

(b) Make the requested records available in any usable and accessible format. However, a licensee is not required to convert records that are not in electronic format to electronic format. If the records are requested in a specific format and the records are available in such format within a licensee's custody and control, the request should be honored. In addition, a licensee is not required to make formulas available, unless a licensee was engaged to make such formulas available as part of a completed work product or the formulas were used to create licensee-prepared records without which the client's financial information would be incomplete.

(c) Make and retain copies of any records that a licensee already made available.

(7) When a licensee is required to return or make records available, a licensee should comply as soon as practicable but, absent extenuating circumstances, no later than 45 days after the request is made.

(8) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

WSR 24-16-043

PROPOSED RULES

BOARD OF ACCOUNTANCY

[Filed July 30, 2024, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-008.

Title of Rule and Other Identifying Information: WAC 4-30-010 Definitions, 4-30-024 Public records, 4-30-034 Responding to board inquiries, 4-30-040 Integrity and objectivity, 4-30-042 Independence, 4-30-044 Contingent fees, 4-30-045 Commission and referral fees, 4-30-046 General standards, 4-30-048 Compliance with standards, 4-30-049 Accounting principles, 4-30-050 Confidential client information, 4-30-052 Acts discreditable, 4-30-054 Advertising and other forms of solicitation, 4-30-056 Form of organization and name, 4-30-070 What are the experience requirements in order to obtain a CPA license?, 4-30-090 Must an out-of-state individual holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state?, 4-30-112 In state and out-of-state firm licensing requirements, 4-30-114 How do I apply for and maintain a firm license?, 4-30-130 Quality assurance review (QAR) requirements for licensed CPA firms, 4-30-132 Qualifying continuing professional education (CPE) activities, and 4-30-142 Disciplinary actions.

Hearing Location(s): On October 18, 2024, at 9:00 a.m., at the Capital Event Center, 6005 Tyee Drive S.W., Tumwater, WA 98512; or Microsoft Teams meeting. The link to join the meeting will be available on the board of accountancy's (board) website approximately two weeks before the hearing date at <https://acb.wa.gov/next-board-meeting>. A phone number will be provided as well in case you are unable to attend online.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Kirsten Donovan, Rules Coordinator, P.O. Box 9131, Olympia, WA 98507, email Kirsten.donovan@acb.wa.gov, fax 360-664-9190, by October 16, 2024.

Assistance for Persons with Disabilities: Contact Kirsten Donovan, rules coordinator, phone 360-664-9191, fax 360-664-9190, TTY 711, email Kirsten.donovan@acb.wa.gov, by October 16, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board proposes amending rules for the following reasons (rules may appear in more than one category):

(1) Align the rules with HB 1920 RCW revisions. On March 7, 2024, Governor Inslee signed into law HB 1920, which is effective June 6, 2024. WAC 4-30-010, 4-30-034, 4-30-040, 4-30-042, 4-30-044, 4-30-045, 4-30-046, 4-30-048, 4-30-049, 4-30-050, 4-30-052, 4-30-054, 4-30-056, 4-30-070, 4-30-090, 4-30-112, 4-30-114, 4-30-130, and 4-30-142.

(2) Update the quality assurance review requirements. WAC 4-30-130.

(3) Update to gender-neutral pronouns. WAC 4-30-024, 4-30-040, 4-30-049, 4-30-132, and 4-30-142.

(4) Rename the rule. WAC 4-30-070, 4-30-090, and 4-30-114.

Reasons Supporting Proposal: See purposes above

Statutory Authority for Adoption: RCW 18.04.055

Statute Being Implemented: RCW 18.04.055

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

Name of Proponent: Board of accountancy, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Sciba, Deputy Director, 711 Capitol Way South, Suite 400, Olympia, WA 98501, 360-586-0952.

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

A cost-benefit analysis is not required under RCW 34.05.328. The board is not a listed agency in RCW 34.05.328 (5)(a)(i).

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2024
Jennifer Sciba
Deputy Director

OTS-5673.1

AMENDATORY SECTION (Amending WSR 24-04-024, filed 1/29/24, effective 7/1/24)

WAC 4-30-010 Definitions. For purposes of these rules the following terms have the meanings indicated unless a different meaning is otherwise clearly provided in these rules:

"Act" means the Public Accountancy Act codified as chapter 18.04 RCW.

"Active individual participant" means an individual whose primary occupation is at the firm or affiliated entity's business. An individual whose primary source of income from the business entity is provided as a result of passive investment is not an active individual participant.

"Applicant" means an individual who has applied:

- (a) To take the national uniform CPA examination;
- (b) For an initial individual license, an initial firm license, or initial registration as a resident nonlicensee owner;
- (c) To renew an individual license, a CPA firm license, or registration as a resident nonlicensee firm owner;
- (d) To reinstate an individual license or registration as a resident nonlicensee firm owner;
- (e) To convert an inactive license to an active license.

"Attest" means providing the following services:

- (a) Any audit or other engagement to be performed in accordance with the statements on auditing standards;
- (b) Any review of a financial statement to be provided in accordance with the statements on standards for accounting and review services;
- (c) Any engagement to be performed in accordance with the statements on standards for attestation engagements; and
- (d) Any engagement to be performed in accordance with the public company accounting oversight board auditing standards.

"Audit," "review," and "compilation" are terms reserved for use by licensees, as defined in this section.

"Board" means the board of accountancy created by RCW 18.04.035.

"Breach of fiduciary responsibilities/duties" means when a person who has a fiduciary responsibility or duty acts in a manner adverse or contrary to the interests of the person to whom they owe the fiduciary responsibility or duty. Such actions would include profiting from their relationship without the express informed consent of the beneficiary of the fiduciary relationship, or engaging in activities that represent a conflict of interest with the beneficiary of the fiduciary relationship.

"Certificate" issued under this act means an alternative license type previously issued by the board indicating that the certificate holder had passed the CPA examination, but had no verified experience, and was not fully licensed to practice public accounting. Certificates remained valid until June 30, 2024, at which time they convert to a CPA license in an inactive status. This definition does not include certificates issued by other jurisdictions which may be substantially equivalent to a Washington CPA license.

"Client" means the person or entity that retains a licensee, as defined in this section, a nonlicensee firm owner of a licensed firm or an entity affiliated with a licensed firm to perform professional services through other than an employer/employee relationship.

"Compilation" means providing a service to be performed in accordance with statements on standards for accounting and review services that is presenting, in the form of financial statements, information that is the representation of management (owners) without undertaking to express any assurance on the statements.

"CPA" or **"certified public accountant"** means an individual holding a license to practice public accounting under chapter 18.04 RCW or recognized by the board in the state of Washington, including an individual exercising practice privileges pursuant to RCW 18.04.350 ~~((+2))~~ (1).

"CPE" means continuing professional education.

"Fiduciary responsibility/duty" means a relationship wherein one person agrees to act solely in another person's interests. Persons having such a relationship are fiduciaries and the persons to whom they owe the responsibility are principals. A person acting in a fiduciary capacity is held to a high standard of honesty and disclosure in regard to a principal. Examples of fiduciary relationships include those between broker and client, trustee and beneficiary, executors or administrators and the heirs of a decedent's estate, and an officer or director and the owners of the entity.

"Firm" or "CPA firm" means a sole proprietorship, a corporation, ~~((or))~~ a partnership, a limited liability company, or other forms of organization issued a license under RCW 18.04.195. ~~(("Firm" also means a limited liability company or partnership formed under chapters 25.15 and 18.100 RCW and a professional service corporation formed under chapters 23B.02 and 18.100 RCW.))~~

"Firm mobility" means an out-of-state firm that is not licensed by the board and meets the requirements of RCW 18.04.195 (1) (a) ~~((+iii))~~ (ii) (A) through (D) exercising practice privileges in this state.

"Generally accepted accounting principles" (GAAP) is an accounting term that encompasses the conventions, rules, and procedures necessary to define accepted accounting practice at a particular time. It includes not only broad guidelines of general application, but also detailed practices and procedures. Those conventions, rules, and pro-

cedures provide a standard by which to measure financial presentations.

"Generally accepted auditing standards" (GAAS) are guidelines and procedures, promulgated by the AICPA, for conducting individual audits of historical financial statements.

"Holding out" means any representation to the public by the use of restricted titles as set forth in RCW 18.04.345 by a person that the person holds a license or practice privileges under the act and that the person offers to perform any professional services to the public. "Holding out" shall not affect or limit a person not required to hold a license under the act from engaging in practices identified in RCW (~~(18.04.350)~~) 18.04.345 (9) (b).

"Inactive" means a status of a license which prohibits a licensee from practicing public accounting. A person holding an inactive license may apply to the board to convert the license to an active status through an approval process established by the board.

"Individual" means a living, human being.

"Independence" means an absence of relationships that impair a licensee's impartiality and objectivity in rendering professional services for which a report expressing assurance is prescribed by professional standards.

"Interactive self-study program" means a CPE program that provides feedback throughout the course.

"IRS" means Internal Revenue Service.

"License" means a license to practice public accounting issued to an individual or a firm under the act, or a license or certificate to practice public accounting in another state or jurisdiction.

"Licensee" means an individual or firm holding a valid license to practice public accounting issued under the act, and individuals holding licenses or certificates to practice public accounting granted by an out-of-state jurisdiction who are allowed to exercise practice privileges in this state under RCW 18.04.350 (~~((+2))~~) (1) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1) (a) and (b).

"Manager" means a manager of a limited liability company licensed as a firm under the act.

"Nano learning" is a stand-alone continuing professional education (CPE) course that is a minimum of 10 minutes (0.2 CPE credit hours) consisting of electronic self-study with a stated learning objective and a minimum of two final assessment questions.

"NASBA" means the National Association of State Boards of Accountancy.

"Nonlicensee firm owner" means an individual, not licensed in any state to practice public accounting, who holds an ownership interest in a firm permitted to practice public accounting in this state.

"PCAOB" means Public Company Accounting Oversight Board.

"Peer review" means a study, appraisal, or review of one or more aspects of the attest or compilation work of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed, including a peer review, or any internal review or inspection intended to comply with quality control policies and procedures, but not including the "quality assurance review" under this section.

"Person" means any individual, nongovernmental organization, or business entity regardless of legal form, including a sole proprietorship, firm, partnership, corporation, limited liability company, asso-

ciation, or not-for-profit organization, and including the sole proprietor, partners, members, and, as applied to corporations, the officers.

"Practice privileges" are the rights granted by chapter 18.04 RCW to a person who:

- (a) Has a principal place of business outside of Washington state;
- (b) Is licensed to practice public accounting in another substantially equivalent state;
- (c) Meets the statutory criteria for the exercise of privileges as set forth in RCW 18.04.350(~~((2))~~) for individuals or RCW 18.04.195 (1)(b) for firms;
- (d) Exercises the right to practice public accounting in this state individually or on behalf of a firm;
- (e) Is subject to the personal and subject matter jurisdiction and disciplinary authority of the board in this state;
- (f) Must comply with the act and all board rules applicable to Washington state licensees to retain the privilege; and
- (g) Consents to the appointment of the issuing state board of another state as agent for the service of process in any action or proceeding by this state's board against the certificate holder or licensee.

"Principal place of business" means the office location designated by the licensee for purposes of substantial equivalency and reciprocity.

"Professional services" include all services requiring accountancy or related skills that are performed for a client, an employer, or on a volunteer basis. These services include, but are not limited to, accounting, audit and other attest services, tax, bookkeeping, management consulting, financial management, corporate governance, personal financial planning, business valuation, litigation support, educational, and those services for which standards are promulgated by the appropriate body for each services undertaken.

"Public practice" or the **"practice of public accounting"** means performing or offering to perform by a person or firm holding itself out to the public as a licensee, or as an individual exercising practice privileges, for a client or potential client, one or more kinds of services involving the use of accounting or auditing skills, including the issuance of "reports," or one or more kinds of management advisory, or consulting services, or the preparation of tax returns, or the furnishing of advice on tax matters. The "practice of public accounting" shall not include practices that are permitted under the provisions of RCW (~~(18.04.350(10))~~) 18.04.345 (9)(b) by persons or firms not required to be licensed under the act.

"Quality assurance review or QAR" is the process, established by and conducted at the direction of the board, to study, appraise, or review one or more aspects of the audit, compilation, review, and other professional services for which a report expressing assurance is prescribed by professional standards of a licensee or licensed firm in the practice of public accounting, by a person or persons who hold licenses and who are not affiliated with the person or firm being reviewed.

"Reciprocity" means board recognition of licenses, permits, certificates or other public accounting credentials of another jurisdiction that the board will rely upon in full or partial satisfaction of licensing requirements.

"Report," when used with reference to any attest or compilation service, means an opinion, report, or other form of language that states or implies assurance as to the reliability of the attested information or compiled financial statements and that also includes or is accompanied by any statement or implication that the person or firm issuing it has special knowledge or competence in the practice of public accounting. Such a statement or implication of special knowledge or competence may arise from use by the issuer of the report of names or titles indicating that the person or firm is involved in the practice of public accounting, or from the language of the report itself. "Report" includes any form of language which disclaims an opinion when such form of language is conventionally understood to imply any positive assurance as to the reliability of the attested information or compiled financial statements referred to and/or special competence of the part of the person or firm issuing such language; and it includes any other form of language that is conventionally understood to imply such assurance and/or such special knowledge or competence. "Report" does not include services referenced in RCW ((~~18.04.350(10) or (11)~~)) 18.04.345 (9) (b) or (c) provided by persons not holding a license under this chapter as provided in RCW ((~~18.04.350(14)~~)) 18.04.345 (1) (b).

"Representing oneself" means having a license, practice privilege, or registration that entitles the holder to use the title "CPA," "CPA-Inactive," or be a nonlicensee firm owner.

"Rules of professional conduct" means rules adopted by the board to govern the conduct of licensees, as defined in this section, while representing themselves to others as licensees. These rules also govern the conduct of licensees with an inactive status, nonlicensee firm owners, and persons exercising practice privileges pursuant to RCW 18.04.350(2).

"SEC" means the Securities and Exchange Commission.

"Sole proprietorship" means a legal form of organization owned by one person meeting the requirements of RCW 18.04.195.

"State" includes the states and territories of the United States, including the District of Columbia, Puerto Rico, Guam, and the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands at such time as the board determines that the Commonwealth of the Northern Mariana Islands is issuing licenses under the substantially equivalent standards of RCW 18.04.350 ((~~+2~~)) (1) (a).

"Statements on auditing standards (SAS)" are interpretations of the generally accepted auditing standards and are issued by the Auditing Standards Board of the AICPA. Licensees are required to adhere to these standards in the performance of audits of financial statements.

"Statements on standards for accounting and review services (SSARS)" are standards, promulgated by the AICPA, to give guidance to licensees who are associated with the financial statements of nonpublic companies and issue compilation or review reports.

"Statements on standards for attestation engagements (SSAE)" are guidelines, promulgated by the AICPA, for use by licensees in attesting to assertions involving matters other than historical financial statements and for which no other standards exist.

"Substantial equivalency" ((~~or "substantially equivalent"~~)) means a determination by the board or its designee that the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to or exceed those listed in this chapter.

OTS-5674.1

AMENDATORY SECTION (Amending WSR 18-21-034, filed 10/8/18, effective 11/8/18)

WAC 4-30-024 Public records. All public records of the agency are available for public inspection and copying pursuant to these rules and applicable state law (chapter 42.56 RCW), as follows:

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the office of the Washington State Board of Accountancy at 711 Capitol Way S., Suite 400, Olympia, Washington, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the agency's office when the requestor has been notified of the availability of the requested documents and an appointment is made with the public records officer.

(2) **Records index.** An index of public records, consisting of the retention schedules applicable to those records, is available to members of the public at the agency's office.

(3) **Organization of records.** The agency maintains its records in a reasonably organized manner. The agency will take reasonable actions to protect records from damage and disorganization. A requestor shall not take original records from the agency's office. A variety of records are also available on the agency's website at www.acb.wa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records should make the request in writing by letter, fax, or email addressed to the public records officer. **Written requests must include the following information:**

- Date of the request;
- Name of the requestor;
- Address of the requestor and other contact information, including telephone number and any email address;
- Clear identification of the public records requested to permit the public records officer or designee to identify and locate the records.

(b) The public records officer or designee may ((also)) accept requests for public records by telephone or in person. ((If the public records officer or designee accepts an oral or telephone request, he or she will confirm receipt)) The requestor will receive a written confirmation of the request ((and the details of the records requested, in writing, to the requestor)).

(c) If the requests received in (a) or (b) of this subsection are not sufficiently clear to permit the public records officer to identify the specific records requested, the public records officer will request clarification from the requestor in writing.

(d) If the requestor wishes to have copies of the records made instead of simply inspecting them, ((he or she)) the requestor should make that preference clear in the request. Copies will be made by the agency's public records officer or designee.

(e) When fulfilling public records requests the agency will perform its public records responsibilities in the most expeditious manner consistent with the agency's need to fulfill its other essential functions.

(f) By law, certain records and/or specific content of any specific record or document may not be subject to public disclosure. Accordingly, a reasonable time period may occur between the date of the request and the ability of the public records officer to identify, locate, retrieve, remove content not subject to disclosure, prepare a redaction log that includes the specific exemption, a brief explanation of how the exemption applies to the records or portion of the records being withheld, and produce the records for inspection and/or copying. The requestor will be kept informed of the expected delivery timetable.

(g) If the request includes a large number of records, the production of the records for the requestor may occur in installments. The requestor will be informed, in writing, of the agency's anticipated installment delivery timetable.

(h) In certain instances, the agency may notify affected third parties to whom the record relates. This notice allows the affected third party to seek an injunction within (~~(fifteen)~~) 15 days from the date of the written notice. The notice further provides that release of the records to the requestor will be honored unless timely injunctive relief is obtained by the affected third party on or before the end of the (~~(fifteen)~~) 15-day period.

(i) Requests for lists of credentialed individuals by educational organizations and professional associations:

In order to obtain a list of individuals under the provisions of RCW 42.56.070(~~((+9))~~) (8), educational organizations and professional associations must apply for and receive recognition by the board before requests will be honored. The requesting organization must provide sufficient information to satisfy the approving authority that the requested list of individuals is primarily for educational and professionally related uses.

Board forms are available on the board's website or upon request (~~(for your use)~~).

OTS-5675.1

AMENDATORY SECTION (Amending WSR 24-04-024, filed 1/29/24, effective 7/1/24)

WAC 4-30-034 Responding to board inquiries. All licensees, including out-of-state individuals exercising practice privileges in this state under RCW 18.04.350(~~((+2))~~) (1) and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195 (1)(a) and (b), non-licensee firm owners, and applicants must respond, **in writing**, to board communications requesting a response. Your response must be made within **20 days of the date** the board's communication is posted in the U.S. mail. Communications from the board to you are directed to the last address you furnished the board.

OTS-5676.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-040 Integrity and objectivity. (1) In the performance of any professional service, a licensee shall maintain objectivity and integrity, shall be free of conflicts of interest, and shall not knowingly misrepresent facts or subordinate (~~his or her~~) judgment to others.

(2) For the purposes of this rule, "licensees" includes licensees, licensees with an inactive status, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~(+2)~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5677.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-042 Independence. (1) A licensee in public practice shall be independent in the performance of professional services as required by standards promulgated by the appropriate body for each service undertaken.

(2) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~(+2)~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5678.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-044 Contingent fees. (1) A licensee in public practice shall not:

(a) Perform for a contingent fee any professional services for, or receive such a fee from, a client for whom the licensee or the licensee's firm performs:

(i) An audit or review of a financial statement; or

(ii) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(iii) An examination of prospective financial information; or

(b) Prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

(2) The prohibition above applies during the period in which the licensee or licensee's firm is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in any such listed services.

(3) Except as stated in the next sentence, a contingent fee is a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies.

(4) A licensee's fees may vary depending, for example, on the complexity of services rendered.

(5) Any licensee who is not prohibited by this rule from performing services for a contingent fee must:

(a) Disclose the arrangement in writing and in advance of client acceptance;

(b) Disclose the method of calculating the fee or amount of fee;

(c) Specify the licensee's role as the client's advisor; and

(d) Obtain the client's consent to the fee arrangement in writing.

(6) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350((~~2~~)) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5679.1

AMENDATORY SECTION (Amending WSR 23-04-087, filed 1/31/23, effective 3/3/23)

WAC 4-30-045 Commission and referral fees. (1) A licensee in public practice shall not for a commission recommend or refer to a client any product or service, or for a commission recommend or refer any product or service to be supplied by a client, or receive a commission, when the licensee or licensee's firm also performs for that client:

(a) An audit or review of a financial statement; or

(b) A compilation of a financial statement when the licensee expects, or reasonably might expect, that a third party will use the financial statement and the licensee's compilation report does not disclose a lack of independence; or

(c) An examination of prospective financial information.

(2) This prohibition applies during the period in which the licensee is engaged to perform any of the services listed above and the period covered by any historical financial statements involved in such listed services.

(3) Any licensee who is not prohibited by this rule from performing services for, or receiving a commission or referral fee must:

- (a) Disclose the arrangement in writing and in advance of client acceptance;
- (b) Disclose the method of calculating the fee or amount of fee;
- (c) Specify the licensee's role as the client's advisor; and
- (d) Obtain the client's consent to the fee arrangement in writing.
- (4) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5680.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-046 General standards. (1) Licensees shall comply with the following general standards:

- (a) Professional competence. Undertake only those professional services that the licensee or the licensee's firm can reasonably expect to be completed with professional competence.
- (b) Due professional care. Exercise due professional care in the performance of professional services.
- (c) Planning and supervision. Adequately plan and supervise the performance of professional services.
- (d) Sufficient relevant data. Obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to any professional services performed.

(2) For the purposes of this rule, "licensees" includes licensees, licensees with an inactive status, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5681.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-048 Compliance with standards. (1) A licensee who performs professional services shall comply with standards promulgated by the appropriate body for each service undertaken.

(2) Authoritative bodies include, but are not limited to(~~((7))~~); the American Institute of Certified Public Accountants (AICPA), its Code of Professional Conduct, its definitions, and interpretations, and other AICPA standards; the Internal Revenue Code (IRC); the Inter-

nal Revenue Service (IRS); ~~((and))~~ federal, state, and local audit, regulatory, and tax agencies; the Securities and Exchange Commission (SEC); the Public Company Accounting Oversight Board (PCAOB); the Financial Accounting Standards Board (FASB); the Governmental Accounting Standards Board (GASB); the Cost Accounting Standards Board (CASB); the Federal Accounting Standards Advisory Board (FASAB); the U.S. Governmental Accountability Office (GAO); and the Federal Office of Management and Budget (OMB).

(3) However, if the requirements found in the professional standards differ from the requirements found in specific board rules, board rules prevail.

(4) For the purposes of this rule, "licensees" includes licensees, licensees with an inactive status, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5682.1

AMENDATORY SECTION (Amending WSR 23-04-087, filed 1/31/23, effective 3/3/23)

WAC 4-30-049 Accounting principles. (1) A licensee shall not (a) express an opinion or state affirmatively that the financial statements or other financial data of any entity are presented in conformity with generally accepted accounting principles or (b) state that ~~((he or she))~~ the licensee is not aware of any material modifications that should be made to such statements or data in order for them to be in conformity with generally accepted accounting principles, if such statements or data contain any departure from an accounting principle promulgated by bodies appropriate to the service undertaken to establish such principles that has a material effect on the statements or data taken as a whole. If, however, the statements or data contain such a departure and the licensee can demonstrate that due to unusual circumstances the financial statements or data would otherwise have been misleading, the licensee can comply with the rule by describing the departure, its approximate effects, if practicable, and the reasons why compliance with the principle would result in a misleading statement.

(2) For the purposes of this rule, "licensees" includes licensees, licensees with an inactive status, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5683.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-050 Confidential client information. (1) A licensee in public practice shall not disclose any confidential client information without the specific consent of the client.

(2) This rule does not:

(a) Affect in any way the obligation of those persons to comply with a disclosure required by law or a lawfully issued subpoena or summons;

(b) Prohibit disclosures in the course of a quality review of a licensee's attest, compilation, or other reporting services governed by professional standards;

(c) Preclude those persons from responding to any inquiry made by the board or any investigative or disciplinary body established by local, state, or federal law or recognized by the board as a professional association; or Board AICPA Rules;

(d) Preclude a review of client information in conjunction with a prospective purchase, sale, or merger of all or part of the professional practice of public accounting of any such persons.

(3) It is permissible for the successor in interest of a deceased or incapacitated licensee to contract with a responsible custodian to securely store client records until such time as consent to transfer records has been obtained.

(4) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5684.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-052 Acts discreditable. (1) A licensee shall not commit an act discreditable to the profession.

(2) For the purposes of this rule, "licensees" includes licensees, licensees with an inactive status, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5686.1

AMENDATORY SECTION (Amending WSR 23-04-088, filed 1/31/23, effective 3/3/23)

WAC 4-30-054 Advertising and other forms of solicitation. (1) A licensee in public practice shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, overreaching, or harassing conduct is prohibited.

(2) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~((2))~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195.

OTS-5687.1

AMENDATORY SECTION (Amending WSR 23-22-047, filed 10/25/23, effective 11/25/23)

WAC 4-30-056 Form of organization and name. (1) A licensee may practice public accounting only in a form of organization permitted by law or regulation.

(2) A firm name that does not consist of the name(s) of one or more present or former owners must be approved in advance by the board as not being deceptive or misleading.

(3) Misleading or deceptive firm names are prohibited. The following are examples of misleading firm names. The board does not intend this listing to be all inclusive. The firm name:

(a) Implies it is a legal entity when it is not such an entity (as by the use of the designations "P.C.," "P.S.," "Inc. P.S.," or "L.L.C.");

(b) Implies the existence of a partnership when one does not exist;

(c) Includes the name of a person who is neither a present nor a past owner of the firm;

(d) Implies educational or professional attainments, specialty designations, or licensing recognition not supported in fact; or

(e) Includes the terms "& Company", "& Associate", or "Group," but the firm does not include, in addition to the named partner, shareholder, owner, or member, at least one other unnamed partner, shareholder, owner, member, or staff employee.

(4) Licensed firms and unlicensed firms.

(a) No licensed firm may operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the board.

(b) A firm not required to be licensed may not operate under an alias, a firm name, title, or "DBA" that differs from the firm name that is registered with the secretary of state and/or the department of revenue.

(5) A licensee may not operate under an alias or title that differs from the name that is registered with the board.

(6) For the purposes of this rule, "licensees" includes licensees, CPA firms, nonlicensee firm owners, employees of such persons, out-of-state individuals with practice privileges under RCW 18.04.350(~~(+2)~~) (1), and out-of-state firms permitted to offer or render certain professional services in this state under the conditions prescribed in RCW 18.04.195. Subsection (5) of this section also includes licensees in an inactive status.

OTS-5688.1

AMENDATORY SECTION (Amending WSR 13-22-001, filed 10/23/13, effective 1/1/14)

WAC 4-30-070 (~~(What are the)~~) Experience requirements (~~(in order to obtain a CPA license?)~~). (1) Qualifying experience may be obtained through the practice of public accounting and/or employment in industry or government. In certain situations, employment in academia may also provide experience to obtain some or all of the competency requirements. Qualifying experience may be obtained through one or more employers, with or without compensation, and may consist of a combination of full-time and part-time employment.

(2) Employment experience should demonstrate that it occurred in a work environment and included tasks sufficient to have provided an opportunity to obtain the competencies defined by subsection (3) of this section and:

(a) Covered a minimum (~~(twelve)~~) 12-month period (this time period does not need to be consecutive);

(b) Consisted of a minimum of (~~(two thousand)~~) 2,000 hours;

(c) Provided the opportunity to utilize the skills generally used in business and accounting and auditing including, but not limited to, accounting for transactions, budgeting, data analysis, internal auditing, preparation of reports to taxing authorities, controllership functions, financial analysis, performance auditing and similar skills;

(d) Be verified by a licensed CPA as meeting the requirements identified in subsection (5) of this section; and

(e) Be obtained no more than eight years prior to the date the board receives your complete license application.

(3) **Competencies:** The experience should demonstrate that the work environment and tasks performed provided the applicant an opportunity to obtain the following competencies:

(a) Assess the achievement of an entity's objectives;

(b) Develop documentation and sufficient data to support analysis and conclusions;

(c) Understand transaction streams and information systems;

(d) Assess risk and design appropriate procedures;

(e) Make decisions, solve problems, and think critically in the context of analysis; and

(f) Communicate scope of work, findings and conclusions effectively.

(4) **The applicant's responsibilities:** The applicant for a license requesting verification is responsible for:

(a) Providing information and evidence to support the applicant's assertion that their job experience could have reasonably provided the opportunity to obtain the specific competencies, included on the applicant's Experience Affidavit form presented for the verifying CPA's evaluation;

(b) Producing that documentation and the completed Experience Affidavit form to a qualified verifying CPA of their choice;

(c) Determining that the verifying CPA meets the requirements of subsection (5) of this section; and

(d) Maintaining this documentation for a minimum of three years.

(5) **Qualification of a verifying CPA:** A verifying CPA must have held a valid CPA license to practice public accounting in the state of Washington or be qualified for practice privileges as defined in RCW 18.04.350((+2+)) (1) for a minimum of five years prior to verifying the candidate's experience, including the date that the applicant's experience is verified. The five years do not need to be consecutive.

OTS-5689.1

AMENDATORY SECTION (Amending WSR 16-17-036, filed 8/9/16, effective 9/9/16)

WAC 4-30-090 (~~(Must an out-of-state individual holding a license from another state apply and obtain a Washington state license to hold out and practice in Washington state?)~~) Practice privileges. ((No.))
 Out-of-state individuals holding valid licenses to practice public accounting issued by a substantially equivalent state, may hold out and practice within Washington state and/or provide public accounting services in person, by mail, telephone, or electronic means to clients residing in Washington state without notice or payment of a fee. An individual who qualifies for practice privileges under RCW 18.04.350((+2+)) (1), and who performs any attest service described in RCW ((18.04.010)) 18.04.025(1) may only do so through a firm that has obtained a license under RCW 18.04.195 and 18.04.215 or that meets the requirements for an exception from the firm licensure requirements under RCW 18.04.195 (1)(a)((+iii+)) (ii)(A) through (D) or (b).

As a condition of this privilege, the out-of-state individual is deemed to have consented to:

(1) The personal and subject matter jurisdiction and disciplinary authority of this state's board;

(2) Comply with the Public Accountancy Act of this state, chapter 18.04 RCW, and this board's rules contained in Title 4 WAC;

(3) The appointment of the state board which issued the certificate or license as their agent upon whom process may be served in any action or proceeding by this state's board against the certificate holder or licensee;

(4) Not render any professional services in this state unless the out-of-state individual is licensed to render such services in the state of licensure upon which the privilege is contingent;

(5) Cease offering or performing professional services in this state, individually and/or on behalf of a firm, if the license from the state of the out-of-state individual's principal place of business is no longer valid; and

(6) Cease offering or performing specific professional services in this state, individually and/or on behalf of a firm, if the license from the state of the out-of-state individual's principal place of business is restricted from offering or performing such specific professional services.

OTS-5690.1

AMENDATORY SECTION (Amending WSR 20-04-090, filed 2/5/20, effective 3/7/20)

WAC 4-30-112 In state and out-of-state firm licensing requirements. (1) A firm license must be obtained from the board if the firm has an office in this state and performs attest or compilation services for clients in this state.

(2) A firm license is not required for a firm that does not have an office in this state but offers or renders attest services described in RCW 18.04.025(1), and meets the requirements listed in RCW 18.04.195 (1) (a) (~~((iii))~~) (ii) (A) through (D).

(3) A firm license is not required to perform other professional services in this state, including compilation, review and other services for which reporting requirements are provided in professional standards, if the firm complies with the following:

(a) The firm performs such services through individuals with practice privileges under RCW 18.04.350 (~~((2))~~) (1) and WAC 4-30-090 or reciprocal license under RCW 18.04.180 and 18.04.183 and board rules;

(b) The firm is licensed to perform such services in the state in which the individuals with practice privileges have their principal place of business; and

(c) The firm meets the board's quality assurance program requirements, when applicable.

(4) As a condition of this privilege, any nonresident firm meeting the requirement of subsection (2) or (3) of this section is deemed to have consented to:

(a) The personal and subject matter jurisdiction and disciplinary authority of this state's board;

(b) Comply with the Public Accountancy Act of this state, chapter 18.04 RCW, and this board's rules contained in Title 4 WAC;

(c) Cease offering or rendering professional services in this state through a specific individual or individuals if the license(s) of the individual(s) through whom the services are offered or rendered becomes invalid;

(d) Cease offering or rendering specific professional services in this state through an individual or individuals if the license(s) from the state(s) of the principal place of business of such individual(s) is restricted from offering or performing such specific professional services;

(e) The appointment of the state board which issued the firm license as their agent upon whom process may be served in any action or proceeding by this state's board against firm licensee;

(f) Not render those services described in subsection (1) of this section for a client with a home office in this state unless the firm

that has obtained a license from this state (RCW 18.04.195 and 18.04.295) and this section; and

(g) Not render any professional services in this state through out-of-state individual(s) who are not licensed to render such services by the state(s) in which the principal place of business of such individual(s) is (are) located.

OTS-5691.1

AMENDATORY SECTION (Amending WSR 16-17-036, filed 8/9/16, effective 9/9/16)

WAC 4-30-114 ((How do I apply)) Application for and ((maintain)) maintenance of a firm license(?). (1) **~~((How does a firm apply for an initial firm license?))~~ Application.** To apply for an initial firm license an owner, or designee, or, in the case of an out-of-state firm, that does not meet the requirements to operate under firm mobility per RCW 18.04.195 (1) (a) ~~((iii))~~ (ii)(A) through (D), and is required to be licensed in this state, an individual qualified for practice privileges in this state under RCW 18.04.350 ~~((2))~~ (1) who has been authorized by the applicant firm to make the application must submit the following information to the board:

- (a) The firm name;
- (b) Address and telephone number of the main office and any branch offices of the firm;
- (c) Name of the managing licensee of the main office located and maintained in this state;
- (d) Resident licensee owners' names;
- (e) Name(s) of all resident nonlicensee owners; and
- (f) Type of legal organization under which the firm operates.

The required information must be submitted to the board either by making application through the board's online application system or on a form provided by the board upon request. All requested information, documents and fees must be submitted to the board before the application will be evaluated.

Upon approval of the firm's application the firm's licensed status will be posted in the board's licensee database and, therefore, made publicly available for confirmation. A hard copy of the firm license can be provided upon request.

The initial CPA firm license will expire on June 30th of the third calendar year following initial licensure.

(2) **~~((How do I renew a CPA firm license?))~~ Renewal.** To renew a CPA firm license an owner or designee or, in the case of an out-of-state firm that does not meet the requirements to operate under firm mobility per RCW 18.04.195 (1) (a) ~~((iii))~~ (ii)(A) through (D), an individual qualified for practice privileges in this state under RCW 18.04.350 ~~((2))~~ (1) who has been authorized by the applicant firm to make the application, must submit the information described in subsection (1) of this section that is current at the date the renewal application is submitted to the board. A renewal application is not complete and cannot be processed until all required information, requested documents, and all fees are submitted to the board.

An individual authorized by the firm must provide the required information to the board either by making application through the board's online application system or on a form provided by the board upon request. All requested information, documents and fees must be submitted to the board before the application will be evaluated.

On the date the renewal application is approved, the firm's license will be included in the board's licensee database and, therefore, made publicly available for confirmation. Confirmation of the renewed status can be provided upon request.

The CPA firm license will expire on June 30th of the third calendar year following the calendar year of renewal.

(3) ~~((When and how must the firm notify the board of changes in the licensed firm?))~~ **Notification of changes.** An individual authorized by the firm must provide the board written notification and other documentation deemed necessary by the board within ~~((ninety))~~ 90 days of any or all of the following occurrences:

(a) Dissolution of the firm;

(b) The occurrence of any event that would cause the firm to be in violation of RCW 18.04.195 or this section, including the retirement, lapse, revocation or suspension of the license of a sole proprietor or sole owner of another legal form of organization, for example, a limited liability company (LLC) or professional service corporation (PS) owned by a single person, licensed by the board for the practice of public accounting, and holding out to the public for the practice of public accounting and/or offering or performing professional services restricted to licensees; or

(c) An event that requires an amendment to a firm license.

(4) ~~((What events require a firm amendment?))~~ **Firm amendments.** An individual authorized by the firm must provide written notification to the board, by submitting the following information and the appropriate amendment fee, within ~~((ninety))~~ 90 days of the following:

(a) Admission or withdrawal of a resident licensee owner;

(b) Any change in the name of the firm; or

(c) Change in the resident managing licensee of the firm's main office in this state; or

(d) Change in the resident managing licensee of any branch office of the firm.

(5) ~~((How long do I have to correct noncompliance with licensure requirements due to a change in ownership or an owner's credentials?))~~ **Correction of noncompliance.** The board must be notified in writing within ~~((ninety))~~ 90 days of the first date the firm is not in compliance with the firm's licensure requirements due to changes in firm ownership and propose a time period in which the firm will achieve compliance. The board may grant a reasonable period of time for a firm to become compliant. The board may revoke, suspend, or impose conditions on the firm's license for failure to bring the firm into compliance within the approved time period.

OTS-5692.1

AMENDATORY SECTION (Amending WSR 19-22-005, filed 10/24/19, effective 1/1/20)

WAC 4-30-130 Quality assurance review (QAR) requirements for licensed CPA firms. (1) ~~((Purpose. The Washington state board of accountancy is charged with protection of the public interest and ensuring the dependability of information used for guidance in financial transactions or for accounting for or assessing the status or performance of commercial and noncommercial enterprises, whether public, private or governmental. The purpose of the QAR program, such as peer review, is to monitor licensees' compliance with audit, compilation, review, and other attestation standards. If the board becomes aware that a firm's performance and/or reporting practices for audit, review, compilation, and other engagements covered by relevant recognized professional standards as delineated in WAC 4-30-048, may not be in accordance with said professional standards, the board will take appropriate action to protect the public interest.~~

~~(2)) Peer review.~~ Generally, all firms licensed in Washington state offering and/or performing attest services ~~((or compilation services)),~~ as defined by WAC 4-30-010, or other professional services for which a report expressing assurance is prescribed by professional standards, are required to participate in a board-approved peer review program as a condition of renewing each CPA firm license under RCW 18.04.215 and WAC 4-30-114 ~~((. However, certain exemptions are listed in subsection (10) of this section)).~~

(2) Approved programs. Board-approved peer review programs include:

(a) The inspection processes of the Public Company Accounting Oversight Board (PCAOB);

(b) Peer review programs administered by the American Institute of CPAs (AICPA) and/or their assigned administering entities (AE); and

(c) Other programs recognized and approved by the board.

(3) **Enrollment in peer review:** A licensed firm must enroll in a board-approved peer review program **before** issuing a report for each of the following types of service:

~~(a) ((Compilation on historical financial statements;~~

~~(b)) Review ((en)) of historical financial statements;~~

~~((c)) (b) Audit ((report en)) of financial statements, performance audits ((reports)), or examination ((reports en)) of internal controls for nonpublic enterprises;~~

~~((d)) (c) Other professional services subject to Statements on Standards for Attestation Engagements.~~

The schedule for the firm's peer review shall be established according to the peer review program's standards. The board does not require any licensee to become a member of any organization administering a peer review program.

(4) **Participation in peer review.** Every firm that is required to participate in a peer review program shall have a peer review in accordance with the peer review program standards.

(a) It is the responsibility of the firm to anticipate its needs for review services in sufficient time to enable the reviewer to complete the review by the assigned review date.

(b) Any firm that is dropped or terminated by a peer review program for any reason shall have ~~((twenty-one))~~ 21 days to provide written notice to the board of such termination or drop and to request authorization from the board to enroll in another board-approved peer review program.

(c) In the event a firm is merged, otherwise combined, dissolved or separated, the peer review program shall determine which firm is considered the succeeding firm. The succeeding firm shall retain its peer review status and the review due date.

(d) A firm choosing to change to another peer review program may do so only if there is not an open active peer review and if the peer review is performed in accordance with the minimum standards for performing and reporting on peer reviews.

(5) **Reporting requirements.** Every firm must provide the following information, along with the appropriate fees, with every application for renewal of a firm license by April 30th of the renewal year:

(a) Certify whether the firm does or does not perform attest services, or compilation services, as defined by WAC 4-30-010, or other professional services for which a report expressing assurance is prescribed by professional standards in Washington state;

(b) If the firm is subject to the peer review requirements, provide the name of the approved peer review program in which the firm is enrolled, and the period covered by the firm's most recent peer review;

(c) Certify the result of the firm's most recent peer review.

Failure to timely submit complete information and the related fee by the April 30th due date can result in the assessment of late fees. The board may waive late fees based on individual hardship including, but not limited to, financial hardship, critical illness, or active military deployment.

(6) **Documents required.** Any firm required to undergo peer review per subsection ~~((2))~~ (1) of this section is required to ~~((participate))~~ provide unlimited access to all peer review documents to the board, including mandatory participation in the AICPA Facilitated State Board Access (FSBA). ~~((Other information the board deems important, may be requested for understanding the information submitted.))~~

(7) **Document retention.** RCW 18.04.390(4) ~~((and WAC 4-30-051(11)))~~ requires a firm to retain audit and review records and documentation for a period of seven years after the firm concludes an audit or review of a client's financial statements.

(8) **Extensions.** The board may grant an extension of time for submission of the peer review report to the board. Extensions will be determined by the board on a case-by-case basis.

(9) **Verification.** The board may verify the certifications of peer review reports that firms provide.

(10) **Compilations.** Compilations are excluded from board-approved peer review requirements.

(a) A firm may be required to include compilations in any peer review program to satisfy membership requirements for the AICPA or any other professional organization; to satisfy licensing requirements in other jurisdictions; or for any other reason whatsoever.

(b) A firm license is still required even if a firm only performs compilation services that are otherwise excluded from board-approved peer review.

(11) **Exemption from peer review.**

(a) Out-of-state firms that do not have a physical location in this state, but perform attest ~~((or compilation services))~~ in this state, and are otherwise qualified for practice privileges under RCW 18.04.195 (1)(a) ~~((iii))~~ (ii)(A) through (D) or (b) are not required to participate in the board's program if the out-of-state firm participates in a board-approved peer review program or similar program approved or sponsored by another state's board of accountancy.

(b) Firms that do not perform attest services (~~or compilation services~~), as defined by WAC 4-30-010, or other professional services for which a report expressing assurance is prescribed by professional standards are not required to participate in a peer review program, and shall request exemption on each firm license renewal application.

~~((c) Firms that prepare financial statements which do not require reports~~ under Statements on Standards for Accounting and Review Services (management use only compilation reports) and that perform no other attest or compilation services, are not required to participate in a peer review program; however, any such engagements performed by a firm that is otherwise required to participate in a peer review program shall be included in the selection of engagements subject to peer review.

~~(11))~~ (12) **Quality assurance oversight.**

(a) The board will:

(i) Annually appoint a peer review oversight committee, and such other committees as the board, in its discretion deems necessary, to provide oversight of the administration of approved peer review programs in order to provide reasonable assurance that peer reviews are being conducted and reported on in accordance with the minimum standards for performing and reporting on peer reviews;

(ii) Consider reports from the peer review oversight committee;

(iii) Direct the evaluation of peer review reports and related documents submitted by firms;

(iv) Determine the appropriate action for firms that have unresolved matters relating to the peer review process or that have not complied with, or acted in disregard of the peer review requirements;

(v) Determine appropriate action for firms when issues with a peer review report may warrant further action; and

(vi) Take appropriate actions the board, in its discretion, deems appropriate to carry out the functions of the quality assurance review program and achieve the purpose of the peer review requirement.

(b) The **peer review oversight committee** shall conduct oversight of approved peer review programs at least semiannually to provide reasonable assurance that such programs are in compliance with the minimum standards for performing and reporting on peer reviews.

~~((i) The peer review oversight committee's oversight procedures may consist of, but are not limited to:~~

~~(A) Attending the peer review program's report acceptance body (RAB) meetings during consideration of peer review documents;~~

~~(B) Observing the peer review program administrator's internal review of program and quality control compliance;~~

~~(C) Observing the peer review program's review of the administrator's process.~~

~~(ii) The peer review oversight committee shall report to the board any modifications to approved peer review programs and shall make recommendations regarding the continued approval of peer review programs.~~

~~(12))~~ (13) **Remedies.** The board will take appropriate action to protect the public's interest if the board determines through the peer review process or otherwise that a firm's performance and/or reporting practices are not or may not be in accordance with applicable professional standards, the firm does not comply with peer review program requirements, or the firm does not comply with all or some of the reporting, remedial action, and/or fee payment requirements of subsection (5) of this section. The board's actions may include, but are not limited to:

(a) Require the firm to develop quality control procedures to provide reasonable assurance that similar occurrences will not occur in the future;

(b) Require any individual licensee who had responsibility for, or who substantially participated in the engagement(s), to successfully complete specific courses or types of continuing education as specified by the board;

(c) Require that the reviewed firm responsible for engagement(s) submit all or specified categories of its compilation or attest working papers and reports to a preissuance evaluation performed by a board-approved licensee in a manner and for a duration prescribed by the board. Prior to the firm issuing the reports on the engagements reviewed, the board-approved licensee shall submit to the board for board acceptance a report of the findings, including the nature and frequency of recommended actions to the firm. The cost of the board-approved preissuance evaluation will be at the firm's expense;

(d) Require the reviewed firm to engage a board-approved licensee to conduct a board-prescribed on-site field review of the firm's work product and practices or perform other investigative procedures to assess the degree or pervasiveness of nonconforming work product. The board-approved licensee engaged by the firm shall submit a report of the findings to the board within thirty days of the completion of the services. The cost of the board-prescribed on-site review or other board-prescribed procedures will be at the firm's expense; or

(e) Initiate an investigation pursuant to RCW 18.04.295, 18.04.305, and/or 18.04.320.

(f) Absent an investigation, the specific rating of a single peer review report is not a sufficient basis to warrant disciplinary action.

~~((13))~~ (14) The board may solicit and review licensee reports and/or other information covered by the reports from clients, public agencies, banks, and other users of such information.

OTS-5693.1

AMENDATORY SECTION (Amending WSR 19-16-074, filed 7/31/19, effective 1/1/20)

WAC 4-30-132 Qualifying continuing professional education (CPE) activities. (1) CPE activities are learning opportunities that contribute directly to an individual's knowledge, ability, and/or competence to perform ~~((his or her))~~ one's professional responsibilities. CPE activities should:

(a) Address the individual's current and future work environment, current knowledge and skills, and desired or needed knowledge and skills to meet future opportunities and/or professional responsibilities; and

(b) Maintain knowledge of current ethical and other regulatory requirements.

(2) An activity qualifies as acceptable CPE, under RCW 18.04.215, if it follows one of the following formats:

(a) **Nano learning format** - As defined in WAC 4-30-010. A nano learning course shall be considered a qualifying activity once a mini-

mum of (~~ten~~) 10 minutes (0.2 credit hours) but less than (~~fifty~~) 50 minutes (1.0 credit hour) has been completed; or

(b) **Formal learning format** - Defined herein, as a formal activity of learning that is:

- A minimum of (~~fifty~~) 50 minutes of continuous instruction in length with participants signing in to record attendance;
- If the program exceeds four credit hours, participants must also sign out; and
- Attendees are provided a certificate of completion.

(3) **Formal learning formats can include:**

- (a) Professional, technical, or education sessions of national, state, and local organizations and their chapters;
- (b) Programs of other organizations (accounting, industrial, professional, etc.);
- (c) Formal employer education programs;
- (d) Dinner, luncheon, and breakfast meetings which are structured as formal education programs;
- (e) Undergraduate and graduate courses. For both undergraduate and graduate courses, one quarter credit equals (~~ten~~) 10 CPE credit hours, and one semester credit equals (~~fifteen~~) 15 CPE credit hours;
- (f) Interactive and noninteractive self-study programs;
- (g) Instructor/developer of a college or university course;
- (h) Instructor/developer of a CPE course;
- (i) Authorship of published articles, books, and other publications relevant to maintaining or improving professional competence;
- (j) Group study;
- (k) Service on the Washington state board of accountancy, the board's committees, or volunteer service on one of the board approved peer review committees;
- (l) CPE credit may not be claimed for CPA examination review courses; and
- (m) You may not claim CPE credit for preparing for or taking a credential examination unless you complete a formal review course and receive a certificate of completion meeting the requirements of WAC 4-30-138.

(4) Formats other than those listed may be approved by the executive director provided you can demonstrate they contribute to your professional competence.

(5) **Subject areas:** Activities relating to the following subjects are acceptable for all formats provided they follow the standards of this section:

(a) **Technical subjects include:**

- (i) Auditing standards or procedures;
- (ii) Compilation and review of financial statements;
- (iii) Financial statement preparation and disclosures;
- (iv) Attestation standards and procedures;
- (v) Projection and forecast standards or procedures;
- (vi) Accounting and auditing;
- (vii) Management advisory services;
- (viii) Personal financial planning;
- (ix) Taxation;
- (x) Management information services;
- (xi) Budgeting and cost analysis;
- (xii) Asset management;
- (xiii) Professional ethics;
- (xiv) Specialized areas of industry;
- (xv) Human resource management;

(xvi) Economics;
 (xvii) Business law;
 (xviii) Mathematics, statistics, and quantitative applications in business;

(xix) Business management and organization;

(xx) General computer skills, computer software training, information technology planning and management; and

(xxi) Negotiation or dispute resolution courses;

(b) **Nontechnical subjects include:**

(i) Communication skills;

(ii) Interpersonal management skills;

(iii) Leadership and personal development skills;

(iv) Client and public relations;

(v) Practice development;

(vi) Motivational and behavioral courses; and

(vii) Speed reading and memory building.

(6) Subjects other than those listed above may be acceptable provided you can demonstrate they contribute to your professional competence.

(7) **Washington state board approved ethics.** Courses must meet the following requirements:

(a) The content of the course, which shall be approved by the board, must be specific to the laws and rules applicable to the regulatory framework in Washington state including the administrative requirements for an individual's initial and continued use of restricted titles in this state;

(b) All CPE authors must submit course materials for this course to the executive director of the board for approval prior to delivery of the content for credit;

(c) The ethics and regulations course material must cover all of the following topics, and instructors of approved courses must substantially address these topics in their presentations:

(i) General level information on the AICPA code of professional conduct.

(ii) General level information on the Public Accountancy Act, the board's rules, policies, including recent or pending changes therein, and the rule-making process.

(iii) Emphasis must be placed on key differences between Washington state law (chapter 18.04 RCW), this board's rules (Title 4 WAC), and the AICPA code of professional conduct.

(iv) Detailed information on the following:

(A) WAC 4-30-026 How can I contact the board?

(B) WAC 4-30-032 (~~Do I need to notify the board if I change my address?~~) Change of address.

(C) WAC 4-30-034 (~~Must I respond to inquiries from the board?~~) Responding to board inquiries.

(D) WAC 4-30-040 through 4-30-058 ethics and prohibited practices, including related board policies, if any.

(E) WAC 4-30-130 series - Continuing competency, including related board policies, if any.

(F) WAC 4-30-142 (~~What are the bases for the board to impose discipline?~~) Disciplinary actions.

(G) Other topics or information as defined by board policy;

(d) The course must also include case study scenarios demonstrating how to comply with the relevant provisions of the AICPA code of professional conduct and the board's statutory or regulatory framework when faced with ethical situations that might occur when offering or

performing a specific type of professional service in the practice of public accounting or as a professionally regulated person not in the practice of public accounting; and

(e) At least (~~sixty~~) 60 percent of the course material content, presentation time, and commentary must include general level information on the Public Accountancy Act, the board's rules and policies, including recent or pending changes thereto, variances of key differences between Washington state law (chapter 18.04 RCW), the board's rules (Title 4 WAC), and the AICPA code of professional conduct, and scenarios demonstrating the different compliance outcomes that might result because the board's rules prevail when the board's rules vary from the AICPA code of professional conduct and/or related official AICPA interpretations.

Limits on total hours that can be earned during any single renewal cycle for specified formats are detailed in WAC 4-30-133.

OTS-5694.1

AMENDATORY SECTION (Amending WSR 24-04-024, filed 1/29/24, effective 7/1/24)

WAC 4-30-142 Disciplinary actions. RCW 18.04.055, 18.04.295, (~~18.04.305~~) 18-04-345, and 18.04.350 authorize the board to revoke, suspend, refuse to issue, renew, or reinstate an individual or firm license the right to exercise practice privileges in this state, or registration as a resident nonlicensee firm owner; impose a fine not to exceed \$30,000; recover investigative and legal costs; impose full restitution to injured parties; impose remedial sanctions; impose conditions precedent to renew; or prohibit a resident nonlicensee from holding an ownership interest in a firm licensed in this state for the specific acts listed below.

The following are specific examples of prohibited acts that constitute grounds for discipline under RCW 18.04.295, 18.04.305, and (~~18.04.350~~) 18-04-345. The board does not intend this listing to be all inclusive.

(1) Fraud or deceit in applying for the CPA examination, obtaining a license, registering as a resident nonlicensee firm owner, or in any filings with the board.

(2) Fraud or deceit in renewing or requesting reinstatement of a license or registration as a resident nonlicensee firm owner.

(3) Cheating on the CPA exam.

(4) Making a false or misleading statement in support of another person's application or request to:

(a) Take the national uniform CPA examination;

(b) Obtain a license or registration required by the act or board;

(c) Reinstate or modify the terms of a revoked or suspended license or registration as a resident nonlicensee firm owner in this state;

(d) Reinstate revoked or suspended practice privileges of an individual or firm licensed in another state.

(5) Dishonesty, fraud, or negligence while representing oneself as a licensee or a resident nonlicensee firm owner including, but not limited to:

(a) Practicing public accounting in Washington state prior to obtaining a license required per RCW 18.04.215, obtaining a firm license as required by RCW 18.04.195, or without qualifying to operate under firm mobility;

(b) Offering or rendering public accounting services in this state by an out-of-state individual not qualified for practice privileges under RCW 18.04.350(~~(+2)~~) (1);

(c) Offering or rendering public accounting services in this state by an out-of-state firm not qualified for practice privileges under firm mobility per RCW 18.04.195.

(d) Making misleading, deceptive, or untrue representations;

(e) Engaging in acts of fiscal dishonesty;

(f) Purposefully, knowingly, or negligently failing to file a report or record, or filing a false report or record, required by local, state, or federal law;

(g) Unlawfully selling unregistered securities;

(h) Unlawfully acting as an unregistered securities salesperson or broker-dealer;

(i) Discharging a trustee's duties in a negligent manner or breaching one's fiduciary duties, acting in a manner not in compliance with chapter 11.96A RCW; or

(j) Withdrawing or liquidating, as fees earned, funds received by a licensee or a resident nonlicensee firm owner from a client as a deposit or retainer when the client contests the amount of fees earned, until such time as the dispute is resolved.

(6) The following shall be prima facie evidence that a licensee, as defined in WAC 4-30-010, a nonlicensee firm owner, or the employees of such persons has engaged in dishonesty, fraud, or negligence while representing oneself as a licensee, as defined in WAC 4-30-010, a nonlicensee firm owner, or an employee of such persons:

(a) An order of a court of competent jurisdiction finding that the person or persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent (~~(himself, herself, or itself)~~) oneself as a licensee, as defined in WAC 4-30-010, or a nonlicensee firm owner;

(b) An order of a federal, state, local or foreign jurisdiction regulatory body, or a PCAOB, finding that the licensee, as defined in WAC 4-30-010, or nonlicensee firm owner, or employee of such persons committed an act of negligence, fraud, or dishonesty or other act reflecting adversely on the person's fitness to represent (~~(himself, herself, or itself)~~) oneself as a licensee, as defined in WAC 4-30-010, or a nonlicensee firm owner;

(c) Cancellation, revocation, suspension, or refusal to renew the right to practice as a licensee or a nonlicensee firm owner by any other state for any cause other than failure to pay a fee or to meet the requirements of continuing education in the other state; or

(d) Suspension or revocation of the right to practice before any state agency, federal agency, or the PCAOB.

(7) Sanctions and orders entered by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee or nonlicensee firm owner;

(8) Any state or federal criminal conviction or commission of any act constituting a crime under the laws of this state, or of another state, or of the United States.

(9) A conflict of interest such as:

(a) Self dealing as a trustee, including, but not limited to:

(i) Investing trust funds in entities controlled by or related to the trustee;

(ii) Borrowing from trust funds, with or without disclosure; and

(iii) Employing persons related to the trustee or entities in which the trust has a beneficial interest to provide services to the trust (unless specifically authorized by the trust creation document).

(b) Borrowing funds from a client unless the client is in the business of making loans of the type obtained by the licensee, as defined in WAC 4-30-010, or nonlicensee firm owner and the loan terms are not more favorable than loans extended to other persons of similar credit worthiness.

(10) A violation of the Public Accountancy Act or failure to comply with a board rule contained in Title 4 WAC, by a licensee, defined in WAC 4-30-010, or employees of such persons of this state or a licensee of another substantially equivalent state qualified for practice privileges, including but not limited to:

(a) An out-of-state individual exercising the practice privileges authorized by RCW 18.04.350(~~((2))~~) (1) when not qualified;

(b) Submission of an application for firm license on behalf of a firm licensed in another state that does not meet the firm mobility requirements under RCW 18.04.195 (1) (a) (~~((iii))~~) (ii) (A) through (D) by an out-of-state individual not qualified under RCW 18.04.350(~~((2))~~) (1) or authorized by the firm to make such application;

(c) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(~~((2))~~) (1) to cease offering or performing professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business is no longer valid;

(d) Failure of an out-of-state individual exercising the practice privileges authorized under RCW 18.04.350(~~((2))~~) (1) to cease offering or performing specific professional services in this state, individually or on behalf of a firm, when the license from the state of the out-of-state individual's principal place of business has been restricted from performing those specific services;

(e) Failure of an out-of-state firm operating under firm mobility per RCW 18.04.195 (1) (a) (~~((iii))~~) (ii), in this state to cease offering or performing professional services in this state through one or more out-of-state individuals whose license from the state of those individuals' principal place(s) of business is (are) no longer valid or is (are) otherwise restricted from performing the specific engagement services;

(f) Failure of a firm licensed in this state, or a firm operating under firm mobility to comply with the ownership requirements of RCW 18.04.195 within a reasonable time period, as determined by the board;

(g) Failure of a firm licensed in this state or another state to comply with the board's quality assurance program requirements, when applicable.

(11) Violation of one or more of the rules of professional conduct included in Title 4 WAC.

(12) Concealing another's violation of the Public Accountancy Act or board rules.

(13) Failure to cooperate with the board by failing to:

- (a) Furnish any papers or documents requested or ordered to produce by the board;
 - (b) Furnish in writing a full and complete explanation related to a complaint as requested by the board;
 - (c) Respond to an inquiry of the board;
 - (d) Respond to subpoenas issued by the board, whether or not the recipient of the subpoena is the accused in the proceeding.
- (14) Failure to comply with an order of the board.
- (15) Adjudication of a licensee, as defined by WAC 4-30-010, or a nonlicensee firm owner as mentally incompetent is prima facie evidence that the person lacks the professional competence required by the rules of professional conduct.
- (16) Failure of a licensee, as defined by WAC 4-30-010, nonlicensee firm owner, or out-of-state person exercising practice privileges authorized by RCW 18.04.195 and 18.04.350 to timely notify the board, in the manner prescribed by the board, of any of the following:
- (a) A sanction, order, suspension, revocation, or modification of a license, certificate, permit or practice rights by the SEC, PCAOB, IRS, or another state board of accountancy for any cause other than failure to pay a professional license fee by the due date or failure to meet the continuing professional education requirements of another state board of accountancy;
 - (b) Charges filed by the SEC, IRS, PCAOB, another state board of accountancy, or a federal or state taxing, insurance, or securities regulatory body that the licensee or nonlicensee firm owner committed a prohibited act that would be a violation of board ethical or technical standards;
 - (c) Sanctions or orders entered against such persons by a nongovernmental professionally related standard-setting body for violation of ethical or technical standards in the practice of public accounting by a licensee or nonlicensee firm owner.

WSR 24-16-063
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed July 31, 2024, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-035.

Title of Rule and Other Identifying Information: Title 314 WAC;
WAC 314-55-115 What method of payment can a cannabis licensee use to purchase cannabis?

The proposed rule language amends WAC 314-55-115 to allow cannabis licensees to purchase cannabis from other licensees by mailing checks under the same conditions applicable to other payment methods identified in WAC 314-55-115. The check must be sent no later than one business day post delivery of cannabis, both parties must retain records, the sale must be initiated by an irrevocable invoice, and the check must be deposited no later than five business days post delivery of cannabis.

Hearing Location(s): On September 11, 2024, at 10:00 a.m. All public board activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The Boardroom at the headquarters building in Olympia, 1025 Union Avenue, Olympia, WA 98504, will be open for in-person attendance. The public may also login using a computer or device, or call in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the boardroom will be staffed during a meeting, board members and liquor and cannabis board (LCB) participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/Boardmeetings>.

Date of Intended Adoption: No earlier than September 25, 2024.

Submit Written Comments to: Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 48030, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, beginning July 31, 2024, 12:00 p.m., by September 11, 2024, 12:00 p.m.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by September 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making is in response to a petition LCB accepted in March 2023 requesting to amend WAC 314-55-115 to allow cannabis licensees to purchase cannabis from other licensees using checks mailed up to three days after delivery of cannabis.

Because the current rule language provides no explanation at all for how payment via check should be done, language was borrowed from the existing descriptions of payment methods, specifically credit/debit cards, electronic fund transfers (EFT) and transactions using a money transmitter.

The requirement for an irrevocable invoice before or at the time of delivery and the record-keeping requirement are borrowed from the other payment methods, described in the table below.

The main variation from the existing regulatory framework is due to the unique nature of checks and the possibility of mail for deliv-

ery. While the other payment methods require that payment be initiated no later than the first business day, for checks, this means mailing the check.

Similarly, the transaction must be completed no later than five business days following delivery of cannabis for the other payment methods. Here, the analogous point of completion for payment via check would be the depositing of the check, and that is the language used in the proposed rule.

While the comment raised concern about nonsufficient funds (NSF) checks, this is already addressed in existing subsection (6), which states that transactions reported as NSF that are not corrected by the 3:00 p.m. on the business day following the NSF report are impermissible extensions of credit and are subject to penalties identified in WAC 314-55-523.

Lastly, to avoid any confusion, a clarifying section defines "delivery" to refer to delivery of cannabis in this rule.

Reasons Supporting Proposal: The reasons supporting these proposed rules, in addition to that described above, are identified in the table below, describing the proposed changes to WAC 314-55-115:

Section	Current Rule Language	Proposed New Language	Rule Necessity
Title	What methods of payment can a cannabis licensee use to purchase cannabis?	Methods of payment for cannabis licensees purchasing cannabis.	Converting format of title from question to statement.
(1)	(1) Checks,	(1) Checks, under the following provisions:	The language below is copied almost verbatim from other parts of WAC 314-55-115:
		(a) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.	Consistent with subsections (2)(b), (3)(c), and (5)(b).
		(b) Both parties must maintain records of transactions and have the records readily available for the LCB review.	Consistent with subsections (2)(d), (3)(e), and (5)(d).
		(c) The check must be sent, delivered, or mailed by the cannabis licensee no later than the first business day following delivery and must be deposited as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on checks for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.	Consistent with subsections (2)(e), (3)(f), and (5)(e) with the following changes: 1. Changing language around payment initiation to "sent, delivered or mailed." 2. Clarifying that completion of payment in this context is analogized to deposit of check.
(7)	New Language As used in this section, "delivery" refers to delivery of cannabis.		This is being added to clarify that throughout the rule, "delivery" refers to the delivery of cannabis, as opposed to the delivery of the check if sent via mail. This clarification is needed because of the new reference to delivery of checks.
Throughout	Replaced instances of WSLCB with LCB.		Consistent with WSR 24-11-037

Statutory Authority for Adoption: RCW 69.50.342, 69.50.345.

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

Name of Proponent: LCB, governmental.

Name of Agency Personnel Responsible for Drafting: Daniel Jacobs, Rules and Policy Coordinator, 1025 Union Avenue, Olympia, WA 98504, 360-480-1238; Implementation: Becky Smith, Director of Licensing, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed amended rules do not qualify as a type of rule requiring a cost-benefit analysis under RCW 34.05.328(5). LCB is not a listed agency under RCW 34.05.328 (5)(a)(i), so the cost-benefit analysis requirements in RCW 34.05.328 are not applicable to the proposed rules unless voluntarily applied or made applicable by the joint administrative rules review committee under RCW 34.05.328 (5)(a)(ii).

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

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, LCB considered potential administrative costs that a licensee may incur complying with the proposed rules.

Using the North American Industry Classification System (NAICS) code 111419 for cannabis grown under cover, the US Census NAICS describes this code for "This U.S. industry comprises establishments primarily engaged in growing food crops (except mushrooms) under glass or protective cover." The US Census NAICS code description at <https://www.census.gov/naics/?input=cannabis&year=2022&details=111419> identifies cannabis grown under cover as an example of a business that uses this code.

Using NAICS code 111918 for cannabis grown in an open field, the US Census NAICS describes this code for "This U.S. industry comprises establishments primarily engaged in one of the following: (1) Growing crops (except oilseeds and/or grains; vegetables and/or melons; fruits and/or tree nuts; greenhouse, nursery, and/or floriculture products; tobacco; cotton; sugarcane; hay; sugar beets; or peanuts); (2) growing a combination of crops (except a combination of oilseed(s) and grain(s); and a combination of fruit(s) and tree nut(s)) with no one crop or family of crops accounting for one-half of the establishment's agricultural production (i.e., value of crops for market); or (3) gathering tea or maple sap." The US Census NAICS code description at <https://www.census.gov/naics/?input=cannabis&year=2022&details=111998> identifies cannabis grown in an open field as an example of a business that uses this code.

Using NAICS code 424590 for cannabis merchant wholesalers, the US Census NAICS describes this code for "This industry comprises establishments primarily engaged in the merchant wholesale distribution of farm products (except grain and field beans, livestock, raw milk, live poultry, and fresh fruits and vegetables)." The US Census NAICS code description at <https://www.census.gov/naics/>

input=cannabis&year=2022&details=424590 identifies cannabis merchant wholesalers, as an example of a business that uses this code.

Using NAICS code 459991 for cannabis retailers, the US Census NAICS describes this code for "This U.S. industry comprises establishments primarily engaged in retailing cigarettes, electronic cigarettes, cigars, tobacco, pipes, and other smokers' supplies." The US Census NAICS code description at <https://www.census.gov/naics/?input=marijuana&year=2022&details=459991> identifies marijuana stores, medical or recreational, as an example of a business that uses this code.

LCB applied a default estimated compliance cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). This reflects a very generous estimate of \$500.00 for every cannabis licensee to familiarize themselves with the new recordkeeping requirements for paying for cannabis using a check.

Per RCW 19.85.020(2), a minor cost means a cost per business that is less than three-tenths of one percent of annual revenue or income, or \$100, whichever is greater, or one percent of annual payroll.

According to department of revenue data from 2023, the total gross business income for NAICS code 459991 was \$647,617,610 for 493 businesses. That produces an average annual gross business income of \$1,313,625.98. Three-tenths of one percent of \$1,313,625.98 is \$3,940.877, rounding up to \$3,940.88.

The remainder of the data [data] is provided by reference to the minor-cost threshold calculator provided by the office of regulatory innovation and assistance available at https://www.oria.wa.gov/Portals/_oria/VersionedDocuments/RFA/Regulatory_Fairness_Act/Minor-Cost-Threshold-Calculator.xlsx.

2022 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
111419	\$500.00	Cannabis, grown under cover	Other Food Crops Grown Under Cover	\$3,259.51	\$3,259.51 2021 Dataset pulled from ESD	\$3,195.50 2021 Dataset pulled from DOR
111998	\$500.00	Cannabis, grown in an open field	All Other Miscellaneous Crop Farming	\$11,775.64	\$11,775.64 2021 Dataset pulled from ESD	\$2,882.31 2021 Dataset pulled from DOR
424590	\$500.00	Cannabis merchant wholesalers	Other Farm Product Raw Material Merchant Wholesalers	\$8,809.55	\$3,948.77 2021 Dataset pulled from ESD	\$8,809.55 2021 Dataset pulled from DOR
459991	\$500.00	Marijuana stores, recreational or medical	Tobacco, Electronic Cigarette, and Other Smoking Supplies Retailers	\$3,940.88	Unavailable*	\$3,940.88 2023 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the threshold for any of the potential NAICS codes applicable to cannabis licensees. Therefore, implementation of this amended rule is not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

DOR - Washington state department of revenue.

ESD - Employment security department Washington state.

DOR data available at [https://apps.dor.wa.gov/ResearchStats/Content/GrossBusinessIncome/Results.aspx?](https://apps.dor.wa.gov/ResearchStats/Content/GrossBusinessIncome/Results.aspx?Year=2023Q4,2023Q3,2023Q2,2023Q1,&Code1=450000&Code2=460000&Sumbly=n6&SicNaics=2&Format=HTML)

Year=2023Q4,2023Q3,2023Q2,2023Q1,&Code1=450000&Code2=460000&Sumbly=n6&SicNaics=2&Format=HTML.

*Average annual payroll data was unavailable due to confidentiality with other state agency data.

A copy of the detailed cost calculations may be obtained by contacting Daniel Jacobs, Rules and Policy Coordinator, P.O. Box 43080, Olympia, WA 98504-3080, phone 360-480-1238, fax 360-704-5027, email rules@lcb.wa.gov.

July 31, 2024
David Postman
Chair

OTS-5457.2

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-115 (~~What~~) Methods of payment (~~can a~~) for cannabis licensees (~~use to purchase~~) purchasing cannabis(?). A cannabis licensee must pay cash for cannabis prior to or at the time of delivery. The ((WSLCB)) LCB will recognize the following forms of payment as cash payment for the purpose of this section.

(1) **Checks**, under the following provisions:

(a) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(b) Both parties must maintain records of transactions and have the records readily available for the LCB review.

(c) The check must be sent, delivered, or mailed by the cannabis licensee no later than the first business day following delivery and must be deposited as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on checks for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(2) **Credit/debit cards**, under the following provisions:

(a) The credit or debit card transaction agreement must be voluntary on the part of both licensees, and there must be no discrimination for nonparticipation in credit or debit card transactions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective banking costs or other costs associated with the credit or debit card service.

(d) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB review.

(e) The credit or debit card charge must be initiated by the cannabis licensee no later than the first business day following delivery.

(3) **Electronic funds transfer (EFT)**, under the following provisions:

(a) The EFT agreement must be voluntary on the part of both the licensees, and there must be no discrimination for nonparticipation in EFT.

(b) Prior to any EFT transaction, the cannabis licensee must enter into a written agreement specifying the terms and conditions for EFT as payment for cannabis.

(c) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(d) Both parties must bear their respective banking costs or other costs associated with EFT service.

(e) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB review.

(f) The electronic funds transfer must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on EFT transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(4) **Prepaid accounts.** Both parties must keep accurate accounting records of prepaid accounts to ensure a cash deposit is not overextended, which is considered an extension of credit.

(5) **Transactions using a money transmitter,** under the following provisions:

(a) The money transmitter must be licensed by and in good standing with the Washington state department of financial institutions.

(b) A sale must be initiated by an irrevocable invoice or sale order before or at the time of delivery.

(c) Both parties must bear their respective costs associated with the money transmitter service.

(d) Both parties must maintain records of transactions and have the records readily available for the ((WSLCB)) LCB to review.

(e) The funds transfer through the money transmitter must be initiated by the cannabis licensee no later than the first business day following delivery and must be paid as promptly as is reasonably practical, and in no event later than five business days following delivery. Any attempt by a cannabis licensee to delay payment on money transmitter transactions for any period of time beyond the minimum as is reasonably practical will be considered an unlawful attempt to purchase products on credit.

(6) Any transaction reported as having nonsufficient funds (NSF) will be considered an extension of credit. If a transaction is reported as NSF:

(a) The purchaser must pay the full amount of the transaction to the seller by 3:00 p.m. on the first business day following receipt of the NSF report.

(b) Until the NSF transaction is paid:

(i) The cannabis licensee who received the NSF transaction will not deliver any cannabis to the purchaser; and

(ii) It is the responsibility of the purchaser to not receive additional cannabis from any other cannabis licensee.

(7) As used in this section, "delivery" refers to delivery of cannabis.

**WSR 24-16-092
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION**

[Filed August 1, 2024, 11:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-13-022.

Title of Rule and Other Identifying Information: Readmission to the basic law enforcement and corrections academies.

Hearing Location(s): On September 11, 2024, at 10:00 a.m., at the Washington State Criminal Justice Training Commission (WSCJTC), 19010 1st Avenue South, Commission Room, Burien, WA 98148.

Date of Intended Adoption: September 11, 2024.

Submit Written Comments to: Lacey Ledford, 19010 1st Avenue South, Burien, WA 98148, email lacey.ledford@cjtc.wa.gov, by September 11, 2024.

Assistance for Persons with Disabilities: Contact Lacey Ledford, phone 206-670-5813, email lacey.ledford@cjtc.wa.gov, by September 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Revising WAC 139-05-242 and 139-10-222 to clarify the eligibility and process for readmission and to implement additional restrictive measures for readmission into the academy after a dismissal due to a major rule violation. Removal of the 24-month suspension and replacement with 60-month for major violations.

Reasons Supporting Proposal: The rule change will require agencies who wish to hire a recruit previously removed from the academy due to any major violation to appeal to the executive director, or designee, for future reenrollment to WSCJTC basic training academies. This process provides an added layer of accountability in making sure recruits are fit to attend the academy.

Statutory Authority for Adoption: RCW 43.101.080.

Statute Being Implemented: RCW 43.101.080.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Nadia Fiorini, 19010 1st Avenue South, Burien, WA 98148, 206-931-6492.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 1, 2024
Lacey Ledford
Rules Coordinator

OTS-5364.3

AMENDATORY SECTION (Amending WSR 23-01-086, filed 12/16/22, effective 1/16/23)

WAC 139-05-242 Readmission to the basic law enforcement academy.

No person may be readmitted to any basic law enforcement academy except as provided in this section and in accordance with WAC 139-06-130.

(1) Any request for readmission must be made and submitted by the individual's employing agency head, or designee, in accordance with commission policies and procedures.

(2) Any individual whose academy enrollment was terminated for academic failure, skills deficiency, disciplinary reasons other than those specified in subsection (3) of this section, or who had voluntarily withdrawn for any reason, may be readmitted to a subsequent academy session only if(~~+~~

~~(a) The individual's)) the individual meets all the academy admission requirements and their current employing agency head, or their designee, submits ((to the commission a written request for readmission of the individual to the academy; and~~

~~(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission specified by the executive director, or designee, have been met)) a new registration for admission into the academy.~~

(3) Any person (~~whose academy enrollment was terminated)) who was dismissed from an academy for ((an integrity)) a major violation including, but not limited to: Cheating, the making of materially false or misleading statements, harassment, discrimination, the commission of a ((crime)) misdemeanor or felony, regardless of conviction, or other ((violation)) misconduct contained in RCW 43.101.105 will be ineligible for readmission to any subsequent academy within ((24)) 60 months from the date of dismissal regardless of employer or employment status.~~

(4) (~~An exception to the ineligibility period specified in subsection (3) of this section may be granted at the sole discretion of the commission executive director, or designee, based upon mitigating circumstances.~~

~~(a) No person may be considered for such early readmission after an integrity violation dismissal unless a written request is made by the head of the agency employing the individual at the time of the request.~~

~~(b) Requests for early readmission must follow applicable commission policies and procedures to be considered.~~

~~(c) The executive director's, or designee's, decision under this subsection shall be subject to review only for abuse of discretion.~~

~~(5)) After the ineligibility period specified in subsection (3) of this section has passed, ((or after an exception has been granted by the commission under subsection (4) of this section, the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only the conditions of subsection (2) of this section are satisfactorily met.~~

~~(6)) an agency head, or their designee, must make a written request for readmission, which requires the submission of an application to the executive director that includes:~~

(a) The name of the individual who was dismissed, the date and reason for the dismissal, and the reason for the request for readmission; and

(b) A statement from the individual who was previously dismissed describing any relevant or professional growth since the dismissal.

(5) If the executive director, or designee, conditionally grants the application, the individual's agency must submit the full results of the individual's completed background check, psychological examination, and polygraph examination to the commission staff responsible for the certification investigations.

(6) After the conditional granting of the application and review of the full background, psychological examination and polygraph examination, the executive director, or designee, will issue a decision on the request in writing and the reasons for the decision, if denied.

(7) Where a request for readmission to the academy is denied, a second request may only be submitted 24 months after the denial. If a second request is denied, no further requests may be filed regardless of the individual's employer or employment status.

(8) For purposes of this section, reserves and volunteers will be deemed to be employees of the agencies which sponsor them for participation in a training academy.

OTS-5365.3

AMENDATORY SECTION (Amending WSR 22-19-038, filed 9/14/22, effective 10/15/22)

WAC 139-10-222 Readmission to basic corrections academies. No person may be readmitted to any basic corrections academy except as provided in this section and in accordance with WAC 139-06-130.

(1) Any request for readmission must be made and submitted by the individual's employing agency head, or designee, in accordance with commission policies and procedures.

(2) Any individual whose academy enrollment was terminated for academic failure, skills deficiency, disciplinary reasons other than those specified in subsection (3) of this section, or who had voluntarily withdrawn for any reason, may be readmitted to a subsequent academy session only if(÷

~~(a) The individual's))~~ the individual meets all the academy admission requirements and their current employing agency head, or their designee, submits ((to the commission a written request for readmission of the individual to the academy; and

~~(b) The executive director of the commission, or designee, is satisfied that any conditions to the individual's readmission specified by the commission executive director, or designee, have been met))~~ a new registration for admission into the academy.

(3) Any person ((whose academy enrollment was terminated)) who was dismissed from an academy for ((an integrity)) a major violation including, but not limited to: Cheating, the making of materially false or misleading statements, harassment, discrimination, the commission of a ((crime)) misdemeanor or felony, regardless of conviction, or other ((violation)) misconduct contained in RCW 43.101.105 will be ineligible for readmission to any subsequent academy within

((24)) 60 months from the date of dismissal regardless of employer or employment status.

~~(4) ((An exception to the ineligibility period specified in subsection (3) of this section may be granted at the sole discretion of the commission executive director, or designee, based upon mitigating circumstances.~~

~~(a) No person may be considered for such early readmission after an integrity violation dismissal unless a written request is made by the head of the agency employing the individual at the time of the request.~~

~~(b) Requests for early readmission must follow applicable commission policies and procedures to be considered.~~

~~(c) The executive director's, or designee's, decision under this subsection shall be subject to review only for abuse of discretion.~~

~~(5)) After the ineligibility period specified in subsection (3) of this section has passed, ((or after an exception has been granted by the commission under subsection (4) of this section, the person previously dismissed for an integrity violation may be readmitted to a subsequent academy session only if the conditions of subsection (2) of this section are satisfactorily met)) an agency head, or their designee, must make a written request for readmission, which requires the submission of an application to the executive director that includes:~~

(a) The name of the individual who was dismissed, the date and reason for the dismissal, and the reason for the request for readmission; and

(b) A statement from the individual who was previously dismissed describing any relevant or professional growth since the dismissal.

(5) If the executive director, or designee, conditionally grants the application, the individual's agency must submit the full results of the individual's completed background check, psychological examination, and polygraph examination to the commission staff responsible for the certification investigations.

(6) After the conditional granting of the application and review of the full background, psychological examination and polygraph examination, the executive director, or designee, will issue a decision on the request in writing and the reasons for the decision, if denied.

(7) Where a request for readmission to the academy is denied, a second request may only be submitted 24 months after the denial. If a second request is denied, no further requests may be filed regardless of the individual's employer or employment status.

WSR 24-16-107
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Behavioral Health Administration)
[Filed August 2, 2024, 1:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-21-057.

Title of Rule and Other Identifying Information: WAC 388-878-0010 Introduction and overview, 388-878-0020 Outpatient competency restoration program (OCRP)—Definitions, 388-878-0030 Clinically appropriate for outpatient competency restoration services, 388-878-0040 Assignment of clients and initial intake, 388-878-0050 Conditions of participation, 388-878-0060 OCRP provider reporting, 388-878-0070 Early competency evaluation, 388-878-0080 Program removal, 388-878-0090 Program end, and newly added 388-878-0051 Leave of absence.

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

Date of Intended Adoption: No earlier than September 11, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on August 7, 2024, by 5:00 p.m. on September 10, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on August 27, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In the 2022 legislative session, the legislature passed 2SSB 5664 concerning forensic competency restoration programs. This legislation made changes to the outpatient competency restoration program (OCRP) procedures and requirements. These rules are necessary to implement the legislation. This proposal will update definitions related to OCRP, reflect addition of recommended service plans, clarify intake process and conditions of participation, add a new section of WAC to outline a leave of absence for individuals in OCRP, update process for OCRP provider reporting, clarify early competency evaluation process, and add clarity and direction for program termination, removal, and program end. This will add clarity to the processes for providers and individuals in OCRP.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 10.77.086 and 10.77.088.

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

Name of Proponent: DSHS, health care authority, governmental.

Name of Agency Personnel Responsible for Drafting: Emma Palumbo, P.O. Box 45050, Olympia, WA 98504-5050, 360-972-6214.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b)(iii), rules adopting Washington state statutes do not require a cost-benefit analysis. This rule making is adopting Washington state statute codified by SSSB [2SSB] 5664.

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

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

Explanation of exemptions: This rule making is adopting Washington state statute codified by SSSB [2SSB] 5664.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule making is adopting Washington state statute codified by SSSB [2SSB] 5664, chapter 288, Laws of 2022. Exempt under RCW 19.85.020(2), does not impose costs on small business.

July 25, 2024

Katherine I. Vasquez

Rules Coordinator

SHS-5047.3

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0010 Introduction and overview. (1) Outpatient competency restoration program (OCRCP) is one of the elements of the Trueblood Settlement managed by the health care authority in collaboration with the department of social and health services office of forensic mental health services.

(2) The OCRCP provides an option for courts to order competency restoration services in the community for persons who the court determines are not competent to stand trial and are appropriate for community-based treatment.

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0020 Outpatient competency restoration program (OCRCP)—Definitions. "Active treatment" means the time period of engagement where an individual court ordered to clinical outpatient competency restoration is adhering to conditions of participation and other services as directed by the program or treatment providers.

"Behavior concern report" or "BCR" means a report created by the provider regarding behavioral concerns that may compromise ((program progress)) an individual's active treatment in OCRCP. This report must include any noncompliance with the conditions of participation and conditions of release, even if such noncompliance does not rise to the level of termination or removal from the program.

"Competency evaluation" means an evaluation performed to determine whether an individual is competent to stand trial.

"Department" or "DSHS" means the Washington state department of social and health services.

"Enrollment" or "Enrolled" means an individual with a court order for outpatient competency restoration services who has completed an intake assessment with the provider and is scheduled to begin outpatient competency restoration services.

"Forensic evaluator" means an appropriately licensed and approved department staff member or contractor who completes competency to stand trial evaluations.

"Forensic navigator" means department staff who are officers of the court ((who)) that assist ((the individual to access)) individuals in accessing services related to diversion or facilitate services and connections for people in the outpatient competency restoration program.

"Health care authority", "Authority", or "HCA" means the Washington state health care authority, any division, section, office, unit, or other entity of HCA, or any of the officers or other officials lawfully representing HCA.

"Inpatient competency restoration" means competency restoration services performed in an inpatient setting, including a state psychiatric hospital or residential treatment facility.

"Leave of absence" or "LOA" means that an individual who is court ordered and enrolled in outpatient competency restoration services is not receiving services; however, the individual has not been removed from and may be returning to the program.

"Outpatient competency restoration program" or "OCRP" means competency restoration services that are provided on an outpatient basis to ((clients)) individuals who are on conditional release from custody.

"OCRP Director" means the individual who oversees a specific OCR program. This individual works for the provider and is not a program manager from the authority. The OCRP director may also include a designee identified by the OCRP director for times when the OCRP director is unavailable.

"Provider" means the HCA-contracted provider of outpatient competency restoration program services, its employees, and agents.

"Recommended services plan" or "RSP" means a plan provided to the courts by a forensic navigator, which indicates if an individual is suitable for outpatient restoration and what services the individual would be eligible for should they be released from custody.

"Removal from the outpatient competency restoration program" means that the individual has been placed and admitted into the appropriately identified inpatient facility to resume competency restoration.

"Termination from the outpatient competency restoration program" means an individual fails to comply with the restrictions of the outpatient competency restoration program (OCRP) such that restoration is no longer appropriate in the outpatient setting or the individual is no longer clinically appropriate for outpatient competency restoration. Termination from OCRP is a decision and function of the provider, which then begins the process for the removal of the individual from outpatient competency restoration to inpatient competency restoration by the department.

"Weekly status update" or "WSU" means a document completed by the provider and submitted to the assigned forensic navigator.

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0030 Clinically appropriate for outpatient competency restoration services. (1) A forensic navigator will complete and submit a recommended services plan to the court for review. The recommended services plan will include a determination of the individual's suitability for OCRP, diversion options for the individual, and other services/supports for the individual.

(2) The court may order ~~((a-client))~~ an individual into OCRP when it determines the ~~((client))~~ individual is clinically appropriate to receive outpatient competency restoration services ~~((Clinical appropriateness for OCRP means a likelihood of being restored to competency in an outpatient setting))~~ and when the department certifies there is an available appropriate outpatient competency restoration program that has adequate space for the person.

~~((2))~~ (3) An individual may not be clinically appropriate for outpatient competency restoration services if the ~~((client))~~ individual exhibits any of the following:

- (a) Is not medically stable;
- (b) Has current suicidal ideation with intent;
- (c) Is at heightened risk of harming others;

(d) ~~((Psychiatric))~~ Is experiencing psychiatric symptoms at a severity that suggests that the ~~((client))~~ individual will not be able to care for their basic needs or health and safety in the community even with clinically appropriate housing and case management services;
or

(e) ~~((Other))~~ Is exhibiting other concerning behavior or factors which indicates the ~~((client))~~ individual is not appropriate for outpatient competency restoration services.

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0040 Assignment of ~~((clients))~~ individuals and initial intake. (1) The forensic navigator will inquire into ~~((a provider's capacity))~~ an OCR program's adequate space before informing the court that the provider is able to accept a ~~((case assignment))~~ new individual. Subject to ~~((capacity limitations))~~ adequate space, the designated provider will accept all ~~((clients))~~ individuals ordered by the court.

(2) ~~((Immediately following))~~ Once the ~~((case assignment))~~ signed court order for outpatient competency restoration is received by the department, the forensic navigator and provider will make arrangements for the ~~((client))~~ individual to attend an initial intake appointment to be conducted by the provider. The date of this appointment is the program start date.

~~((a))~~ The date of this appointment is the program start date.

~~((b))~~ The provider will develop an initial treatment plan based on the clinical barriers to competency assessed upon intake, and plan for commencing support or clinical services.

~~((c))~~ The provider will commence OCRP services for the client as soon as practicable after the initial intake appointment, even if the assessment and initial treatment plan are still being completed.)

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0050 Conditions of participation. Every ((client)) individual in receipt of modified conditions of release from the criminal court and ordered for outpatient competency restoration must remain clinically appropriate for outpatient competency restoration services, and must remain ~~((substantially compliant with the following conditions of participation))~~ in active treatment to include the following:

- (1) Taking prescribed medications or receiving prescribed intramuscular medication, if applicable;
- (2) Abstaining from alcohol and unprescribed drugs;
- (3) Participating in regular urinalysis or other drug testing ~~((for clients who have a current substance use disorder diagnosis))~~ , if applicable; and
- (4) ~~((Engaging))~~ Actively participating in ~~((their care and treatment))~~ competency restoration.

NEW SECTION

WAC 388-878-0051 Leave of absence. (1) Every individual with a court order for outpatient competency restoration services who has been enrolled in the OCRP may be placed on a leave of absence (LOA) by the provider under the circumstances described in this section. An individual is placed on an LOA when they are not actively participating in the OCRP and efforts are being made to return the individual to active treatment and circumstances do not call for immediate removal to an inpatient setting. An individual is placed on an LOA at the discretion of the provider when there is a likelihood for the individual to return to OCRP, however if that changes, they may be terminated from the program and removed to inpatient restoration.

(2) Prior to the provider placing an individual on an LOA the provider will inform the forensic navigator and will provide leave of absence details in the weekly status update. The court will be informed by the forensic navigator. An LOA pauses the individual's restoration period and extends the end date of legal authority.

(3) If an individual does not actively engage in competency restoration and other services as directed by the program or treatment providers, they will be placed on a leave of absence.

(4) The following reasons effectively pause the individual's restoration period and extend the end date of legal authority:

(a) Conditional release review-treatment suspended meaning outpatient restoration treatment is suspended while conditional release order is under review as an individual has returned to custody, or is in the community, or in a medical/civil psychiatric facility, but there is a likelihood they may be eligible to return to OCRP. Leave continues until the individual returns to the program, or the court revokes conditional release order.

(b) Other inpatient treatment meaning an individual has been admitted for temporary inpatient treatment (e.g., a medical, civil psychiatric, SUD treatment, inpatient community behavioral health, or crisis stabilization facility) but the provider deems there is a likelihood the individual will discharge back to OCRP and conditional release is not under review.

(c) Unexcused program absence meaning an individual has missed three consecutive treatment days. An individual has missed three consecutive active treatment days, but the provider deems there is a likelihood that they can be reengaged in OCRP; and

(d) "Other" meaning an excused absence by the OCRP provider not captured in other LOA reasons including when the individual has an extenuating circumstance that does not allow them to attend three consecutive active treatment days, and the court is made aware of the absence.

(5) The following reasons do not pause the individual's restoration period and do not extend the end date of legal authority:

(a) The period following an individual's end of legal authority expiration meaning an individual's legal authority expires and competency hearing for additional court order is needed to determine whether the individual will return to the program; or

(b) Conditional release review-inpatient restoration meaning an individual is admitted to inpatient restoration while conditional release order is under review; leave continues until the individual returns to the program, or the court revokes the conditional release order.

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

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0060 OCRP provider reporting. (1) The provider will submit a weekly status update to the assigned forensic navigator (~~via secure email~~).

(2) The provider will submit a behavior concern report (~~when there is concern about a client's behavior. The report must be submitted~~) to the forensic navigator (~~via direct notification~~) either by way of in person contact or by phone. The communication will take place on the same day that the behavior arose((7)) and ((additionally by)) the provider shall follow up with notification of completion via secure email within ((twenty-four)) 24 hours of ((concern)) the concern(s).

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0070 Early competency evaluation. The provider will promptly request an early competency evaluation when the provider ~~((determines))~~ believes the ~~((client))~~ individual may meet one of the following criteria:

(1) ~~((Client exhibits barriers to competency))~~ The individual may be competent to stand trial ((that are minimal or not present)); or

(2) ~~((Client determined to be not restorable to competency to stand trial))~~ The individual is unlikely to be restored to competence.

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0080 Program termination and removal. ~~((1))~~ If ~~((a client))~~ an individual fails to comply with the conditions of the outpatient competency restoration program such that restoration is no longer appropriate in ~~((that))~~ an outpatient setting or the ~~((client))~~ individual is no longer clinically appropriate as determined by the OCRP director, then the department ~~((r))~~ will work with law enforcement, if appropriate, to assist with removal and admission to inpatient restoration. ~~((the))~~ The department will remove the client from the program and place the client in an appropriate facility for inpatient competency restoration.

~~((2))~~ If the provider determines that the client may no longer meet the conditions of participation, the provider will promptly contact the forensic navigator to consider removal from the program.

AMENDATORY SECTION (Amending WSR 21-20-037, filed 9/27/21, effective 10/28/21)

WAC 388-878-0090 Program end. (1) The provider will no longer ~~((serve the client in the program upon expiration of the order for))~~ provide outpatient competency restoration services to the individual upon expiration of the outpatient competency restoration order. Competency restoration services include teaching competency restoration curriculum and providing weekly status updates or monitoring for the courts. The provider may continue to provide residential supports for up to 14 days after termination or successful completion and discharge from OCRP services. Additionally, the provider, at its discretion, may continue to provide care coordination services for a person who has been terminated or successfully discharged from OCRP services to ensure coordination of care occurs.

(2) When a forensic navigator confirms with the court that the individual will not be returning to the OCRP, ((The)) the provider must ((contact the forensic navigator to make a plan for coordinated transition or continuing outpatient behavioral health services)) complete a discharge summary document.

WSR 24-16-111
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 24-11—Filed August 5, 2024, 10:24 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Amending recreational fishing rules at Park, Blue, and Deep lakes in Grant County to address a rule petition request for season extension and at Fish Lake in Chelan County to address another rule petition request for removal of the daily bag limit.

Hearing Location(s): On September 10, 2024, at 6:00 - 8:00 p.m., virtual public hearing via Zoom. Register in advance for this webinar https://us02web.zoom.us/webinar/register/WN_dIe4OZcSSUKScYCE5mNsZA.

Date of Intended Adoption: September 11, 2024.

Submit Written Comments to: Rules Coordinator, P.O. Box 4320, Olympia, WA 98504, email 2024lakespetitions@publicinput.com, <https://publicinput.com/2024lakepetitions>, voice comments 855-925-2801, code 7252, beginning August 8, 2024, 12:01 a.m., by September 10, 2024, 11:59 p.m.

Assistance for Persons with Disabilities: Contact VI/ADA compliance coordinator, phone 360-902-2349, TTY 711, email Title6@dfw.wa.gov, <https://wdfw.wa.gov/accessibility/requestsaccomodation>, by September 10, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule proposal is responding to and supporting two separate rule petitions submitted to and approved by the department of fish and wildlife (department). This rule proposal is based on the two petitions which together seek to amend recreational fishing rules at Park, Blue, and Deep lakes in Grant County and at Fish Lake in Chelan County. The first petition received by the department seeks to remove harvest limits at Fish Lake; the second petition received by the department seeks to extend the fishing season at Park, Blue, and Deep lakes. Below are more specific descriptions of the rule changes for both sets of lakes:

Park, Blue, and Deep lakes: This proposal would change the current fishing season closure date at Park, Blue, and Deep lakes (Grant County) from September 30th to October 31st. Changing the closure date to October 31st will increase recreational fishing opportunities at these three lakes later in the fall when trout fishing is very productive.

Fish Lake: This proposal would remove the current daily bag limit (25) for yellow perch at Fish Lake (Chelan County). Yellow perch are overpopulated in Fish Lake. Removing the daily bag limit will increase harvest rates and improve average size over time. The end result will improve the quality of the yellow perch fishery.

Reasons Supporting Proposal: Both proposals will increase recreational fishing opportunities and improve overall fishery quality.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.047, and 77.60.070.

Statute Being Implemented: RCW 77.04.012, 77.04.055, and 77.12.047.

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

Name of Proponent: Shawn Seeger and Tyler Hicks, petitioners, private.

Name of Agency Personnel Responsible for Drafting and Implementation: Chad Jackson, Ephrata, Washington, 509-754-4624, ext. 250; Enforcement: Captain Mike Jewell, Ephrata, Washington, 509-754-4624, ext. 241.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328(5), a cost-benefit analysis is not required for this rule as the department is not implementing chapter 77.55 RCW with this rule.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 5, 2024
Scott Bird
Rules Coordinator

OTS-5702.1

AMENDATORY SECTION (Amending WSR 24-13-054, filed 6/14/24, effective 7/15/24)

WAC 220-312-050 Freshwater exceptions to statewide rules—East-side. (1) **Countywide freshwater exceptions to statewide rules:**

(a) Irrigation canals, wasteways, drains and the inlets and outlets of all lakes, ponds, and reservoirs in Grant and Adams counties (except Crab Creek, Rocky Ford Creek and Ponds, Columbia Basin Hatchery Creek, Bobcat Creek, Coyote Creek, Frenchman Hills Wasteway and Drains, Hays Creek, Red Rock Creek, Sand Hollow Creek, and Lake Lenore inlet and outlet) are open year-round, statewide lake rules apply to all species.

(b) In Adams, Douglas, Franklin, Grant, and Okanogan counties, except Zosel Dam (Okanogan River) and Enloe Dam (Similkameen River): It is permissible to fish up to the base of all dams.

(2) **Aeneas Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(3) **Ahtanum Creek (Yakima County):** Selective gear rules.

(4) **Ahtanum Creek, North Fork (Yakima County):**

(a) From the Grey Rock Trailhead Bridge crossing upstream to Shellneck Creek: Closed waters.

(b) Selective gear rules.

(5) **Ahtanum Creek, Middle Fork (Yakima County):**

- (a) From the A2000 Spur Road Bridge in NE 1/4 of Section 34 upstream to the A2800 Road Bridge at Tree Phones Campground: Closed waters.
- (b) Selective gear rules.
- (6) **Alta Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.
- (7) **Amber Lake (Spokane County)**:
- (a) Selective gear rules.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) Open March 1 through November 30.
- (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (8) **American River (Yakima County)**:
- (a) Selective gear rules.
- (b) From the Highway 410 Bridge at river mile 5.4 to the Mesatchee Creek Trail crossing at river mile 15.8: Closed waters from July 16 through September 15.
- (9) **Amon Wasteway (Benton County)**: Selective gear rules.
- (10) **Andrews Creek (tributary to Chewuch River) (Okanogan County)**: From the mouth to the falls approximately 0.5 miles upstream: Closed waters.
- (11) **Asotin Creek, mainstem and forks (Asotin County)**:
- (a) Closed waters:
- (i) South Fork from mouth upstream.
- (ii) North Fork from USFS border upstream.
- (b) Game fish: Statewide minimum length/daily limit, except: It is unlawful to fish for steelhead.
- (c) Selective gear rules.
- (12) **Aspen Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (13) **Badger Lake (Spokane County)**: Open the fourth Saturday in April through September 30.
- (14) **Banks Lake (Grant County)**:
- (a) Chumming is permissible.
- (b) Game fish: Statewide minimum length/daily limit, except:
- (i) Crappie: Daily limit 10; minimum length 9 inches.
- (ii) Yellow perch: Daily limit 25.
- (15) **Bayley Lake (Stevens County)**:
- (a) Inlet stream: Closed waters.
- (b) Open the fourth Saturday in April through October 31.
- (c) Fly fishing only.
- (d) It is unlawful to fish from a floating device equipped with a motor.
- (e) Release all fish.
- (16) **Bear Creek (tributary to South Fork Tieton River) (Yakima County)**: From the mouth to the falls (approximately 0.75 mile): Closed waters.
- (17) **Bear Lake (Spokane County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (18) **Beaver Creek (tributary to Methow River) (Okanogan County)**: Closed waters.
- (19) **Beaver Lake (Big) (Okanogan County)**: Open the fourth Saturday in April through October 31.

- (20) **Beaver Lake, (Little)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (21) **Beda Lake (Grant County)**:
- (a) Selective gear rules.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (22) **Beehive (Lake) Reservoir (Chelan County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) Game fish: Statewide minimum length/daily limit, except:
Eastern brook trout count as part of trout daily limit.
- (23) **Beth Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.
- (24) **Big Four Lake (Columbia County)**:
- (a) Fly fishing only.
- (b) It is unlawful to fish from any floating device.
- (c) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 2; minimum length 14 inches.
- (25) **Big Meadow Lake (Pend Oreille County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (26) **Big Twin Lake (Okanogan County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (27) **Blackbird Island Pond (Chelan County)**: Open July 1 through September 30 for juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- (28) **Black Canyon Creek (tributary to Methow River) (Okanogan County)**: Closed waters.
- (29) **Black Lake (Chelan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (30) **Black Lake (Okanogan County)**: Selective gear rules.
- (31) **Black Lake (Stevens County)**: Open the fourth Saturday in April through October 31.
- (32) **Blue Lake (Columbia County)**: It is unlawful to fish from any floating device.
- (33) **Blue Lake (Grant County)**: Open the fourth Saturday in April through ((~~September 30~~)) October 31.
- (34) **Blue Lake (near Sinlahekin) (Okanogan County)**:
- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.
- (c) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- (d) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (e) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (35) **Blue Lake (near Wannacut Lake) (Okanogan County)**:
- (a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1, minimum length 18 inches.

(36) **Bobcat Creek and Ponds (Adams County)**: Open the fourth Saturday in April through September 30.

(37) **Bonaparte Creek (Okanogan County)**: From the mouth to the falls approximately river mile 1.0: Closed waters.

(38) **Bonaparte Lake (Okanogan County)**:

(a) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(39) **Boulder Creek and tributaries (Okanogan County)**: From the mouth to the barrier falls at river mile 1.0: Closed waters.

(40) **Box Canyon Creek and tributaries (Kittitas County)**: From mouth (Kachess Reservoir) upstream approximately 2 miles to the 20 foot high waterfall, including that portion of the creek that flows through the dry lake bed: Closed waters.

(41) **Browns Lake (Pend Oreille County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(42) **Bumping Lake (Reservoir) (Yakima County)**: Chumming is permissible.

(43) **Buckskin Creek and tributaries (Yakima County)**: From the mouth to the west boundary of Suntides Golf Course: Closed waters.

(44) **Bumping River (Yakima County)**:

(a) It is permissible to fish up to the base of Bumping Dam.

(b) From the mouth to Bumping Reservoir; selective gear rules.

(45) **Burke Lake (Grant County)**: Open March 1 through September 30.

(46) **Buttermilk Creek (tributary to Twisp River) (Okanogan County), including tributaries**:

(a) Open the Saturday before Memorial Day through August 15.

(b) Release all fish.

(c) Selective gear rules.

(47) **Buzzard Lake (Okanogan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1; minimum length 18 inches.

(48) **Caldwell Lake (Pend Oreille County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(49) **Caliche Lakes, Upper (Grant County)**: Open March 1 through September 30.

(50) **Calispell Creek (Calispell River) (Pend Oreille County)**: From the mouth to Calispell Lake: Open year-round.

(51) **Campbell Lake (Okanogan County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(52) **Carl's Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(53) **Cascade Lake (Grant County)**: Open March 1 through September 30.

(54) **Cattail Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(55) **Cedar Creek (tributary to Early Winters Creek) (Okanogan County)**:

(a) From the mouth to Cedar Falls:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From Cedar Falls upstream including tributaries: Selective gear rules.

(56) **Cedar Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

(57) **Chain Lake (Pend Oreille County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Release kokanee.

(58) **Chapman Lake (Spokane County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Chumming is permissible.

(59) **Chelan Hatchery Creek (Chelan County)**: Closed waters.

(60) **Chelan Lake (Chelan County)**:

(a) Game fish: Statewide minimum length/daily limit, except:

(i) Release wild cutthroat trout.

(ii) Lake trout: No limit and no size restriction.

(b) Salmon: Daily limit 1; minimum length 15 inches.

(c) No catch record card required.

(61) **Chelan Lake tributaries (Chelan County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat trout.

(62) **Chelan River (Chelan County)**: From the railroad bridge to the Chelan PUD safety barrier below the power house:

(a) Salmon: Open July 16 through October 15:

(i) Daily limit 6; up to 2 may be adult hatchery Chinook. Release sockeye, coho, and wild adult Chinook.

(ii) July 16 through October 15: Anti-snagging rule and night closure.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(c) From the Chelan PUD safety barrier below the power house upstream to Chelan Lake: Closed waters.

(63) **Chewuch River (Okanogan County)**:

(a) From the mouth to Eight Mile Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Release all fish.

(b) From the mouth to Pasayten Wilderness boundary falls: Whitefish:

- (i) Open December 1 through the last day in February for whitefish only.
- (ii) Whitefish gear rules.
- (64) **Chiwaukum Creek (Chelan County):**
 - (a) From the mouth to Fool Hen Creek, including Fool Hen Creek and tributaries: Closed waters.
 - (b) From Fool Hen Creek upstream and tributaries: Selective gear rules.
- (65) **Chiwawa River (Chelan County):**
 - (a) From the mouth to Buck Creek and tributaries not including Buck Creek: Closed waters.
 - (b) From Buck Creek upstream and tributaries (including Buck Creek): Selective gear rules.
- (66) **Chopaka Lake (Okanogan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Fly fishing only.
 - (c) It is unlawful to fish from a floating device equipped with a motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- (67) **Chumstick Creek (Chelan County):** Closed waters.
- (68) **Clear Lake (Chelan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- (69) **Clear Lake (Spokane County):** Open the fourth Saturday in April through October 31.
- (70) **Cle Elum Lake (Reservoir) (Kittitas County):** Game fish: Statewide minimum length/daily limit, except: Kokanee: Daily limit 5; minimum length 9 inches and maximum length 15 inches.
- (71) **Cle Elum River (Kittitas County):**
 - (a) From the mouth to Cle Elum Dam:
 - (i) Open year-round.
 - (ii) Selective gear rules.
 - (iii) Game fish: Statewide minimum length/daily limit, except: Release rainbow trout and cutthroat trout.
 - (iv) It is permissible to fish up to the base of Cle Elum Dam.
 - (v) Whitefish:
 - (A) Open December 1 through last day in February for whitefish only.
 - (B) Whitefish gear rules.
 - (b) From above Cle Elum Lake to outlet of Hyas Lake: Selective gear rules.
- (72) **Cliff Lake (Grant County):** Open March 1 through September 30.
- (73) **Coffee Pot Lake (Lincoln County):**
 - (a) Open March 1 through September 30.
 - (b) Selective gear rules.
 - (c) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 1; minimum length 18 inches.
 - (ii) Crappie: Daily limit 10; minimum length 9 inches.
- (74) **Columbia Basin Hatchery Creek (Grant County):**
 - (a) Open April 1 through September 30 from the hatchery outflow to the confluence with Rocky Coulee Wasteway.
 - (b) Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(75) **Columbia Park Pond (Benton County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(76) **Colville River (Stevens County)**: From the mouth to bridge at the town of Valley including Meyers Falls Reservoir: Open year-round.

(77) **Conconully Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

(78) **Conconully Reservoir (Okanogan County)**: Open the fourth Saturday in April through October 31.

(79) **Conger Pond (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(80) **Conner Lake (Okanogan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(81) **Cooper River (Kittitas County)**: From the mouth to Cooper Lake: Selective gear rules.

(82) **Coot Lake (Grant County)**: Open the fourth Saturday in April through September 30.

(83) **Corral Creek (Benton County)**: Selective gear rules.

(84) **Cougar Lake (Pasayten Wilderness) (Okanogan County)**: Selective gear rules.

(85) **Cougar Lake (near Winthrop) (Okanogan County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(86) **Cowiche Creek (Yakima County)**: Selective gear rules.

(87) **Coyote Creek and Ponds (Adams County)**: Open the fourth Saturday in April through September 30.

(88) **Crab Creek (Adams/Grant/Lincoln counties)**:

(a) From the mouth to Morgan Lake Road: Open the Saturday before Memorial Day through September 30.

(b) From Morgan Lake Road to O'Sullivan Dam (including Marsh Unit I and II impoundments): Closed waters.

(c) From the confluence of the Moses Lake outlets to Sand Dunes Road including tributaries:

(i) Open year-round.

(ii) Statewide lake rules apply to all species, except:

(A) Crappie: Minimum length 9 inches.

(B) Crappie and bluegill: Combined limit of 25 fish.

(C) Yellow perch: Daily limit 25 fish.

(d) From the fountain buoy and shoreline markers of 150 feet down stream of the Alder Street fill to Grant County Road 7 NE:

(i) Open year-round.

(ii) Statewide lake rules apply to all species, except:

(A) Crappie: Daily limit 10; minimum length 9 inches.

(B) Bluegill: Daily limit 5; minimum length 8 inches.

(C) Yellow perch: Daily limit 25.

(e) From Grant County Road 7 NE upstream (including all tributaries, except Goose Creek in the city of Wilbur): Open year-round.

(89) **Crawfish Lake (Okanogan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(90) **Crescent Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

(91) **Crystal Lake (Grant County)**: Open March 1 through September 30.

(92) **Cub Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to West Chewuch Road Bridge: Closed waters.

(93) **Cup Lake (Grant County)**: Open March 1 through September 30.

(94) **Curl Lake (Columbia County)**:

(a) Open the Saturday before Memorial Day through October 31.

(b) It is unlawful to fish from any floating device.

(95) **Davis Lake (Ferry County)**: Open the fourth Saturday in April through October 31.

(96) **Davis Lake (Okanogan County)**:

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(97) **Dayton Pond (Columbia County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(98) **Deadman Lake (Adams County)**: Open the fourth Saturday in April through September 30.

(99) **Deep Creek (tributary to Bumping Lake) (Yakima County)**: From the mouth to the waterfall approximately 0.33 mile above the second bridge crossing on USFS Road 1808 (approximately 3.7 miles from the junction of USFS Roads 1800 and 1808): Closed waters.

(100) **Deep Lake (Grant County)**: Open the fourth Saturday in April through (~~September 30~~) October 31.

(101) **Deep Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

(102) **Deer Lake (Columbia County)**:

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

(103) **Deer (Deer Springs) Lake (Lincoln County)**: Open the fourth Saturday in April through September 30.

(104) **Deer Lake (Stevens County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Eastern brook trout count as part of trout daily limit.

(b) Lake trout: Daily limit 5, no more than 1 over 26 inches may be retained.

(105) **Delaney Springs (Grant County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

(106) **De Roux Creek (Kittitas County)**: From the mouth to the USFS trail 1392 (De Roux Creek Trail) stream crossing (approximately 1 river mile): Closed waters.

(107) **Dog Creek (tributary to Chewuch) (Okanogan County)**: From mouth upstream to falls approximately 1.5 miles: Closed waters.

(108) **Domerie Creek (Kittitas County)**: Selective gear rules.

(109) **Downs Lake (Lincoln/Spokane counties)**:

(a) Open March 1 through September 30.

(b) Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

(110) **Dry Falls Lake (Grant County)**:

- (a) Open March 1 through November 30.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (111) **Dune Lake (Grant County):**
 - (a) Selective gear rules.
 - (b) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (112) **Dusty Lake (Grant County):**
 - (a) Open March 1 through November 30.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- (113) **Eagle Creek (tributary to Twisp River) (Okanogan County):** From mouth upstream to the falls approximately 0.5 miles: Closed waters.
- (114) **Early Winters Creek (tributary to Methow River) (Okanogan County):**
 - (a) From the mouth upstream to Forest Road 300: Closed waters.
 - (b) From Forest Road 300 upstream; including tributaries except Cedar Creek:
 - (i) Open the Saturday before Memorial Day through August 15.
 - (ii) Selective gear rules.
 - (iii) Release all fish.
- (115) **Eightmile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to Forest Road 5130 Bridge: Closed waters.
- (116) **Elbow Lake (Stevens County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Game fish: Statewide minimum length/daily limit, except:
Eastern brook trout count as part of trout daily limit.
- (117) **Ell Lake (Okanogan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (118) **Eloika Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.
- (119) **Empire Lake (Ferry County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Game fish: Statewide minimum length/daily limit, except:
Eastern brook trout count as part of trout daily limit.
- (120) **Entiat River (Chelan County):**
 - (a) From mouth (railroad bridge) to the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery):
 - (i) Salmon: Open from July 16 through September 30:
 - (A) Daily limit 6 Chinook salmon. Release all other salmon.
 - (B) Night closure.
 - (ii) Open December 1 through the last day in February for white-fish only.

(iii) Whitefish gear rules.

(b) From the boundary marker/markers located approximately 1,500 feet upstream of the upper Roaring Creek Road Bridge (immediately downstream of the Entiat National Fish Hatchery) to Entiat Falls:

(i) Whitefish:

(ii) Open December 1 through the last day in February for whitefish only.

(iii) Whitefish gear rules.

(c) Entiat River and all tributaries above Entiat Falls: Selective gear rules.

(121) **Ephrata Lake (Grant County)**: Closed waters.

(122) **Esquatzel Coulee (Franklin County)**: Open year-round.

(123) **Esquatzel Coulee, West Branch (Franklin County)**: Open year-round.

(124) **Falls Creek (tributary to Chewuch River) (Okanogan County)**: From mouth upstream to the falls approximately .15 miles: Closed waters.

(125) **Fan Lake (Pend Oreille County)**:

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(126) **Ferry Lake (Ferry County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(127) **Fiorito Lakes (Kittitas County)**: It is unlawful to fish from a floating device equipped with an internal combustion motor.

(128) (~~(128) **Fish Lake (Chelan County)**: Game fish: Statewide minimum length/daily limit, except: Yellow perch: Daily limit 25.~~

~~(129))~~ **Fish Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((130))~~ **(129) Fish Lake (Spokane County)**:

(a) Open the fourth Saturday in April through September 30.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((131))~~ **(130) Fishhook Pond (Walla Walla County)**: It is unlawful to fish from a floating device.

~~((132))~~ **(131) Fishtrap Lake (Lincoln/Spokane counties)**: Open the fourth Saturday in April through September 30.

~~((133))~~ **(132) Forde Lake (Okanogan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((134))~~ **(133) Fourth of July Lake (Adams/Lincoln counties)**:

(a) Open the Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((135))~~ **(134) Frank's Pond (Chelan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Open to juvenile anglers only.

~~((136))~~ **(135) Frater Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((137))~~ **(136) Frenchman Hills Wasteway and Drains (Grant County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

- ((138)) (137) Gadwall Lake (Grant County): Open the fourth Saturday in April through September 30.
- ((139)) (138) Garfield Juvenile Pond (Whitman County): Open to juvenile anglers only.
- ((140)) (139) Goat Creek (tributary to Methow River) (Okanogan County): Closed waters.
- ((141)) (140) Gold Creek, Gold Creek Pond and outlet channel (tributary to Keechelus Lake): Including that portion of Gold Creek that flows through the dry Keechelus Reservoir lakebed: Closed waters.
- ((142)) (141) Gold Creek (tributary to Methow River) (Okanogan County): Closed waters.
- ((143)) (142) Goose Creek (Lincoln County), within the city limits of Wilbur: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- ((144)) (143) Goose Lake, Lower (Grant County): Game fish: Statewide minimum length/daily limit, except:
- (a) Crappie: Daily limit 10; minimum length 9 inches.
 - (b) Bluegill: It is unlawful to retain more than 5 fish over 6 inches in length.
- ((145)) (144) Grande Ronde River (Asotin County):
- (a) From the mouth to County Road Bridge, about 2.5 miles upstream:
 - (i) Open year-round for game fish other than trout and steelhead.
 - (ii) From August 1 through April 15: Selective gear rules.
 - (iii) Trout: Open from the Saturday before Memorial Day through October 31.
 - (iv) Steelhead:
 - (A) Open January 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (B) August 1 through December 31; release steelhead.
 - (b) From the County Road Bridge upstream to the Oregon state line:
 - (i) Open year-round for game fish other than trout and steelhead.
 - (ii) From August 1 through April 15: Barbless hooks required.
 - (iii) Trout: Open from the Saturday before Memorial Day through October 31.
 - (iv) Steelhead: Open August 1 through April 15; daily limit 3 hatchery steelhead; minimum length 20 inches.
 - (c) All tributaries: Closed waters.
- ((146)) (145) Green Lakes (Lower and Upper) (Okanogan County):
- (a) Selective gear rules.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (c) Game fish: Statewide minimum length/daily limit, except:
 - (i) Trout: Daily limit 2; minimum length 14 inches.
 - (ii) Eastern brook trout count as part of trout daily limit.
- ((147)) (146) Grimes Lake (Douglas County):
- (a) Open June 1 through August 31.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- ((148)) (147) Halfmoon Lake (Adams County): Open the fourth Saturday in April through September 30.

~~((149))~~ **(148) Hampton Lakes (Lower and Upper) (Grant County):**
Open the fourth Saturday in April through September 30.

~~((150))~~ **(149) H and H Reservoir Number One (Pascal's Pond) (Chelan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((151))~~ **(150) Harris Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1; minimum length 18 inches.

~~((152))~~ **(151) Hatch Lake (Stevens County):** Open the Friday after Thanksgiving through March 31.

~~((153))~~ **(152) Hays Creek and Ponds (Adams County):** Open the fourth Saturday in April through September 30.

~~((154))~~ **(153) Headgate Pond (Asotin County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((155))~~ **(154) Hen Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((156))~~ **(155) Hog Canyon Creek (Spokane County):** From the mouth to Scroggie Road: Closed waters.

~~((157))~~ **(156) Hog Canyon Lake (Spokane County):** Open the Friday after Thanksgiving through March 31.

~~((158))~~ **(157) Homestead Lake (Grant County):**

(a) Selective gear rules.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1; minimum length 18 inches.

~~((159))~~ **(158) Hourglass Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((160))~~ **(159) Hutchinson Lake (Adams County):** Open the fourth Saturday in April through September 30.

~~((161))~~ **(160) I-82 Ponds, 1 through 7 (Yakima County):** It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((162))~~ **(161) Icicle River and tributaries (Creek) (Chelan County):**

(a) From the mouth upstream 800 feet to posted signs: Closed waters.

(b) From posted signs 800 feet upstream of the mouth to 500 feet below Leavenworth National Fish Hatchery: Closed waters.

(c) From 500 feet below Leavenworth National Fish Hatchery to shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort: Closed waters.

(d) From shoreline markers where Cyo Road would intersect the Icicle River at the Sleeping Lady Resort to the Icicle Peshastin Irrigation District footbridge (approximately 750 feet upstream of the "Snow Lakes Trailhead" parking lot): Closed waters.

(e) From the Icicle Irrigation Peshastin District footbridge upstream, and tributaries: Selective gear rules.

~~((163))~~ **(162) Indian Creek (Yakima County):** From the mouth to the waterfall approximately six miles upstream including that portion that flows through the dry lake bed of Rimrock Reservoir: Closed waters.

~~((164))~~ **(163) Ingalls Creek (Chelan County):** From the mouth to Alpine Lakes Wilderness boundary and tributaries: Closed waters.

~~((165))~~ (164) **Jameson Lake (Douglas County)**: Open the fourth Saturday in April through October 31.

~~((166))~~ (165) **Jasmine Creek (Okanogan County)**:

(a) Open year-round to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

(b) Game fish: Statewide minimum length/daily limit, except: Steelhead: Closed to fishing.

~~((167))~~ (166) **Jefferson Park Pond (Walla Walla County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((168))~~ (167) **Jolanda, Lake (Chelan County)**: Closed waters.

~~((169))~~ (168) **Kachess Lake (Reservoir) (Kittitas County)**:

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

~~((170))~~ (169) **Kachess River (Kittitas County)**:

(a) From Kachess Lake (Reservoir) upstream to the waterfall approximately 0.5 miles above Mineral Creek: Closed waters.

(b) It is permissible to fish up to the base of Kachess Dam.

(c) From the mouth to Kachess Dam: Selective gear rules.

~~((171))~~ (170) **Keechelus Lake (Reservoir) (Kittitas County)**:

(a) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

(b) Chumming is permissible.

~~((172))~~ (171) **Kettle Creek (tributary to American River) (Yakima County)**: Closed waters.

~~((173))~~ (172) **Kettle River (Stevens County)**: From Barstow Bridge upstream:

(a) Selective gear rules, except for juvenile anglers, from the Canadian border upstream to Highway 21 Bridge at Curlew.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(c) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(d) Whitefish:

(i) Open December 1 through the last day in February for whitefish only.

(ii) Whitefish gear rules.

~~((174))~~ (173) **Kings Lake and tributaries (Pend Oreille County)**: Closed waters.

~~((175))~~ (174) **Kiwanis Pond (Kittitas County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((176))~~ (175) **Lake Creek (Okanogan County)**:

(a) From the mouth to Black Lake: Closed waters.

(b) From Black Lake to Three Prong Creek: Closed waters.

~~((177))~~ (176) **Ledbetter Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((178))~~ (177) **Ledking Lake (Pend Oreille County)**: Open the fourth Saturday in April through October 31.

~~((179))~~ (178) **Leech Lake (Yakima County)**:

(a) Fly fishing only.

(b) It is unlawful to fish from a floating device equipped with a motor.

(c) Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 1; minimum length 18 inches.

- ((180)) **(179) Lemna Lake (Grant County):** Open the fourth Saturday in April through September 30.
- ((181)) **(180) Lenice Lake (Grant County):**
- (a) Open March 1 through November 30.
 - (b) Selective gear rules.
 - (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- ((182)) **(181) Lenore Lake (Grant County):**
- (a) The waters within a 200 yard radius of the trash rack leading to the irrigation pumping station (on the south end of the lake) and the area approximately 100 yards beyond the mouth of inlet stream to State Highway 17: Closed waters.
 - (b) Open March 1 through November 30.
 - (c) Selective gear rules.
 - (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- ((183)) **(182) Libby Creek (tributary to Methow River) (Okanogan County):** Closed waters.
- ((184)) **(183) Liberty Lake (Spokane County):** Open March 1 through October 31.
- ((185)) **(184) Lilly Lake (Chelan County):**
- (a) Open the fourth Saturday in April through October 31.
 - (b) Game fish: Statewide minimum length/daily limit, except:
Eastern brook trout count as part of trout daily limit.
- ((186)) **(185) Lions Park Pond (Walla Walla County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- ((187)) **(186) Little Bridge Creek (tributary of Twisp River) (Okanogan County):**
- (a) Open the Saturday before Memorial Day through August 15.
 - (b) Release all fish.
 - (c) Selective gear rules.
- ((188)) **(187) Little Falls Reservoir (Spokane River) (Lincoln County):** From Little Falls Dam to Long Lake Dam: Landlocked salmon rules.
- ((189)) **(188) Little Lost Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- ((190)) **(189) Little Naches River including tributaries (Yakima County):** Selective gear rules.
- ((191)) **(190) Little Pend Oreille River and tributaries (Stevens County):** Selective gear rules.
- ((192)) **(191) Little Spokane River and tributaries (Spokane County):**
- (a) From the inlet of Chain Lake upstream 0.25 mile to the railroad crossing culvert: Closed waters.
 - (b) From the SR 291 Bridge upstream:
 - (i) Open Saturday before Memorial Day through October 31.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
- ((193)) **(192) Little Twin Lake (Okanogan County):**
- (a) Open the fourth Saturday in April through October 31.
 - (b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

(i) Trout: Daily limit 1; minimum length 18 inches.

(ii) Eastern brook trout count as part of trout daily limit.

~~((194))~~ (193) **Little Twin Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((195))~~ (194) **Little Wenatchee River (Chelan County)**:

(a) From the mouth to USFS road 6700 Bridge and tributaries: Closed waters.

(b) From the USFS road 6700 Bridge upstream including tributaries: Selective gear rules.

~~((196))~~ (195) **Long Lake (Ferry County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to use flies containing lead.

(d) It is unlawful to fish from a floating device equipped with a motor.

~~((197))~~ (196) **Long Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((198))~~ (197) **Long Lake (Lake Spokane) (Spokane County)**: From Long Lake Dam to Nine Mile Dam, including Little Spokane River from the mouth to the SR 291 Bridge: Landlocked salmon rules.

~~((199))~~ (198) **Loon Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((200))~~ (199) **Lost Lake (Kittitas County)**: Game fish: Statewide minimum length/daily limit, except: Rainbow trout: Daily limit 2; minimum length 14 inches.

~~((201))~~ (200) **Lost Lake (Okanogan County)**:

(a) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

(c) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((202))~~ (201) **Lost River (tributary to Methow River) (Okanogan County)**:

(a) From the mouth to the mouth of Monument Creek: Closed waters.

(b) From the mouth of Monument Creek including tributaries upstream to Deception Creek:

(i) Open the Saturday before Memorial Day through August 15.

(ii) Selective gear rules.

(iii) Game fish: Statewide minimum length/daily limit, except:

(A) Trout: Minimum length 14 inches; daily limit 2.

(B) Dolly Varden/bull trout may be retained as part of trout daily limit.

~~((203))~~ (202) **Lyman Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((204))~~ (203) **Mad River (Chelan County)**:

(a) From the mouth to Windy Creek, including Windy Creek and tributaries except Tillicum Creek: Closed waters.

(b) From Windy Creek upstream and tributaries: Selective gear rules.

~~((205))~~ (204) **Manastash Creek (Kittitas County)**: Selective gear rules.

~~((206))~~ (205) Marshall Lake (Pend Oreille County): Open the fourth Saturday in April through October 31.

~~((207))~~ (206) Martha Lake (Grant County): Open March 1 through September 30.

~~((208))~~ (207) Mary Ann Lake (Okanogan County): Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((209))~~ (208) Mattoon Lake (Kittitas County): It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((210))~~ (209) McCabe Pond (Kittitas County): It is unlawful to fish from any floating device equipped with a motor.

~~((211))~~ (210) McDowell Lake (Stevens County):

(a) Open the fourth Saturday in April through October 31.

(b) Fly fishing only.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Release all fish.

~~((212))~~ (211) McManaman Lake (Adams County): Open the fourth Saturday in April through September 30.

~~((213))~~ (212) Medical Lake (Spokane County):

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with a motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((214))~~ (213) Medical Lake, West (Spokane County): Open the fourth Saturday in April through September 30.

~~((215))~~ (214) Mercer Creek (Kittitas County): Selective gear rules.

~~((216))~~ (215) Merry Lake (Grant County):

(a) Open March 1 through November 30.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

~~((217))~~ (216) Methow River (Okanogan County):

(a) From mouth to County Road 1535 (Burma Road) Bridge: Closed waters.

(b) Tributaries from mouth to County Road 1535 (Burma Road) Bridge except Black Canyon Creek:

(i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(ii) Steelhead: Closed to fishing.

(c) From County Road 1535 (Burma Road) Bridge to Gold Creek:

(i) Open the Saturday before Memorial Day through September 15.

(ii) Selective gear rules.

(iii) Release all fish.

(iv) Steelhead: Closed to fishing.

(d) All tributaries from the County Road 1535 (Burma Road) to Gold Creek except Gold Creek:

(i) Selective gear rules.

(ii) Release all fish, except: Eastern brook trout: No minimum length/daily limit.

(iii) Steelhead: Closed to fishing.

- (e) From Gold Creek to Foghorn Dam:
 - (i) Open the Saturday before Memorial Day through September 30.
 - (ii) Selective gear rules.
 - (iii) Release all fish.
 - (iv) Steelhead: Closed to fishing.
 - (v) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
- (f) Methow River tributaries from Gold Creek to Foghorn Dam; except Twisp River, Chewuch River, Libby Creek, and Beaver Creek:
 - (i) Release all fish, except: Eastern brook trout: No minimum length/daily limit.
 - (ii) Steelhead: Closed to fishing.
- (g) From Foghorn Dam to Weeman Bridge including tributaries:
 - (i) Open the Saturday before Memorial Day through August 15:
 - (A) Release all fish.
 - (B) Selective gear rules.
 - (C) Steelhead: Closed to fishing.
 - (ii) Whitefish:
 - (A) Open December 1 through the last day in February for Whitefish only.
 - (B) Whitefish gear rules.
- (h) From Weeman Bridge to the falls above Brush Creek: Whitefish:
 - (i) Open December 1 through the last day in February for whitefish only.
 - (ii) Whitefish gear rules.
- (i) Methow River tributaries from Weeman Bridge to the falls above Brush Creek; excluding Lost River, Goat Creek, Early Winters Creek, and Wolf Creek:
 - (i) Selective gear rules.
 - (ii) Release all fish.
 - (iii) Steelhead: Closed to fishing.
- ~~((218))~~ **(217) Mill Creek (tributary to the Walla Walla River) (Walla Walla County):**
 - (a) From the mouth to Bennington Dam, including tributaries: Closed waters.
 - (b) From Bennington Dam upstream excluding tributaries: Selective gear rules.
 - (c) All tributaries upstream of Bennington Dam: Closed waters.
- ~~((219))~~ **(218) Mineral Creek (tributary to upper Kachess River) (Kittitas County):** From the mouth to the Wilderness Boundary: Closed waters.
- ~~((220))~~ **(219) Molson Lake (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- ~~((221))~~ **(220) Monument Creek (Okanogan County), including tributaries:** Selective gear rules.
- ~~((222))~~ **(221) Morgan Lake (Adams County):** Open the fourth Saturday in April through September 30.
- ~~((223))~~ **(222) Moses Lake (Grant County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Crappie: Daily limit 10; minimum length 9 inches.
 - (b) Bluegill: Daily limit 5; minimum length 8 inches.
 - (c) Yellow perch: Daily limit 25.
- ~~((224))~~ **(223) Mud Lake (Yakima County):**
 - (a) Selective gear rules.

- (b) It is unlawful to fish from a floating device equipped with a motor.
- (c) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 1; minimum length 18 inches.
- ~~((225))~~ **(224) Mudgett Lake (Stevens County):** Open the fourth Saturday in April through October 31.
- ~~((226))~~ **(225) Muskegon Lake (Pend Oreille County):**
- (a) Open the fourth Saturday in April through October 31.
- (b) Selective gear rules.
- (c) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (d) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 2; minimum length 14 inches.
- ~~((227))~~ **(226) Myron Lake (Yakima County):**
- (a) Selective gear rules.
- (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (c) Game fish: Statewide minimum length/daily limit, except:
Trout: Daily limit 2; minimum length 14 inches.
- ~~((228))~~ **(227) Mystic Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- ~~((229))~~ **(228) Naches River (Yakima/Kittitas counties):**
- (a) From the mouth to Little Naches River:
- (i) Selective gear rules.
- (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- (iii) Game fish: Statewide minimum length/daily limit, except:
- (A) Trout: Daily limit 2; minimum length 14 inches.
- (B) Release trout from the confluence with Tieton River to the confluence of the Little Naches River and Bumping River (origin of Naches River).
- (b) From the mouth to the Tieton River:
- (i) Whitefish: December 1 through the last day in February for whitefish only.
- (ii) Whitefish gear rules.
- ~~((230))~~ **(229) Naneum Creek and tributaries (Kittitas County):** Selective gear rules.
- ~~((231))~~ **(230) Naneum Pond (Kittitas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- ~~((232))~~ **(231) Napeequa River (Chelan County):** From mouth to Twin Lakes Creek (including Twin Lakes Creek and all tributaries: Closed waters.
- ~~((233))~~ **(232) Nason Creek (Chelan County):**
- (a) From the mouth to Gaynor Falls and tributaries except White-pine Creek: Closed waters.
- (b) From Gaynor Falls (approximately 0.7 miles upstream of White-pine Creek) upstream and tributaries: Selective gear rules.
- ~~((234))~~ **(233) Nile Creek and tributaries (Yakima County):** Selective gear rules.
- ~~((235))~~ **(234) No Name Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- ~~((236))~~ **(235) North Creek (tributary to Twisp River) (Okanogan County):** From the mouth upstream to Twisp River Road Bridge: Closed waters.
- ~~((237))~~ **(236) North Elton Pond (Yakima County):**
- (a) Open the Friday after Thanksgiving through March 31.

(b) It is unlawful to fish from a floating device equipped with an internal combustion motor.

~~((238))~~ (237) **North Potholes Reserve Ponds (Grant County)**: Open March 1 through the day before waterfowl season begins.

~~((239))~~ (238) **Nunnally Lake (Grant County)**:

(a) The outlet stream of Nunnally Lake is closed waters.

(b) Open March 1 through November 30.

(c) Selective gear rules.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(e) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1; minimum length 18 inches.

~~((240))~~ (239) **Oak Creek and tributaries (Yakima County)**: Selective gear rules.

~~((241))~~ (240) **Okanogan River (Okanogan County)**:

(a) From the mouth to Highway 97 Bridge immediately upstream of the mouth:

Game fish: Open year-round. Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(b) From Highway 97 Bridge immediately upstream of the mouth to the highway bridge at Malott:

Game fish: Open year-round. Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(c) From the highway bridge at Malott to the Highway 97 Bridge at Oroville:

Game fish: Open the Saturday before Memorial Day through September 15. Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(d) From the Highway 97 Bridge at Oroville upstream to the Zosel Dam: Closed waters.

(e) All Okanogan River tributaries, except Salmon Creek, Jasmine Creek, Bonaparte Creek, and the Similkameen River:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

~~((242))~~ (241) **Osoyoos Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except:

(a) Largemouth bass: Daily limit 10; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(b) Smallmouth bass: Daily limit 15; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(c) Channel catfish: Daily limit 10; no size restriction.

(d) Walleye: Daily limit 16; only 1 walleye over 22 inches may be retained.

~~((243))~~ (242) **Palouse River (Whitman County)**: From the mouth to the base of Palouse Falls:

(a) Open year-round for game fish except trout and steelhead.

(b) Trout: Open the Saturday before Memorial Day through October 31.

(c) Steelhead:

- (i) Open August 1 through April 15.
- (ii) Daily limit 3 hatchery steelhead; minimum length 20 inches.
- (d) It is permissible to fish with two poles so long as the angler possesses a valid two-pole endorsement, except for steelhead.
- ~~((244))~~ **(243) Palouse River (Whitman County) mainstem above Palouse Falls and tributaries (Washington waters only), except Rock Creek and Hog Canyon Creek:** Open year-round.
- ~~((245))~~ **(244) Pampa Pond (Whitman County):**
 - (a) Open March 1 through September 30.
 - (b) It is unlawful to fish from any floating device.
- ~~((246))~~ **(245) Park Lake (Grant County):** Open the fourth Saturday in April through ~~((September 30))~~ October 31.
- ~~((247))~~ **(246) Parker Lake (Pend Oreille County):** Open the fourth Saturday in April through October 31.
- ~~((248))~~ **(247) Pataha Creek (Garfield County):**
 - (a) Within the city limits of Pomeroy: Open to juvenile anglers, senior angler, and anglers with a disability who possess a designated harvester companion card only.
 - (b) From the city limits of Pomeroy upstream: Selective gear rules.
- ~~((249))~~ **(248) Pearrygin Lake (Okanogan County):** Open the fourth Saturday in April through October 31.
- ~~((250))~~ **(249) Pend Oreille River (Pend Oreille County):**
 - (a) Open year-round.
 - (b) Game fish: Statewide lake rules.
 - (c) All sloughs within the boundaries of the Kalispel Reservation, except Calispell Slough: Closed waters.
- ~~((251))~~ **(250) Perch Lake (Grant County):** Open the fourth Saturday in April through September 30.
- ~~((252))~~ **(251) Peshastin Creek and all tributaries except Ingalls Creek (Chelan County):** Closed waters.
- ~~((253))~~ **(252) Petit Lake (Pend Oreille County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to fish from a floating device equipped with an internal combustion motor.
- ~~((254))~~ **(253) Phalon Lake (Stevens County):** Closed waters.
- ~~((255))~~ **(254) Phillips Lake (Stevens County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.
- ~~((256))~~ **(255) Pierre Lake (Stevens County):** It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
- ~~((257))~~ **(256) Pillar Lake (Grant County):** Open the fourth Saturday in April through September 30.
- ~~((258))~~ **(257) Ping Pond (Oasis Park Pond) (Grant County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- ~~((259))~~ **(258) Pit Lake (Douglas County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.
- ~~((260))~~ **(259) Poacher Lake (Grant County):** Open the fourth Saturday before April through September 30.
- ~~((261))~~ **(260) Potholes Reservoir (Grant County):** Game fish: Statewide minimum length/daily limit, except:
 - (a) Crappie: Minimum length 9 inches.
 - (b) Crappie and bluegill: Combined limit of 25 fish.
 - (c) Yellow perch: Daily limit 25 fish.

~~((262))~~ (261) **Potter's Pond (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((263))~~ (262) **Powerline Lake (Franklin County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((264))~~ (263) **Quail Lake (Adams County)**:

(a) Fly fishing only.

(b) It is unlawful to fish from any floating device equipped with a motor.

(c) Release all fish.

~~((265))~~ (264) **Quarry Pond (Walla Walla County)**: It is unlawful to fish from any floating device.

~~((266))~~ (265) **Quincy Lake (Grant County)**: Open March 1 through September 30.

~~((267))~~ (266) **Rainbow Lake (Columbia County)**:

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

~~((268))~~ (267) **Rat Lake (Okanogan County)**:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((269))~~ (268) **Rattlesnake Creek and tributaries (Yakima County)**:

(a) Selective gear rules.

(b) Release all fish.

~~((270))~~ (269) **Red Rock Creek (Grant County)**: Open the Saturday before Memorial Day through September 30.

~~((271))~~ (270) **Reflection Pond (Okanogan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((272))~~ (271) **Renner Lake (Ferry County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((273))~~ (272) **Rigley Lake (Stevens County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2, minimum length 14 inches.

~~((274))~~ (273) **Rimrock Lake (Reservoir) (Yakima County)**: Chumming is permissible.

~~((275))~~ (274) **Ringold Springs Hatchery Creek (Franklin County)**: Closed waters.

~~((276))~~ (275) **Roaring Creek (Entiat River tributary) (Chelan County)**: Closed waters.

~~((277))~~ (276) **Rock Creek (Adams/Whitman counties)**:

(a) From the mouth to the bridge on Jordan Knott Road at Revere:

(i) Selective gear rules.

(ii) Release all fish.

(b) From the bridge on Jordan Knott Road upstream: Open year-round.

~~((278))~~ (277) **Rocky Ford Creek and Ponds (Grant County)**:

(a) Open to fly fishing and fishing from the bank only (no wading).

(b) Release all fish.

~~((279))~~ (278) **Rocky Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((280))~~ (279) **Roosevelt Lake (Grant/Ferry/Lincoln/Stevens counties)**: Columbia River from Grand Coulee Dam to U.S. Canadian border including Hawk Creek downstream of the falls at Hawk Creek Campground, Spokane River from 400 feet downstream of Little Falls Dam, Kettle River downstream of Barstow Bridge, and Colville River downstream of S.R. 25 Bridge.

(a) The following areas are closed waters:

(i) From the Little Dalles power line crossing upstream approximately one mile to the marked rock point from March 1 through the Friday before Memorial Day.

(ii) Northport power line crossing upstream to the most upstream point of Steamboat Rock, from March 1 through the Friday before Memorial Day.

(iii) The Kettle River upstream to Barstow Bridge from March 1 through the Friday before Memorial Day.

(b) From Grand Coulee Dam to the Little Dalles power line crossing:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(C) Walleye: Daily limit 16 fish; no size restrictions.

(ii) Salmon:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(c) From the Little Dalles power line crossing to the Canadian border:

(i) Game fish: Statewide minimum length/daily limit, except:

(A) Kokanee: Daily limit 6; no more than 2 with intact adipose fins.

(B) Trout (except kokanee): Daily limit 2; minimum size 18 inches.

(C) Walleye: Daily limit 16; no size restrictions.

(ii) Salmon:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

~~((281))~~ (280) **Round Lake (Okanogan County)**: Open the fourth Saturday in April through October 31.

~~((282))~~ (281) **Royal Lake (Adams County)**: Closed waters.

~~((283))~~ (282) **Royal Slough (including Marsh Unit IV impoundments) (Adams County)**: Closed waters.

~~((284))~~ (283) **Rufus Woods Lake (Douglas/Okanogan counties)**:

(a) From Grand Coulee Dam downstream to State Route 155 Bridge: Closed waters.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2.

(c) Sturgeon: Closed to fishing.

(d) A nonmember fishing permit issued by the Colville Tribes shall satisfy the license requirement of RCW 77.32.010 on the waters of Lake Rufus Woods and on the north shore of Lake Rufus Woods.

(e) A Colville tribal member identification card satisfies the license requirement of RCW 77.32.010 on all waters of Lake Rufus Woods.

~~((285))~~ (284) **Sacheen Lake (Pend Oreille County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((286))~~ (285) **Saddle Mountain Lake (Grant County)**: Closed waters.

~~((287))~~ (286) **Sago Lake (Grant County)**: Open the fourth Saturday in April through September 30.

~~((288))~~ (287) **Salmon Creek (Okanogan County)**:

(a) From the mouth to Conconully Reservoir:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout other than eastern brook trout.

(B) Steelhead: Closed to fishing.

(b) From Conconully Reservoir upstream including tributaries: Selective gear rules.

~~((289))~~ (288) **San Poil River (Ferry County)**:

(a) From the western shoreline at the mouth of the San Poil Arm (as marked by a regulatory buoy) directly eastward across the San Poil Arm to the eastern shoreline of the San Poil Arm (as marked by a regulatory buoy) upstream to the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Open June 1 through January 31 for kokanee, smallmouth bass, trout, and walleye:

(I) Kokanee: Daily limit 2.

(II) Trout: Daily limit 5; it is unlawful to retain trout with an intact adipose fin.

(III) Walleye: Daily limit 16; no size restrictions.

(IV) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(B) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round:

(A) Salmon count toward trout daily limit.

(B) No catch record card required.

(iii) Carp: Open year-round.

(b) From the north shore of the outlet of French Johns Lake (Manila Creek) northeast across the San Poil Arm to the north shore of the outlet of Dick Creek to approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys:

(i) Game fish: Open year-round; statewide minimum length/daily limit, except:

(A) Kokanee: Unlawful to fish for or retain.

(B) Trout: Unlawful to fish for or retain.

(C) Open June 1 through January 31 for walleye and smallmouth bass:

(I) Walleye: Daily limit 16; no size restrictions.

(II) Smallmouth bass: Daily limit 10; no minimum length; only 1 smallmouth bass over 14 inches may be retained.

(D) Largemouth bass: Daily limit 5; no minimum length; only largemouth bass under 12 inches may be retained, except 1 over 17 inches may be retained.

(ii) Salmon: Open year-round; landlocked salmon rules apply.

(iii) Carp: Open year-round; unlawful to fish for carp with bow and arrow.

(c) The waters from approximately 5 miles upstream from the outlet of French Johns Lake, as marked by regulatory buoys, to all waters north of the regulatory buoy line at or above 1,310 feet mean sea level elevation upstream to the northern reservation boundary are managed under the regulatory authority of the Colville Confederated Tribes.

~~((290))~~ **(289) Sand Hollow Creek (Grant County) including tributaries:** From the mouth (State Route 243) upstream: Open the Saturday before Memorial Day through September 30.

~~((291))~~ **(290) Sarg Hubbard Park Pond (Reflection Pond) (Yakima County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((292))~~ **(291) Schallow Pond (Okanogan County):** Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((293))~~ **(292) Sedge Lake (Grant County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1; minimum length 18 inches.

~~((294))~~ **(293) Shellneck Creek (Yakima County):** Closed waters.

~~((295))~~ **(294) Sherman Creek (Ferry County) and tributaries:** From the hatchery boat dock to 400 feet upstream of hatchery water diversion dam: Closed waters.

~~((296))~~ **(295) Shiner Lake (Adams County):** Open the fourth Saturday in April through September 30.

~~((297))~~ **(296) Shoveler Lake (Grant County):** Open the fourth Saturday in April through September 30.

~~((298))~~ **(297) Silver Lake (Spokane County):** Game fish: Statewide minimum length/daily limit, except: Crappie: Daily limit 10; minimum length 9 inches.

~~((299))~~ **(298) Silver Nail Lake (Okanogan County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((300))~~ **(299) Similkameen River (Okanogan County):**

(a) From Enloe Dam downstream 400 feet: Closed waters.

(b) From the mouth to Enloe Dam:

(i) Open July 1 through September 15.

(ii) Game fish: Statewide minimum length/daily limit, except:

(A) Release trout.

(B) Steelhead: Closed to fishing.

(iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(c) From Enloe Dam to the Canadian border, including tributaries, except Sinlahekin Creek:

(i) Open the Saturday before Memorial Day through October 31.

(ii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

~~((301))~~ **(300) Sinlahekin Creek (Okanogan County):** From Palmer Lake to Cecile Creek Bridge:

(a) Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

(c) Whitefish:

- (i) Open December 1 through the last day in February for whitefish only.
- (ii) Whitefish gear rules.
 - ~~((302))~~ **(301) Skookum Lake, North (Pend Oreille County):** Open the fourth Saturday in April through October 31.
 - ~~((303))~~ **(302) Skookum Lake, South (Pend Oreille County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.
 - ~~((304))~~ **(303) Snake River:**
 - (a) Tributaries except Palouse River, Tucannon River, Asotin Creek, and Grande Ronde River: Closed waters.
 - (b) Columbia River rules apply downstream of the Burbank-to-Pasco railroad bridge at Snake River mile 1.5.
 - (c) Within 400 feet of the base of any dam: Closed waters.
 - (d) Within a 400 foot radius around the fish ladder entrance at Lyons Ferry Hatchery: Closed waters.
 - (e) Within a 200 foot radius upstream of the fish ladder exit above Lower Granite Dam: Closed waters.
 - (f) Within an area 1,200 feet downstream from the base of the west lock gate at Little Goose Dam on the south bank of the Snake River and 100 feet out into the river from the south river bank: Closed waters.
 - (g) Game fish: Open year-round; statewide minimum length/daily limit, except:
 - (i) Trout: Open the Saturday before Memorial Day through October 31.
 - (ii) Steelhead:
 - (A) Open July 1 through August 31; catch and release only. Barbless hooks required.
 - (B) Open September 1 through March 31; Daily limit 3 hatchery steelhead; barbless hooks required.
 - (C) April 1 through June 30; closed to fishing.
 - ~~((305))~~ **(304) Snipe Lake (Grant County):** Open the fourth Saturday in April through September 30.
 - ~~((306))~~ **(305) Snipes Creek (Benton County):** Selective gear rules.
 - ~~((307))~~ **(306) South Columbia Basin Irrigation PE16.4 spillway at the Ringold Springs access downstream 400' towards the Columbia River. (46°30'20.0"N 119°15'28.7"W) (Franklin County):** Closed waters.
 - ~~((308))~~ **(307) Spectacle Lake (Okanogan County):** Open April 1 through September 30.
 - ~~((309))~~ **(308) Spokane River (Spokane County):** From Nine Mile Dam upstream to the Idaho/Washington state line:
 - (a) Selective gear rules.
 - (b) Open the Saturday before Memorial Day through March 15.
 - (c) Game fish: Release all fish, except: Hatchery rainbow trout: Daily limit 2.
 - ~~((310))~~ **(309) Sprague Lake (Adams/Lincoln counties):**
 - (a) The following waters are closed waters:
 - (i) Cow Creek.
 - (ii) The marsh at the southwest end of the lake from the lakeside edge of the reeds, including Cow Creek, to Danekas Road.
 - (iii) The small bay at the southeast end of the lake.
 - (b) All other waters southwest of the southwest tip of Harper Island: Closed from October 1 through April 30.
 - (c) Game fish: Statewide minimum length/daily limit except:

(i) Crappie: Minimum length 9 inches.

(ii) Crappie and bluegill: Combined limit of 25 fish.

~~((311))~~ (310) **Spring Creek (Benton County)**: Selective gear rules.

~~((312))~~ (311) **Spring Hill Reservoir (Black Lake, Lower Wheeler Reservoir) (Chelan County)**:

(a) Open the fourth Saturday in April through October 31.

(b) Selective gear rules.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

(d) Game fish: Statewide minimum length/daily limit, except:

Trout: Daily limit 1, minimum length 18 inches.

~~((313))~~ (312) **Spring Lake (Columbia County)**: It is unlawful to fish from any floating device.

~~((314))~~ (313) **Spring Lakes (Upper and Lower) (Grant County)**: Open March 1 through September 30.

~~((315))~~ (314) **Springdale Pond (Lucky Duck Pond) (Stevens County)**: Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

~~((316))~~ (315) **Spruce Creek (tributary to South Fork Tieton River) (Yakima County)**: Closed waters.

~~((317))~~ (316) **Starvation Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((318))~~ (317) **Starzman Lakes (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((319))~~ (318) **Stehekin River (Chelan County)**: From the mouth (Powerline crossing) upstream and tributaries:

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except: Release wild cutthroat.

~~((320))~~ (319) **Stratford/Brook Lake (Grant County)**: Open March 1 through September 30.

~~((321))~~ (320) **Sugarloaf Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((322))~~ (321) **Sullivan Creek and tributaries (Pend Oreille County)**:

(a) Game fish: Statewide minimum length/daily limit, except: Release cutthroat trout.

(b) Selective gear rules.

~~((323))~~ (322) **Sullivan Lake (Pend Oreille County)**: Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 2; minimum length 14 inches.

~~((324))~~ (323) **Summit Lake (Okanogan County)**: Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

~~((325))~~ (324) **Summit Lake (Stevens County)**: Open the fourth Saturday in April through October 31.

~~((326))~~ (325) **Swan Lake (Ferry County)**: It is unlawful to use lead weights or lead jigs that measure 1 1/2 inch or less along the longest axis.

~~((327))~~ (326) **Swauk Creek and tributaries (Kittitas County)**: Selective gear rules.

~~((328))~~ (327) **Taneum Creek and tributaries (Kittitas County)**: Selective gear rules.

- ((+329+)) **(328) Teal Lakes (North and South) (Grant/Adams counties):** Open the fourth Saturday in April through September 30.
- ((+330+)) **(329) Teanaway River (Kittitas County), and tributaries except North Fork:** Selective gear rules.
- ((+331+)) **(330) Teanaway River, North Fork (Kittitas County):**
- (a) From the mouth to Beverly Creek and tributaries; including Beverly Creek:
- (i) Selective gear rules.
- (ii) Game fish: Statewide minimum length/daily limit, except: Release trout.
- (b) From Beverly Creek to the impassable waterfall at the end of USFS Road 9737: Closed waters.
- ((+332+)) **(331) Tern Lake (Grant County):**
- (a) Selective gear rules.
- (b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.
- ((+333+)) **(332) Thirtymile Creek (tributary to Chewuch River) (Okanogan County):** From mouth upstream to falls (approximately 700 feet): Closed waters.
- ((+334+)) **(333) Tieton River (Yakima County):**
- (a) It is permissible to fish up to the base of Tieton (Rimrock) Dam.
- (b) Selective gear rules apply.
- ((+335+)) **(334) Tieton River, North Fork (Yakima County):**
- (a) From mouth to USFS Road 740 Bridge:
- (i) Open the Saturday before Memorial Day through August 15.
- (ii) Selective gear rules.
- (b) The Clear Lake spillway channel: Closed waters.
- (c) From the USFS Road 740 Bridge to Clear Lake Dam: Closed waters.
- (d) The mainstem and tributaries including that portion of the river that flows through the dry lakebed of Rimrock Reservoir, upstream of Clear Lake:
- (i) Open the Saturday before Memorial Day through August 15.
- (ii) Selective gear rules.
- ((+336+)) **(335) Tieton River, South Fork (Yakima County):** From the bridge on USFS Road 1200 to bridge on USFS road 1070: Closed waters.
- ((+337+)) **(336) Tillicum Creek (tributary to Mad River) (Chelan River):**
- (a) From mouth to the intersection of USFS 5800 and USFS 5808: Closed waters.
- (b) From the intersection of USFS 5800 and USFS 5808 upstream (upstream 2.25 miles) including tributaries: Selective gear rules.
- ((+338+)) **(337) Touchet River and tributaries (Columbia/Walla Walla counties):**
- (a) From the mouth to the confluence of the North and South Forks:
- (i) All tributaries: Closed waters.
- (ii) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:
- (A) November 1 through April 15: Release all fish except steelhead.
- (B) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.
- (b) From the confluence of the North and South Forks upstream including both forks, Robinson Fork, and Wolf Fork:

- (i) All other tributaries: Closed waters.
- (ii) Open the Saturday before Memorial Day through August 31.
- (iii) Selective gear rules.
- ~~((339))~~ **(338) Trout Lake (Ferry County):** Open the fourth Saturday in April through October 31.
- ~~((340))~~ **(339) Tucannon River (Columbia County):**
 - (a) All tributaries are closed waters, except Pataha Creek.
 - (b) Mouth upstream to Tucannon Hatchery Road Bridge:
 - (c) Game fish: Open the Saturday before Memorial Day through April 15; statewide minimum length/daily limit, except:
 - (i) November 1 through April 15: Release all fish except steelhead.
 - (ii) August 1 through April 15: Hatchery steelhead daily limit 3, barbless hooks required.
 - (d) Tucannon Hatchery Bridge to 500 feet above intake for Rainbow Lake: Closed waters.
 - (e) 500 feet above intake for Rainbow Lake to Cow Camp Bridge:
 - (i) Open the Saturday before Memorial Day through August 31.
 - (ii) Selective gear rules.
 - (f) Cow Camp Bridge upstream: Closed waters.
- ~~((341))~~ **(340) Tucquala Lake (Kittitas County):**
 - (a) Open the Saturday before Memorial Day through October 31.
 - (b) Statewide stream rules apply.
- ~~((342))~~ **(341) Twentymile Creek (tributary to Chewuch River) (Okanogan County):** From the mouth upstream to falls (approximately 0.75 miles): Closed waters.
- ~~((343))~~ **(342) Twin Lakes, tributaries, and Twin Lakes Creek (outlet stream) to the confluence with the Napeequa River (Chelan County):** Closed waters.
- ~~((344))~~ **(343) Twisp River (Okanogan County):**
 - (a) Mouth to War Creek:
 - (i) Open the Saturday before Memorial Day through August 15.
 - (ii) Selective gear rules.
 - (iii) Release all fish.
 - (b) Twisp River tributaries from War Creek upstream except North Creek and North Fork Twisp River:
 - (i) Selective gear rules.
 - (ii) It is unlawful to fish from a floating device equipped with an internal combustion motor.
 - (iii) Release all fish.
 - (c) From War Creek upstream: Closed waters.
- ~~((345))~~ **(344) Twisp River, North Fork (Okanogan County):** From mouth to falls including tributaries: Closed waters.
- ~~((346))~~ **(345) Umtanum Creek (Kittitas County):** Selective gear rules.
- ~~((347))~~ **(346) Union Creek (Yakima County):** From the mouth to the falls: Closed waters.
- ~~((348))~~ **(347) Upper Wheeler Reservoir (Chelan County):**
 - (a) Open the fourth Saturday in April through October 31.
 - (b) Fly fishing only.
 - (c) It is unlawful to fish from a floating device equipped with a motor.
 - (d) Release all fish.
- ~~((349))~~ **(348) Vic Meyers (Rainbow) Lake (Grant County):**
 - (a) Open the fourth Saturday in April through September 30.
 - (b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((+350+)) **(349) Walla Walla River (Walla Walla County):** From mouth to Washington/Oregon stateline:

(a) All tributaries except Touchet River and Mill Creek: Closed waters.

(b) Game fish: Open year-round; statewide minimum length/daily limit, except for trout and steelhead:

(i) Trout: Open the Saturday before Memorial day through October 31; statewide minimum length/daily limit.

(ii) Steelhead:

(A) Open the Saturday before Memorial Day through July 31; daily limit 2 hatchery steelhead.

(B) Open August 1 through April 15; daily limit 3 hatchery steelhead, barbless hooks required.

((+351+)) **(350) Wannacut Lake (Okanogan County):** Open the fourth Saturday in April through October 31.

((+352+)) **(351) Wapato Lake (Chelan County):** Open the fourth Saturday in April through October 31.

((+353+)) **(352) Ward Lake (Ferry County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Eastern brook trout count as part of trout daily limit.

((+354+)) **(353) Warden Lake (Grant County):** Open the fourth Saturday in April through September 30.

((+355+)) **(354) Warden Lake, South (Grant County):** Open the fourth Saturday in April through September 30.

((+356+)) **(355) Washburn Island Pond (Okanogan County):**

(a) Open April 1 through September 30.

(b) An internal combustion motor may be attached to a floating device, but cannot be used.

((+357+)) **(356) Washburn Lake (Okanogan County):**

(a) Open the fourth Saturday in April through October 31.

(b) Game fish: Statewide minimum length/daily limit, except: Trout: Daily limit 1; minimum length 18 inches.

(c) Selective gear rules.

(d) It is unlawful to fish from a floating device equipped with an internal combustion motor.

((+358+)) **(357) Watson Lake (Columbia County):**

(a) Open March 1 through November 30.

(b) It is unlawful to fish from any floating device.

((+359+)) **(358) Wenaha River tributaries:**

(a) Open the Saturday before Memorial Day through August 31.

(b) Selective gear rules.

((+360+)) **(359) Wenas Creek (Yakima County):** From the mouth to Wenas Lake, including tributaries: Selective gear rules.

((+361+)) **(360) Wenatchee Lake (Chelan County):**

(a) Selective gear rules.

(b) Game fish: Statewide minimum length/daily limit, except:

(i) Release trout.

(ii) Steelhead: Closed to fishing.

(iii) Kokanee: Closed to fishing.

((+362+)) **(361) Wenatchee River (Chelan County):**

(a) From the mouth to the Icicle Road Bridge:

(i) Game fish: Closed to fishing.

(ii) Salmon: Open August 1 through September 30:

(A) Daily limit 6; up to 2 adult hatchery Chinook may be retained.

(B) Release sockeye, coho, and wild adult Chinook.

(iii) Night closure.

(iv) Selective gear rules, except bait allowed.

(b) From Icicle Road Bridge upstream to Lake Wenatchee: Closed waters.

~~((363))~~ (362) Whitepine Creek (Chelan County): From the mouth to Whitepine Creek Falls (1 mile upstream of mouth) and tributaries: Closed waters.

~~((364))~~ (363) White River (Chelan County): From the mouth to White River Falls and tributaries, except Napeequa River: Closed waters.

~~((365))~~ (364) Widgeon Lake (Grant County): Open the fourth Saturday in April through September 30.

~~((366))~~ (365) Williams Lake (Spokane County): Open the fourth Saturday in April through September 30.

~~((367))~~ (366) Williams Lake (Stevens County): Open the Friday after Thanksgiving through March 31.

~~((368))~~ (367) Wilson Creek (Kittitas County): From BNSF railroad bridge upstream: Selective gear rules.

~~((369))~~ (368) Winchester Wasteway (Grant County) (that portion within the Winchester Game Reserve): Open March 1 through September 30.

~~((370))~~ (369) Wolf Creek (Methow River tributary) (Okanogan County): Closed waters.

~~((371))~~ (370) Yakima River (Yakima County):

(a) Downstream of Highway 240 Bridge: Columbia River rules apply.

(b) From the Highway 240 Bridge to 400 feet downstream of the Horn Rapids (Wanawish) Dam:

(i) Open March 1 through October 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for salmon and steelhead.

(v) Salmon: Open September 15 through November 15.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(c) From 400 feet downstream of the Horn Rapids (Wanawish) Dam to the dam: Closed waters.

(d) From the Horn Rapids (Wanawish) Dam to 200 feet downstream of the USBR Chandler Powerhouse:

(i) Open March 1 through October 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for salmon and steelhead.

(v) Salmon: Open September 15 through November 15.

(A) Daily limit 6; up to 2 adults may be retained.

(B) Release all salmon other than Chinook and coho.

(C) Night closure.

(e) From 200 feet downstream of the USBR Chandler Powerhouse to 200 feet upstream of the Chandler Powerhouse:

(i) Open March 1 through August 31.

(ii) Chumming is permissible.

(iii) Game fish: Statewide minimum size/daily limit, except: Release trout.

(iv) Barbless hooks required for steelhead.

(v) September 1 through October 31: Closed waters.

- (f) From 200 feet upstream of the Chandler Powerhouse to the downstream side of the westbound I-82 Bridge in Prosser:
- (i) Open March 1 through October 31.
 - (ii) Chumming is permissible.
 - (iii) Game fish: Statewide minimum size/daily limit, except: Release trout.
 - (iv) Barbless hooks required for salmon and steelhead.
 - (v) Salmon: Open September 15 through November 15.
 - (A) Daily limit 6; up to 2 adults may be retained.
 - (B) Release all salmon other than Chinook and coho.
 - (C) Night closure.
- (g) From the downstream side of the westbound I-82 Bridge in Prosser to the Grant Avenue Bridge in Prosser:
- (i) Open March 1 through October 31.
 - (ii) Chumming is permissible.
 - (iii) Fishing from a floating device is prohibited September 15 through November 15.
 - (iv) Game fish: Statewide minimum size/daily limit, except: Release trout.
 - (v) Barbless hooks required for salmon and steelhead.
 - (vi) Salmon: Open September 15 through November 15.
 - (A) Daily limit 6; up to 2 adults may be retained.
 - (B) Release all salmon other than Chinook and coho.
 - (C) Night closure.
- (h) From Grant Avenue Bridge to Prosser Dam: Closed waters.
- (i) From Prosser Dam to Highway 223 Bridge:
- (i) Open March 1 through October 31.
 - (ii) Game fish: Statewide minimum size/daily limit, except: Release trout.
 - (iii) Barbless hooks required for steelhead.
- (j) From Highway 223 Bridge to 400 feet below the Sunnyside (Parker) Dam:
- (i) Selective gear rules.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.
 - (iii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
- (k) From 400 feet below the Sunnyside (Parker) Dam to the dam: Closed waters.
- (l) From the Sunnyside (Parker) Dam to the Yakima Avenue-Terrace Heights Bridge:
- (i) Selective gear rules.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.
 - (iii) Whitefish:
 - (A) Open December 1 through the last day in February for whitefish only.
 - (B) Whitefish gear rules.
- (m) From Yakima Avenue-Terrace Heights Bridge upstream 400 feet: Closed waters.
- (n) From 400 feet upstream of the Yakima Avenue-Terrace Heights Bridge to 3,500 feet below Roza Dam:
- (i) Selective gear rules.
 - (ii) Game fish: Statewide minimum length/daily limit, except: Trout: Minimum length 14 inches.

(iii) Whitefish:

(A) Open December 1 through the last day in February for whitefish only.

(B) Whitefish gear rules.

(o) From 3,500 feet below Roza Dam to Roza Dam: Closed waters.

(p) From Roza Dam to the U.S. Bureau of Reclamation restricted area signs: Open year-round.

(i) Selective gear rules.

(ii) Internal combustion motors are prohibited.

(iii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(iv) Whitefish: December 1 through the last day in February: Whitefish gear rules.

(q) From the U.S. Bureau of Reclamation restricted area signs to the boat launch ramp on the Roza Access Area (approximately 1.3 river miles): Open year-round.

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(iii) Whitefish: December 1 through the last day in February: Whitefish gear rules.

(r) From the boat launch ramp on the Roza Access Area (approximately 1.3 river miles) to 400 feet below Easton Dam; including the portion of Wilson Creek from the mouth upstream to the BNSF railroad bridge: Open year-round.

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release trout.

(iii) Whitefish: December 1 through the last day in February: Whitefish gear rules.

(s) From 400 feet below Easton Dam to the dam: Closed waters.

(t) From Easton Dam to the base of Keechelus Dam including Easton Lake:

(i) Selective gear rules.

(ii) Game fish: Statewide minimum length/daily limit, except: Release rainbow and cutthroat trout.

((~~372~~)) **(371) Yakima Sportsmen's Park Ponds (Yakima County):** Open to juvenile anglers, senior anglers, and anglers with a disability who possess a designated harvester companion card only.

((~~373~~)) **(372) Yocum Lake (Pend Oreille County):**

(a) Open the fourth Saturday in April through October 31.

(b) It is unlawful to use lead weights or lead jigs that measure 1.5 inches or less along the longest axis.

(c) It is unlawful to fish from a floating device equipped with an internal combustion motor.

WSR 24-16-113

PROPOSED RULES

HEALTH CARE AUTHORITY

[Filed August 5, 2024, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-13-063.

Title of Rule and Other Identifying Information: WAC 182-505-0100
Monthly income standards for MAGI-based programs, and 182-509-0305
MAGI income—Persons subject to the modified adjusted gross income
(MAGI) methodology.

Hearing Location(s): On September 10, 2024, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance https://us02web.zoom.us/webinar/register/WN_J5FUI0dEQXyGt7tux4U4Rw. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than September 11, 2024.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning August 6, 2024, 8:00 a.m., by September 10, 2024, by 11:59 p.m.

Assistance for Persons with Disabilities: Contact Johanna Larson, phone 360-725-1349, fax 360-586-9727, telecommunications relay service 711, email Johanna.Larson@hca.wa.gov, by August 30, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is amending its rules to increase the income standards for pregnancy and postpartum groups from 193 percent to 210 percent of the federal poverty level. This increase is consistent with RCW 74.09.830 and 74.09.839.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 74.09.830, 74.09.839.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Brian Jensen, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-0815; Implementation and Enforcement: Kristina Bair, P.O. Box 42722, Olympia, WA 98504-2722, 360-725-9964.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule implements legislative directives arising from chapter 213, Laws of 2024 (2E2SSB 5580), that are codified at RCW 74.09.830 and 74.09.839. The proposed rule

pertains to client program eligibility and does not impose costs on businesses.

Scope of exemption for rule proposal:
Is fully exempt.

August 5, 2024
Wendy Barcus
Rules Coordinator

OTS-5591.1

AMENDATORY SECTION (Amending WSR 22-11-004, filed 5/5/22, effective 6/5/22)

WAC 182-505-0100 Monthly income standards for MAGI-based programs. (1) Each year, the federal government publishes new federal poverty level (FPL) income standards in the Federal Register found at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references>.

(a) The income standards for the following Washington apple health programs change on the first day of April every year based on the new FPL, except for subsections (2) and (3) of this section.

(b) The agency determines income eligibility by comparing countable income (~~as determined~~) of the person's medical assistance unit (MAU), as determined under WAC 182-506-0010 and 182-506-0012, to the applicable income standard. Rules for determining countable income are in chapter 182-509 WAC.

(2) Parents and caretaker relatives under WAC 182-505-0240 must have countable income equal to or below the following standards:

Medical Assistance Unit Size	1	2	3	4	5	6	7	8	9	10	11+
Income Standard	\$511	\$658	\$820	\$972	\$1,127	\$1,284	\$1,471	\$1,631	\$1,792	\$1,951	\$1,951

(3) Parents and caretaker relatives with earned income above the limits in subsection (2) of this section are the only people who may be eligible for the transitional medical program described in WAC 182-523-0100.

(4) Adults described in WAC 182-505-0250 who are not eligible under subsection (2) or (3) of this section must have countable income equal to or below (~~one hundred thirty-three~~) 133 percent of the FPL.

(5) Pregnant people described in WAC 182-505-0115 must have countable income equal to or below (~~one hundred ninety-three~~) 210 percent of the FPL.

(6) Children with countable income:

(a) Equal to or below (~~two hundred ten~~) 210 percent of the FPL as described in WAC 182-505-0210 (~~(3)(a)(i)~~) receive coverage at no cost.

(b) Greater than (~~two hundred ten~~) 210 percent but equal to or less than (~~three hundred twelve~~) 312 percent as described in WAC 182-505-0210 (~~(3)(a)(ii)~~) receive premium-based coverage. Premium amounts are described in WAC 182-505-0225.

OTS-5592.1

AMENDATORY SECTION (Amending WSR 24-10-083, filed 4/30/24, effective 7/1/24)

WAC 182-509-0305 MAGI income—Persons subject to the modified adjusted gross income (MAGI) methodology. (1) Eligibility for Washington apple health for the following people is determined using the modified adjusted gross income (MAGI) methodology described in WAC 182-509-0300:

(a) Parents or caretaker relatives with an eligible dependent child (described in WAC 182-503-0565) whose net countable income is below 54 percent of the federal poverty level (FPL) as described in WAC 182-505-0240.

(b) Parents or caretaker relatives with an eligible dependent child whose net countable income exceeds the standard described in (a) of this subsection but is at or below 133 percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(c) Adults with no eligible dependent child with net countable income at or below 133 percent FPL as described in WAC 182-505-0250 and 182-507-0110.

(d) Pregnant people whose net countable income, based on a household size that includes any unborn children, is equal to or below ~~((193))~~ 210 percent FPL at the time of application, as described in WAC 182-505-0115.

(e) People within the 12-month postpartum period beginning the month after the pregnancy ends whose net countable income is equal to or below ~~((193))~~ 210 percent FPL at the time of application, as described in WAC 182-505-0115.

(f) Children age 18 or younger in households with net countable income which is equal to or below 210 percent FPL, as described in WAC 182-505-0210 ~~((3)(a))~~.

(g) Children age 18 or younger in households with net countable income that is ~~((between))~~ greater than 210 percent ~~((and))~~ but equal to or below 312 percent FPL, as described in WAC 182-505-0215. Children who are eligible under this section are subject to premiums as described in WAC 182-505-0225.

(h) People age 18 and older who have income over 150 percent FPL who are financially and functionally eligible to receive the community behavioral health support services (CBHS) benefit, as described in chapter 182-561 WAC.

(2) Household size for a person who is subject to MAGI income methodologies is determined according to WAC 182-506-0010.

WSR 24-16-116

PROPOSED RULES

DEPARTMENT OF HEALTH

(Board of Osteopathic Medicine and Surgery)

[Filed August 5, 2024, 1:53 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-01-084.

Title of Rule and Other Identifying Information: Osteopathic physician exam requirements in WAC 246-853-020. The board of osteopathic medicine and surgery (board) is proposing amendments to update the examination requirements for licensure of osteopathic physicians.

Hearing Location(s): On September 13, 2024, at 10:00 a.m., at the Hilton Garden Inn Seattle/Renton, 1801 East Valley Road, Renton, WA 98057; or virtually via Zoom on September 13, 2024, at 9:00 a.m. PST. Register in advance for this webinar <https://us02web.zoom.us/join/85988602000>. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 13, 2024.

Submit Written Comments to: Becky McElhiney, P.O. Box 47852, Olympia, WA 98504-7852, email <https://fortress.wa.gov/doh/policyreview>, fax 360-236-2850, beginning on the date and time of this filing, by September 6, 2024, at midnight.

Assistance for Persons with Disabilities: Contact Becky McElhiney, phone 360-236-4766, fax 360-236-2901, TTY 711, email osteopathic@doh.wa.gov, by September 5, 2024.

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

To align with RCW 18.130.077, the board is proposing to amend the osteopathic examination requirements. The proposed changes would allow applicants to select one out of the four nationally approved examination series instead of selecting a combination of two or more examinations to qualify for licensure. Additionally, the board is proposing to remove the osteopathic principles and practices (OP&P) exam as one of the examinations.

The purpose of the proposed amendments is to simplify the osteopathic examination requirements. The proposed amendments would update the exam requirements to align with the goals set forth by RCW 18.130.077, and provide flexibility for applicants entering in the Washington workforce while also still ensuring competency to practice osteopathic medicine. The board is also proposing to remove the OP&P exam as an option because the board has identified that this state-specific exam is an underutilized pathway to licensure. Removing this exam allows more flexibility for those entering the Washington workforce.

Reasons Supporting Proposal: RCW 18.130.077 requires disciplinary authorities to waive education, training, experience, and exam requirements for out-of-state applicants with substantially equivalent standards. The department of health has periodically had timeliness

discrepancies in issuing credentials and processing applications, which was exacerbated during the coronavirus disease 2019 (COVID-19) pandemic. The goal of the statute is to reduce barriers for out-of-state health care professionals seeking licensure in Washington to expand the availability of qualified providers and streamline the credentialing process.

The proposed rule implements the statute's objectives by removing barriers for certain applicants licensed in other states if they meet substantially equivalent standards. This rule fulfills the intent of the statutes by creating faster pathways to licensure, while ensuring safety mechanisms for patients receiving care and services are in place and enforceable through rule.

Statutory Authority for Adoption: RCW 18.57.005, 18.130.050, 18.340.020, and 2SHB 1724 (chapter 425, Laws of 2023), codified as RCW 18.130.077.

Statute Being Implemented: RCW 18.130.077.

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

Name of Proponent: Board of osteopathic medicine and surgery, governmental.

Name of Agency Personnel Responsible for Drafting: Becky McElhiney, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4766; Implementation and Enforcement: James Chaney, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2831.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Becky McElhiney, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4766, fax 360-236-2850, TTY 711, email osteopathic@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule only impacts the licensing of providers and not the business.

Scope of exemption for rule proposal:

Is fully exempt.

July 31, 2024

U. James Chaney

Executive Director

Board of Osteopathic Medicine and Surgery

OTS-5273.3

AMENDATORY SECTION (Amending WSR 15-16-085, filed 7/31/15, effective 8/31/15)

WAC 246-853-020 Osteopathic medicine and surgery examination.

~~((1))~~ An applicant for licensure as an osteopathic physician must successfully pass:

~~((a))~~ (1) Parts I, II, and III of the Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) or Parts I, II, and III of

the exam administered by the National Board of Osteopathic Medical Examiners (NBOME); or

~~((b) The Washington Osteopathic Principles and Practices (OP&P) Examination with a minimum score of seventy-five percent in each section;))~~

~~(2) The Comprehensive Osteopathic Variable-Purpose Examination (COMVEX) administered by NBOME with a minimum passing score as established by NBOME; or ((other state administered OP&P exam approved by the board.~~

~~(2) In addition to the exams identified in subsection (1)(b) of this section, the applicant must also pass at least one of the following:~~

~~(a)) (3) The Federation of State Licensing Board (FLEX) I and FLEX II Examination with a minimum score of 75 on each component. If taken prior to June 1985, passed with a FLEX weighted average of a minimum ((seventy-five)) 75 percent; or~~

~~((b) The FLEX I and FLEX II Examination with a minimum score of seventy-five on each component; or~~

~~(e)) (4) The United States Medical Licensing Examination (USMLE) Steps I, II, and III after December 1993, with a minimum score as established by the Federation of State Medical Boards and the National Board of Medical Examiners.~~

WSR 24-16-117

PROPOSED RULES

OFFICE OF THE

INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2024-04—Filed August 5, 2024, 2:00 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-12-074.

Title of Rule and Other Identifying Information: Implementation of SB 6027 (chapter 42, Laws of 2024), Insurance Holding Company Act.

Hearing Location(s): On September 12, 2024, at 9:00 a.m., virtually via Zoom meeting <https://wa-oic.zoom.us/join/9876543210>. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website <https://www.insurance.wa.gov/insurer-holding-company-act-r-2024-04>.

Date of Intended Adoption: September 17, 2024.

Submit Written Comments to: RulesCoordinator@oic.wa.gov, 302 Sid Snyder Avenue, P.O. Box 40255, Olympia, WA 98504-0255, fax 360-586-3109, by close of business (5:00 p.m. PST) on September 13, 2024.

Assistance for Persons with Disabilities: Contact Katie Bennett, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email Katie.bennett@oic.wa.gov, by September 11, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SB 6027 (chapter 42, Laws of 2024), concerning the Insurance Holding Company Act, passed during the 68th legislative session. This new law aligns Washington's Insurer Holding Company Act (chapter 48.31B RCW) with the updated National Association of Insurance Commissioners (NAIC) model authorities on this topic.

The commissioner is considering adding provisions from Section 21 of NAIC model regulation #450 to a new section in the existing regulations for Washington insurance holding companies located in chapter 284-18 WAC.

Reasons Supporting Proposal: The commissioner is considering rule making to fully implement the new law and updates to NAIC model law #440 and model regulation #450. This rule making is needed to provide administrative guidance and regulatory clarification for the group capital calculation requirements, including insurance holding company exemptions as recommended by NAIC.

Statutory Authority for Adoption: RCW 48.02.060 (3) (a), 48.31B.025 (2) (h), (4), (10), (13) (c), and 48.31B.040.

Statute Being Implemented: Chapter 42, Laws of 2024.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Langford, 302 Sid Snyder Avenue, Olympia, WA 98501, 360-725-7173; Implementation: John Haworth, 5000 Capitol Boulevard S.E., Tumwater, WA 98501, 360-725-7000; and Enforcement: Charles Malone, 5000 Capitol Boulevard S.E., Tumwater, WA 98501, 360-725-7000.

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

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5) (b) (iii), this rule will be exempt from the requirements of the cost-benefit analysis. This section indicates that

exemptions apply to "[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule." This rule making is attempting to adopt or incorporate by reference without material change, national consensus codes that generally establish industry standards with NAIC Model Regulation #450, Insurance Holding Company System Model Regulation With Reporting Forms and Instructions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule.

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

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

Explanation of exemptions: Under RCW 19.85.025(3), the Regulatory Fairness Act does not apply to the adoption of a rule as described in RCW 34.05.310(4). The rules referenced in this law include "[r]ules adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule" (see RCW 34.05.310 (4) (C)). This rule making is attempting to adopt or incorporate by reference without material change national consensus codes that generally establish industry standards with NAIC Model Regulation #450, Insurance Holding Company System Model Regulation With Reporting Forms and Instructions, and the regulations being promulgated will regulate the same subject matter and conduct as the adopting or incorporating rule.

Scope of exemption for rule proposal:

Is fully exempt.

August 5, 2024
Mike Kreidler
Insurance Commissioner

OTS-5429.3

NEW SECTION

WAC 284-18-447 Group capital calculation. (1) Group capital calculation. Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to exempt the ultimate controlling person from filing the annual group capital calculation if the lead state commissioner makes a determination based upon that filing that the insurance holding company system meets all of the following criteria:

- (a) Has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000;
- (b) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- (c) Has no banking, depository, or other financial entity that is subject to an identified regulatory capital framework within its holding company structure;
- (d) The holding company system attests that there are no material changes in the transactions between insurers and noninsurers in the group that have occurred since the last filing of the annual group capital; and
- (e) The noninsurers within the holding company system do not pose a material financial risk to the insurer's ability to honor policyholder obligations.

(2) Where an insurance holding company system has previously filed the annual group capital calculation at least once, the lead state commissioner has the discretion to accept in lieu of the group capital calculation a limited group capital filing if: The insurance holding company system has annual direct written and unaffiliated assumed premium (including international direct and assumed premium), but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of less than \$1,000,000,000; and all of the following additional criteria are met:

- (a) Has no insurers within its holding company structure that are domiciled outside of the United States or one of its territories;
- (b) Does not include a banking, depository, or other financial entity that is subject to an identified regulatory capital framework; and
- (c) The holding company system attests that there are no material changes in transactions between insurers and noninsurers in the group that have occurred since the last filing of the report to the lead state commissioner and the noninsurers within the holding company system do not pose a material financial risk to the insurers ability to honor policyholder obligations.

(3) For an insurance holding company that has previously met an exemption with respect to the group capital calculation pursuant to subsection (1) or (2) of this regulation, the lead state commissioner may require at any time the ultimate controlling person to file an annual group capital calculation, completed in accordance with the NAIC Group Capital Calculation Instructions, if any of the following criteria are met:

- (a) Any insurer within the insurance holding company system is in a Risk-Based Capital action level event as set forth in RCW 48.05.430 through 48.05.455, or 48.43.300 through 48.43.325 or a similar standard for a non-U.S. insurer; or

(b) Any insurer within the insurance holding company system meets one or more of the standards of an insurer deemed to be in hazardous financial condition as defined in WAC 284-16-300 through 284-16-320; or

(c) Any insurer within the insurance holding company system otherwise exhibits qualities of a troubled insurer as determined by the lead state commissioner based on unique circumstances including, but not limited to, the type and volume of business written, ownership and organizational structure, federal agency requests, and international supervisor requests.

(4) A non-U.S. jurisdiction is considered to recognize and accept the group capital calculation if it satisfies the following criteria:

(a) With respect to RCW 48.31B.025 (13) (a) (iv):

(i) The non-U.S. jurisdiction recognizes the U.S. state regulatory approach to group supervision and group capital, by providing confirmation by a competent regulatory authority, in such jurisdiction, that insurers and insurance groups whose lead state is accredited by the NAIC under the NAIC Accreditation Program shall be subject only to worldwide prudential insurance group supervision including worldwide group governance, solvency and capital, and reporting, as applicable, by the lead state and will not be subject to group supervision, including worldwide group governance, solvency and capital, and reporting, at the level of the worldwide parent undertaking of the insurance or reinsurance group by the non-U.S. jurisdiction; or

(ii) Where no U.S. insurance groups operate in the non-U.S. jurisdiction, that non-U.S. jurisdiction indicates formally in writing to the lead state with a copy to the International Association of Insurance Supervisors that the group capital calculation is an acceptable international capital standard. This will serve as the documentation otherwise required in subsection (4) (a) (i) of this regulation.

(b) The non-U.S. jurisdiction provides confirmation by a competent regulatory authority in such jurisdiction that information regarding insurers and their parent, subsidiary, or affiliated entities, if applicable, shall be provided to the lead state commissioner in accordance with a memorandum of understanding or similar document between the commissioner and such jurisdiction including, but not limited to, the International Association of Insurance Supervisors Multilateral Memorandum of Understanding or other multilateral memoranda of understanding coordinated by the NAIC. The commissioner shall determine, in consultation with the NAIC Committee Process, if the requirements of the information sharing agreements are in force.

(5) A list of non-U.S. jurisdictions that recognize and accept the group capital calculation will be published through the NAIC Committee Process:

(a) A list of jurisdictions that recognize and accept the group capital calculation pursuant to RCW 48.31B.025 (13) (a) (iv), is published through the NAIC Committee Process to assist the lead state commissioner in determining which insurers shall file an annual group capital calculation. The list will clarify those situations in which a jurisdiction is exempted from filing under RCW 48.31B.025 (13) (a) (iv). To assist with a determination under RCW 48.31B.025 (13) (b), the list will also identify whether a jurisdiction that is exempted under either RCW 48.31B.025 (13) (a) (iii) or (iv) requires a group capital filing for any U.S. based insurance group's operations in that non-U.S. jurisdiction.

(b) For a non-U.S. jurisdiction where no U.S. insurance groups operate, the confirmation provided to meet the requirement of subsec-

tion (4)(a)(ii) of this regulation will serve as support for recommendation to be published as a jurisdiction that recognizes and accepts the group capital calculation through the NAIC Committee Process.

(c) If the lead state commissioner makes a determination pursuant to RCW 48.31B.025 (13)(a)(iv) that differs from the NAIC List, the lead state commissioner shall provide thoroughly documented justification to the NAIC and other states.

(d) Upon determination by the lead state commissioner that a non-U.S. jurisdiction no longer meets one or more of the requirements to recognize and accept the group capital calculation, the lead state commissioner may provide a recommendation to the NAIC that the non-U.S. jurisdiction be removed from the list of jurisdictions that recognizes and accepts the group capital calculation.

**WSR 24-16-118
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER**

[Insurance Commissioner Matter R 2024-06—Filed August 5, 2024, 2:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-13-082.

Title of Rule and Other Identifying Information: Producer and adjuster licensing requirements.

Hearing Location(s): On September 24, 2024, at 9:00 a.m., virtually via Zoom meeting <https://wa-oic.zoom.us/join/98255423456>. Written comments are due to the office of the insurance commissioner (OIC) by the close of business (5 p.m. PST) on September 26, 2024. Written comments can be emailed to RulesCoordinator@oic.wa.gov.

Date of Intended Adoption: September 30, 2024.

Submit Written Comments to: RulesCoordinator@oic.wa.gov, 302 Sid Snyder Avenue, P.O. Box 40255, Olympia, WA 98504-0255, fax 360-586-3109, by close of business (5:00 p.m. PST) on September 26, 2024.

Assistance for Persons with Disabilities: Contact Katie Bennett, phone 360-725-7013, fax 360-586-2023, TTY 360-586-0241, email Katie.bennett@oic.wa.gov, by September 23, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule includes both substantive and technical changes to producer and adjuster licensing requirements under chapter 284-17 WAC. It aims to ensure that insurance regulations are clear, relevant, and consistent with Title 48 RCW and the forthcoming National Insurance Producer Registry (NIPR) interface enhancement.

The first substantive change streamlines limited line credit insurance producer licensing by amending WAC 284-17-009. Under this amendment, limited line credit insurance will automatically be included for producers with a life, disability, property, or casualty line of authority, eliminating the need for separate licensing requests.

Another substantive update permits insurance agencies to designate a new responsible licensed producer (DRLP) during the license renewal process if the current DRLP is inactive. This change, addressing a concern raised by the NIPR, amends WAC 284-17-443, which currently restricts new affiliations during the renewal process. This restriction poses issues for agencies with a single affiliate who becomes inactive. Additionally, the rule proposes to amend WAC 284-17-490 (5) (b) to simplify the fee structure for canceling producer licenses, thereby resolving complex fee calculations and preventing delays in the NIPR interface enhancement project.

The proposed rule's technical changes involve removing outdated language in WAC 284-17-720 (2) (b) that exempted crop adjusters from continuing education (CE) requirements, aligning with a 2022 rule mandating CE for all licensed resident adjusters. The rule also eliminates references to prelicensing education (PLE) requirements for insurance producers, following the 2023 law abolishing the PLE requirement. Finally, the rule removes obsolete references to specific dates related to the implementation of required electronic submissions for licensing processes, as all licensing is now conducted electronically.

Reasons Supporting Proposal: The commissioner is considering rule making to ensure producer and adjuster licensing requirements are

clear, relevant, and align with Title 48 RCW and the planned NIPR interface enhancement.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a) and 48.17.005.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Simon Casson, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7038; Implementation: Jeff Baughman, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7156; and Enforcement: Charles Malone, P.O. Box 40255, Olympia, WA 98504-0255, 360-725-7000.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Simon Casson, P.O. Box 40255, Olympia, WA 98504-0255, phone 360-725-7038, fax 360-586-3109, email policy@oic.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: **WAC 284-17-011 Limited line of travel insurance.** The proposed rule amendment aligns existing rules with the law as established by RCW 48.17.090, and chapter 21, Laws of 2023. Chapter 21, Laws of 2023, removed the requirement for prelicensing requirements. This amendment removes reference to prelicensing requirements in the applicable existing regulation. This section is exempt under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310 (4)(e), as it is dictated by statute.

WAC 284-17-720 Crop adjuster license renewal requirements. The proposed rule amendments align the section with a 2022 rule mandating CE for all licensed resident adjusters. This section is exempt under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310(d), as it is only clarifying language of the rule without changing its effect. Rules were already adopted implementing this legislation; however, this reference to CE was missed.

WAC 284-17-735 Limited conversion to crop adjuster license. The proposed rule amendments remove reference to past dates. This section is exempt under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310(d), as it is only clarifying language of the rule without changing its effect. Past dates are being removed for clarity.

WAC 284-17-055 Electronic submission of licensing processes—Implementation dates. Similar to WAC 284-17-735, this proposed rule amendment removes reference to past dates. This section is exempt under RCW 19.85.025(3) - provides exclusions under RCW 34.05.310(d), as it is only clarifying language of the rule without changing its effect. Past dates are being removed for clarity.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: Please see information above on the exemptions. The nonexempt sections are examined in section 3.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. **WAC 284-17-009 Limited line credit insurance.** The proposed rule amendment adds the following section in WAC 284-17-009 Limited line credit insurance, is included as part of any producer license issued with life, disability, property or casualty lines of authority. Currently, producers must have an additional limited line credit license. This has been a source of confusion for prospective licensees seeking a limited line credit insurance license. The addition of this language makes it clear that limited line credit insurance is included as part of any producer license. There are not costs to producers, the consumers, or OIC, other than the rule-making process.

WAC 284-17-443 Renewal of appointments or affiliations. The proposed rule adds language allowing insurance agencies to designate a new DRLP during license renewal if the current DRLP is inactive. This streamlines the process so that the DRLP does not have to renew and then return to the online system after the license has been renewed to add the affiliation. There is no significant cost to this amendment, as it serves as a benefit to the producers and OIC.

WAC 284-17-490 Late renewal or reinstatement. The proposed rule simplifies the fee structure for the cancellation of producer licenses. Currently, if a licensee cancels a license prior to its renewal date and a request to reissue the license is made after the license renewal date, the request is treated like a late renewal or reinstatement and the late fee is calculated from the cancellation date. The proposed amendment changes the late fee calculation to be from the expiration date instead of the cancellation date. Assuming that the cancellation date generally occurs before the expiration date, this amendment would reduce the late fee incurred by a producer seeking to reissue their license after they had previously canceled it. This update will also allow NIPR, a nonprofit organization that provides licensing and compliance resources for producers, to create systems more easily as compared to basing them on the cancellation date of the license. This update will streamline the process for producers and OIC.

Overall, this proposed rule provides a net benefit to impacted entities. OIC has applied a default cost of compliance (\$100) for insurance agencies. Although it is unlikely that this rule would result in even the full default cost of compliance, the minor cost does not exceed any of the thresholds for the insurance producers.

2023 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	Average Number of Employees/Business	Minor Cost Estimate*
524210	\$100.00	Insurance agencies and brokerages	6.3	\$5,432.13

*Minor cost estimate: The greater of 1% of annual payroll or 0.3% of revenue.

A copy of the detailed cost calculations may be obtained by contacting Simon Casson, P.O. Box 40255, Olympia, WA 98504-0255, phone 360-725-7038, fax 360-586-3109, email policy@oic.wa.gov.

August 5, 2024
 Mike Kreidler
 Insurance Commissioner

OTS-5541.2

AMENDATORY SECTION (Amending WSR 11-19-040, filed 9/13/11, effective 10/14/11)

WAC 284-17-009 Limited line credit insurance. Limited line credit insurance is defined at RCW 48.17.010(9).

(1) Insurers must ensure that their licensed and appointed insurance producers who transact the limited line credit insurance are qualified by education or experience to offer their credit insurance products.

(2) The requirements of this chapter for (~~prelicensing and~~) continuing insurance education do not apply to insurance producers that transact only the limited line credit insurance.

(3) Limited line credit insurance is included as part of any producer license issued with life, disability, property, casualty, or personal lines of authority.

AMENDATORY SECTION (Amending WSR 13-06-023, filed 2/27/13, effective 7/1/13)

WAC 284-17-011 Limited line of travel insurance. (1) Travel insurance is a limited line of authority. A person must not sell, solicit, or negotiate travel insurance in this state unless that person is licensed as an insurance producer with the travel limited line of authority or as set forth in subsection (2) of this section.

(2) A business entity acting as a travel insurance producer is required to:

(a) Be licensed as a producer with the travel limited line of authority; and

(b) Designate an individual licensed as a producer with the travel limited line of authority to act as a designated licensed responsible person (DLRP) who is responsible for the business entity's compliance with the laws of this state.

(3) The requirements of this chapter for passing an insurance producer examination and for (~~prelicensing and~~) continuing insurance education do not apply to insurance producers that transact only the limited line of travel insurance.

(4) A travel retailer may offer and disseminate travel insurance on behalf of and under a travel insurance producer business entity license only if the travel insurance producer holds a business entity license, and the travel insurance producer:

(a) Clearly identifies the licensed business entity as the licensed producer on marketing materials and fulfillment packages distributed by travel retailers to customers, identification shall include the entity's name and contact information;

(b) Keeps a register of each travel retailer that offers travel insurance on the licensed business entity's behalf. The register must include the name and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal tax identification number. The licensed business entity must also certify that the travel retailer registered complies with United States Code, Title 18, section

1033. The licensed business entity must submit the register within ~~((thirty))~~ 30 days upon request by the commissioner;

(c) Complies with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;

(d) Has paid all applicable insurance producer licensing fees as set forth in Washington state law; and

(e) Requires each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which is subject to review by the commissioner.

(5) An employee of a travel retailer may sell or offer travel insurance without being individually licensed as an insurance producer if the travel retailer is licensed and acting in compliance with this chapter, and the employees are under the supervision of a licensed travel producer.

(6) A travel retailer whose activities, and those of its employees, are limited to offering and disseminating travel insurance on behalf of and under the direction of a licensed business entity meeting the conditions stated in this section, is authorized to do so, upon registration by the licensed business entity.

(7) As the insurer designee, the travel insurance producer is responsible for the acts and supervision of the travel retailer.

AMENDATORY SECTION (Amending WSR 12-22-020, filed 10/29/12, effective 11/29/12)

WAC 284-17-055 Electronic submission of licensing processes—Implementation dates. ~~(1) ((Beginning May 1, 2011, all company appointments including new, renewal, and terminations must be submitted electronically.~~

~~(2) Beginning June 1, 2011, all license renewals, both individual and business entity, must be submitted electronically.~~

~~(3) Beginning July 1, 2011, all applications for licenses, including affiliations, must be submitted electronically.~~

~~(4) Beginning July 1, 2011, all processes determined by the commissioner to be exclusive online))~~ All licensing processes must be completed electronically through the commissioner's website or through a third-party licensing provider. A list of exclusive online licensing processes is available on the commissioner's website at: www.insurance.wa.gov.

~~((5) Beginning February 1, 2013,))~~ (2) All fingerprints for a resident insurance license must be submitted electronically. A list of locations where electronic submission is available can be found on the commissioner's website: www.insurance.wa.gov.

~~((6))~~ (3) The commissioner will no longer print or mail any document generated as part of a licensing process which the commissioner has determined to be an exclusive online licensing process.

AMENDATORY SECTION (Amending WSR 18-22-069, filed 11/1/18, effective 12/17/18)

WAC 284-17-443 Renewal of appointments or affiliations. (1)

When the appointment or affiliation renewal is available online, the insurer or business entity may access and review the list of their appointments or affiliations, remove any licensees from their list, and complete the renewal process by remitting the finalized list and correct fees via electronic submission to the commissioner. New appointments or affiliations may not be added until after the renewal process has been completed, except that a new affiliation may be added during the renewal process to designate a licensed insurance producer responsible for the business entity compliance as required by RCW 48.17.090(3).

(2) The online appointment or affiliation renewal and payment of fees must be completed no later than the renewal date.

AMENDATORY SECTION (Amending WSR 11-04-067, filed 1/28/11, effective 2/28/11)

WAC 284-17-490 Late renewal or reinstatement. If a request for renewal of a license is received by the commissioner after its due date, the licensee must not transact insurance under the license until the renewal or reinstatement is completed.

(1) As a precondition to late renewal or reinstatement of a license, payment of the following late fees, as set forth in RCW 48.17.170 (6) and (7), is required:

Days Late	Surcharge
First 30 days late	50% of the license renewal fee
31-60 days late	100% of the license renewal fee
61 days to ((twelve)) <u>12</u> months late	200% of the license renewal fee

(2) If no request for late renewal is received by the commissioner within ~~((sixty))~~ 60 days after expiration of a license, the license and all associated appointments and affiliations will be terminated. All authority conferred by the license ends on its expiration date.

(3) If a license is expired for more than ~~((sixty))~~ 60 days but less than ~~((twelve))~~ 12 months, a licensee may request its reinstatement. A license is not eligible for reinstatement if the reinstatement application is received by the commissioner more than ~~((twelve))~~ 12 months after its expiration date.

(4) (a) A licensee may request reinstatement of a license without retesting if no more than ~~((twelve))~~ 12 months has passed since the expiration or cancellation date of the license, whichever is earlier. All of the following must accompany the request for reinstatement:

- (i) A completed application for reinstatement;
- (ii) Certificates for ~~((twenty-four))~~ 24 credit hours of continuing insurance education, including three hours of ethics education, completed during the ~~((twenty-four))~~ 24 months prior to the date of application for reinstatement, as set forth in WAC 284-17-224; and

(iii) The fee and surcharge applicable to the reinstatement, as set forth in subsection (1) of this section.

(b) After ~~((twelve))~~ 12 months, the licensee must retake and pass all ~~((applicable prelicensing insurance education courses and the))~~ applicable license examinations. A new license application, including fingerprint card, and all required fees are also required. A new fingerprint card is not required if the licensee has other active licenses or held another license during the past year.

(5) (a) If a licensee cancels a license prior to its renewal date and later asks that it be reissued and the request to reissue is submitted prior to the license renewal date, the licensee must submit an application and must pay the applicable fee prior to the license renewal date.

(b) If a licensee cancels a license prior to its renewal date and a request to reissue the license is made after the license renewal date ~~((but before twelve months after the date the license was cancelled))~~, the request to reissue will be treated as though it were a late renewal or reinstatement and the late fee will be calculated from the ~~((cancellation))~~ expiration date.

(c) If the request to reissue is made more than ~~((twelve))~~ 12 months after the license renewal date, it cannot be reissued.

(d) The renewal date of any reissued license will be on the same renewal cycle as the original license.

(6) Information regarding renewal or reinstatement of a license and the electronic submission process is available at the commissioner's website at: www.insurance.wa.gov.

(7) License renewals and reinstatements may be submitted by licensees that are registered with the commissioner's online services through the website at: www.insurance.wa.gov.

AMENDATORY SECTION (Amending WSR 11-08-016, filed 3/30/11, effective 6/27/11)

WAC 284-17-720 Crop adjuster license renewal requirements. (1) Every licensed crop adjuster adjusting crop insurance losses insured through a federal insurance program must:

(a) Renew their license on or before the expiration of the license; and

(b) On or before February 28th of each year, file with the commissioner a true and accurate copy of documents establishing their certification program completion. Failure to timely file a copy of the documentation with the commissioner is a sufficient basis for the commissioner to suspend, revoke, or refuse to renew a crop adjuster license.

(2) Every licensed crop adjuster adjusting crop losses not insured through a federal crop insurance program ~~((+~~

~~(a))~~ must renew their license on or before the expiration of the license ~~((+ and~~

~~(b) Are not required to take continuing education))~~.

(3) Crop adjusters who do not renew their license prior to the expiration date must pay the surcharge under RCW 48.17.170.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-17-735 Limited conversion to crop adjuster
license.

WSR 24-16-121
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 6, 2024, 9:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-09-049.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance?

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

Date of Intended Adoption: Not earlier than September 11, 2024.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, fax 360-664-6185, beginning noon on August 7, 2024, by 5:00 p.m. on September 10, 2024.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, fax 360-664-6185, TTY 711 relay service, email Tencza@dshs.wa.gov, by 5:00 p.m. on August 27, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Effective January 1, 2025, these amendments will implement HB 2415 (chapter 154, Laws of 2024) and increase the maximum diversion cash assistance payment from \$1,250 to \$2,000.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.660, 74.08.090, 74.08A.210, 74.08A.230.

Statute Being Implemented: HB 2415 (chapter 154, Laws of 2024).

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Sarah Garcia, P.O. Box 45470, Olympia, WA 98504-5470, 360-522-2214.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry

standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

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

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

August 5, 2024
Katherine I. Vasquez
Rules Coordinator

SHS-5043.2

AMENDATORY SECTION (Amending WSR 21-21-065, filed 10/18/21, effective 11/18/21)

WAC 388-432-0005 Can I get help from DSHS for a family emergency without receiving monthly cash assistance? The department of social and health services (DSHS) has a program called diversion cash assistance (DCA). If your family needs an emergency cash payment but does not need ongoing monthly cash assistance, you may be eligible for this program.

(1) To get DCA, you must:

(a) Meet all the eligibility rules for temporary assistance for needy families (TANF) WAC 388-400-0005 or (~~(/)~~) state family assistance (SFA) per WAC 388-400-0010. (~~(, and once)~~) If DSHS finds you eligible, you are not required to fulfill the following TANF-related requirements:

(i) Participation in WorkFirst as defined in chapter 388-310 WAC; and

(ii) Assignment of child support rights or cooperation with the division of child support as defined in chapter 388-422 WAC;

(b) Have a current bona fide or approved need for living expenses;

(c) Provide proof that your need for DCA exists; and

(d) Have or expect to get enough income or resources to support you and your family for at least (~~(twelve)~~) 12 months.

(2) You may get DCA to help pay for one or more of the following needs:

(a) Child care;

(b) Housing;

(c) Transportation;

(d) Expenses to get or keep a job;

(e) Food costs, but not if an adult member of your family has been disqualified (~~(for food stamps)~~) from Washington's basic food program;

(f) Medical costs, except when an adult member of your family is not eligible because (~~(he or she)~~) they failed to provide third party liability (TPL) information as defined in WAC 182-503-0540.

(3) DCA payments are limited to:

(a) ~~((One))~~ Two thousand ~~((two hundred fifty))~~ dollars once in a ~~((twelve))~~ 12-month period that starts with the month DCA benefits begin; and

(b) The cost of your need.

(4) ~~((We do))~~ DSHS does not budget your income or make you use your resources to lower the amount of DCA payments you can receive.

(5) DSHS may make DCA payments:

(a) All at once; or

(b) As separate payments over a ~~((thirty))~~ 30-day period that starts on the date of your first DCA payment.

(6) ~~((We))~~ DSHS will pay your DCA benefit directly to the service provider when possible.

(7) You are not eligible for DCA if one or more of the following applies:

(a) Any adult member of your assistance unit got DCA within the last ~~((twelve))~~ 12 months;

(b) Any adult member of your assistance unit gets TANF/SFA currently;

(c) Any adult member of your assistance unit is not eligible for cash assistance for any reason unless one parent in a two-parent-assistance unit currently receives ~~((SSI))~~ Social Security Income (SSI);

(d) Your assistance unit does not have a needy adult, such as when you do not receive TANF/SFA for yourself but for your children only;

(e) Any adult member of your assistance unit is not eligible for cash assistance for any one of the following sanctions:

(i) TANF/SFA closure because of a noncompliance sanction (NCS) termination;

(ii) TANF/SFA closure while in WorkFirst sanction on or after July 1, 2021; or

(iii) Noncooperation with division of child support.

(8) If you apply for DCA after your TANF/SFA grant is terminated, ~~((we consider))~~ DSHS considers you an applicant for DCA.

(9) If you apply for TANF/SFA and you received DCA less than ~~((twelve))~~ 12 months ago, ~~((we set))~~ DSHS sets up a DCA loan:

(a) The amount of the DCA loan is ~~((one-twelfth))~~ 1/12th of the total DCA benefit times the number of months that are left in the ~~((twelve))~~ 12-month period;

(b) The first month begins with the month your DCA benefits began; and

(c) ~~((We))~~ DSHS will collect the loan only by reducing your TANF/SFA grant by ~~((five percent))~~ 5% each month.

(10) If you stop getting TANF/SFA before you have repaid your DCA loan, ~~((we))~~ DSHS will stop collecting the loan unless you get back on TANF/SFA.

WSR 24-16-126
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed August 6, 2024, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-13-129.

Title of Rule and Other Identifying Information: Rule language is being proposed to amend sections of Title 314-55 WAC to implement E2SSB 5367 (chapter 365, Laws of 2023), concerning the regulation of products containing THC, codified as RCW 69.50.101, 69.50.1025, 69.50.326, 69.50.346, and enacted on July 23, 2023. Rule language is also being proposed in WAC 314-55-095 to implement SHB 1249, (chapter 9, Laws of 2024), regarding limits on the possession and sale of cannabis products, codified as RCW 69.50.360, enacted on June 9, 2024.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows: WAC 314-55-010 Definitions, 314-55-095 Cannabis servings and transaction limits, 314-55-102 Quality assurance and quality control testing, 314-55-105 Packaging and labeling, 314-55-106 Cannabis warning symbol requirement, and 314-55-109 Cannabinoid additives.

Hearing Location(s): On September 11, 2024, at 10:00 a.m. All public liquor and cannabis board (board) activity will be held in a "hybrid" environment. This means that the public will have options for in-person or virtual attendance. The board room headquarters building at 1025 Union Avenue, Olympia, WA 98504 will be open for in-person attendance and the public may also log in using a computer or a device, or call in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the board room will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/> Board meetings.

Date of Intended Adoption: No earlier than September 25, 2024.

Submit Written Comments to: Cassidy West, Policy and Rules Manager, P.O. Box 48030, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, beginning August 6, 2024, 12:00 p.m., by September 11, 2024, 12:00 p.m.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-664-1739, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by September 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are intended to implement the statutory changes resulting from the passage of E2SSB 5367, which mandates stricter regulations on products containing tetrahydrocannabinols (THC) due to increasing concerns about public health and safety, and sets guidelines for THC content in consumable products by providing clear distinctions between hemp and cannabis products under state law. The bill specifically targets the regulation of THC concentrations and product packaging and labeling to mitigate the risks of overconsumption and accidental ingestion, particularly by minors. It also creates a new section explicitly banning the produc-

tion, manufacturing, sale, or distribution of synthetic and semi-synthetic cannabinoids.

The proposed rule also includes language reflecting the statutory changes resulting from SHB 1249, (chapter 9, Laws of 2024), regarding the limits on the sale and possession of retail cannabis products. The bill introduces a new category for low-dose liquid cannabis products, allowing cannabis retailers to sell larger quantities in a single transaction. However, the current regulations create obstacles for consumers looking to purchase and companies wanting to produce these products in liquid form. For instance, Initiative 502 limited the volume of liquid cannabis products to 72 ounces regardless of the THC content. This means that a consumer interested in a low-dose cannabis beverage can only buy a limited amount, while someone purchasing a different liquid cannabis product can buy the maximum 72 ounces even if it contains higher THC levels. The current regulatory framework does not support the development of low-THC cannabis products, leading to a bias towards high-THC products. The proposed rules amend WAC 314-55-095 Cannabis servings and transaction limits, to allow for the sale of low-THC beverages, consistent with SHB 1249.

The proposed rules will:

1. Establish maximum allowable THC content in cannabis products to ensure consumer safety.
2. Introduce more stringent labeling requirements to provide clearer information on THC content.
3. Adjust quality control testing requirements to include testing for additional THC compounds, as defined in RCW 69.50.204.
4. Align transaction limits for cannabis-infused products in liquid form with state law, authorizing retailers to sell 200 milligrams of THC within a cannabis-infused product in liquid form, to a retail customer, if the product is packaged in units containing no more than four milligrams of THC per unit. The authorization is in addition to the current authorization for licensed retailers and their employees to sell specified amounts of different cannabis products to a retail customer in a single transaction.

Several sections of chapter 314-55 WAC require modifications to align the changes resulting from the legislation, as follows:

1. **WAC 314-55-010 Definitions:** References to new and existing definitions in statute or rule are added to the definitions to ensure consistency with the legislation being implemented. The following definitions from RCW 69.50.101 are referenced: "Cannabis," "cannabis products," "CBD concentration," "cannabis concentrates," "cannabis-infused products," "package," "THC concentration," and "unit." The following definitions from RCW 69.50.204 are referenced: "Tetrahydrocannabinols" and "synthetic cannabinoid." A new definition of "total THC" is created. "Total THC" means any THC, as defined in chapter 69.50 RCW, that is detected during the product testing process that exceeds the established threshold, measured in mg/g, taking into account the conversion from acidic to neutral form. A new definition for "WSDA" is added referring to the Washington state department of agriculture.

2. **WAC 314-55-095 Cannabis servings and transaction limits:** The proposed rules limit the maximum amount of THC that may be in a single serving to 10 mg of active delta-9 THC, and limit the maximum amount of THC that may be in a single package to 100 mg of active delta-9 THC. These limits are consistent with current industry standards and products available on the market. A new requirement is proposed limiting the amount of any additional single THC compound to not exceed 0.5 mg/g per serving and the combined concentration of additional THC com-

pounds to one mg per serving. "Unit" was replaced with "package" to align with new statutory definitions of "package" and "unit" created by the legislation. New limits to implement SHB 1249 (chapter 9, Laws of 2024) related to low-THC beverages are added.

3. **WAC 314-55-102 Quality assurance and quality control testing:** Testing for THC is only required specifically for delta-9 THC and delta-9 THCA, as these are the most predominant naturally occurring cannabinoid in the plant; the proposed rules do not necessitate testing for any additional specific THC compounds. Despite the legislation broadening the definition of "THC concentration" to encompass the range of compounds falling under the statutory definition of "tetrahydrocannabinols," the levels of other THC compounds, such as delta-8 THC and THCV, remain insignificantly low (less than one percent by weight). Furthermore, research on cannabinoid compounds remains limited. A new requirement is added mandating testing and reporting test results for every THC compound that is labeled, advertised, or marketed as part of the product. The term "potency analysis" is replaced by "cannabinoid concentration analysis" to align with WSDA regulations outlined in new chapters 16-309 and 16-310 WAC. The equation for calculating total THC is adjusted to reflect the new definition in WAC 314-55-010. Total THC must be calculated for delta-9 THC, and must also be individually calculated for any additional THC compound detected above 0.2 mg/g. The calculation for total delta-9 THC by combining delta-9 THC with delta-9 THCA using a conversion of 0.877 applied to delta-9 THCA is maintained. Any additional THC compounds reported require specific conversion factors for the individual THC compounds based on the molar mass of the compound. This adjustment ensures that in the instance of testing for any other THC compound where the presence exceeds 0.2 mg/g, the formula is applicable for that specific compound. The term "certified laboratory" is clarified to specify the term means a laboratory that is certified by the board. The term "accreditation" is removed to reflect the transfer of cannabis testing laboratory accreditation to WSDA under 2SHB 2151 (chapter 69, laws of 2024), and reference to WSDA new accreditation rules (chapter 16-310 WAC) has been inserted. Additional changes to align with 2SHB 2151 will be addressed in a separate rule making. The term "container(s)" is replaced by "packaging" to align with statute.

4. **WAC 314-55-105 Packaging and labeling:** The term "containers" has been removed and "packaging" is used. New labeling requirement that a total THC concentration, using the formula in WAC 314-55-102, is calculated for any individual THC compound present in amounts greater than 0.2 mg/g. New language is added describing serving size for all products as "the amount of product per serving." References to "unit" are replaced with "package" for consistency with the new statutory definitions. For cannabis edibles in liquid form, "package" replaces "bottle" and indicates "measuring device" includes package cap.

5. **WAC 314-55-106 Cannabis warning symbol requirement:** The term "package" replaces "container(s)" to align with the new statutory definitions of "unit" and "package."

6. **WAC 314-55-109 Cannabinoid additives.** Requirements for using CBD as a product additive from a nonlicensed source are amended for consistency with the statutory definitions of "cannabis" and "cannabis products" modified by E2SSB 5367. References to "potency analysis" are replaced with "cannabinoid concentration analysis," consistent with the proposed changes in WAC 314-55-102. Clarifies that licensees must use a lab certified by the board to screen products.

Furthermore, the agency acronym "WSLCB" was replaced with "LCB," consistent with WSR 24-11-037, in the amended sections described above.

The anticipated effects of these rules are multi-faceted, aiming to enhance public health and safety through better-informed consumer choices and reduce risk of overconsumption and accidental exposure by:

1. Capping levels of specific THC compounds and enhancing labeling, consumers will be better able to manage dosage, potentially reducing incidents related to overconsumption.
2. Clearer, more informative labels will empower consumers to [make] informed decisions regarding their cannabis consumption.
3. Providing clear guidelines for cannabis licensees, aiding in compliance and enforcement efforts, thus ensuring that all market participants adhere to standardized practices regarding THC content in products.

Reasons Supporting Proposal: Aligns state regulations with recent legislative changes, enhancing consumer protection, and clarifying the status of hemp-derived products.

Statutory Authority for Adoption: RCW 69.50.342 and 69.50.345, as amended by E2SSB 5367 and SHB 1249.

Statute Being Implemented: E2SSB 5367 (chapter 365, laws of 2023) and SHB 1249 (chapter 9, Laws of 2024).

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

Name of Proponent: Washington state liquor and cannabis board, governmental.

Name of Agency Personnel Responsible for Drafting: Cassidy West, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98504, 360-878-4235; Implementation: Rebecca Smith, Licensing and Regulation, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because the subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5) (c).

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

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

Is exempt under RCW 34.05.310 (4) (e).

Explanation of exemptions: This rule proposal is exempt because it involves agency actions that are mandated by statute, implementing E2SSB 5367, chapter 365, Laws of 2023, to regulate consumable products containing THCs.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Agencies are required to consider costs imposed on business and costs associated with compliance with proposed rules. Agencies are not required under chapter 19.85 RCW to consider indirect costs not associated with compliance. Here, the board considered po-

tential administrative costs that a licensee may incur complying with the proposed rules.

The board applied the North American Industry Classification System (NAICS) codes 453998 for marijuana stores. The industry description for this code is presented in the table below, and can be accessed at <https://www.census.gov/library/publications/2017/econ/2017-naics-manual.html>.

The board applied a default cost when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3).

2017 Industry NAICS Code	Estimated Cost of Compliance	Industry Description	NAICS Code Title	Minor Cost Estimate	1% of Avg Annual Payroll (Threshold)	0.3% of Avg Annual Gross Business Income (Threshold)
453998	\$2000	Marijuana stores, medicinal and recreational	All Other Miscellaneous Store Retailers (except Tobacco Stores)	\$5,304.30	\$3,265.02 2021 Dataset pulled from ESD	\$5,304.40 2018 Dataset pulled from DOR

As the table demonstrates, the estimated cost of compliance does not exceed the thresholds for any of the license types. Therefore, implementation of these rules are not anticipated to result in more-than-minor costs on businesses as defined in RCW 19.85.020(2).

A copy of the detailed cost calculations may be obtained by contacting Cassidy West, 1025 Union Avenue, Olympia, WA 98504, phone 360-878-4235, fax 360-704-5027, TTY 711 or 1-800-833-6388, email rules@lcb.wa.gov.

August 6, 2024
David Postman
Chair

OTS-5416.4

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-010 Definitions. The following definitions apply for the purpose of this chapter in addition to the definitions provided in RCW 69.50.101.

(1) "Applicant" or "cannabis license applicant" means any person or business entity who is considered by the ((WSLCB)) LCB as a true party of interest in a cannabis license, as outlined in WAC 314-55-035. However, for purposes of determining an application's priority under RCW 69.50.331 (1) (a), only the person or business entity that is applying for the license will be considered the applicant.

(2) "Batch" means a quantity of cannabis-infused product containing material from one or more lots of cannabis.

(3) "Business name" or "trade name" means the name of a licensed business as used by the licensee on signs and advertising.

(4) "Cannabis" has the meaning provided in RCW 69.50.101.

(5) "Cannabis concentrates" has the meaning provided in RCW 69.50.101.

(6) "Cannabis-infused products" has the meaning provided in RCW 69.50.101.

(7) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.

(8) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.

(9) "Cannabis mix packaged" or "mix packaged" means an end product containing only cannabis mix and no other product types.

(10) "Cannabis products" has the meaning provided in RCW 69.50.101.

(11) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.

(12) "CBD concentration" has the meaning provided in RCW 69.51A.010.

(13) "Characterizing flavor" means a noticeable taste, other than one of cannabis, resulting from an additive or combination of additives including, but not limited to, fruit, spice, herbs, alcohol, candy, or menthol, or that is noticeable before or during consumption of the cannabis product.

~~((5))~~ (14) "Child care center" means an entity that regularly provides child day care and early learning services for a group of children for periods of less than 24 hours licensed by the Washington state department of early learning under chapter 170-295 WAC.

~~((6))~~ (15) "Consultant" means an expert who provides advice or services in a particular field, whether a fee is charged or not. A consultant who is in receipt of, or has the right to receive, a percentage of the gross or net profit from the licensed business during any full or partial calendar or fiscal year is a true party of interest and subject to the requirements of WAC 314-55-035. A consultant who exercises any control over an applicant's or licensee's business operations is also subject to the requirements of WAC 314-55-035(4).

~~((7))~~ (16) "Cooperative" means a group of more than one, but no more than four qualified medical cannabis patients and/or designated providers who share responsibility for growing and processing cannabis only for the medical use of the members of the cooperative.

~~((8))~~ (17) "Domicile" means a person's true, fixed, primary permanent home and place of habitation and the tax parcel on which it is located. It is the place where the person intends to remain and to which the person expects to return when the person leaves without intending to establish a new domicile elsewhere.

~~((9))~~ (18) "Elementary school" means a school with a physical location for early education that provides the first four to eight years of basic education and recognized by the Washington state superintendent of public instruction.

~~((10))~~ (19) "Employee" means any person performing services on a licensed premises for the benefit of the licensee whether or not such person is compensated by the licensee.

~~((11))~~ (20) "End product" means a cannabis product that requires no further processing prior to retail sale.

~~((12))~~ (21) "Financier" means any person or entity, other than a banking institution, that provides money as a gift or loans money to the applicant/business and expects to be paid back the amount of the loan with or without reasonable interest.

~~((13))~~ (22) "Game arcade" means an entertainment venue featuring primarily video games, simulators, and/or other amusement devices where persons under ~~(twenty-one)~~ 21 years of age are not restricted.

~~((14))~~ (23) "Harvest" means the cannabis plant material derived from plants of the same strain that were cultivated at the same licensed location and gathered at the same time.

~~((15))~~ (24) "Immature plant or clone" means a cannabis plant or clone that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

~~((16))~~ (25) "Intermediate product" means cannabis flower lots or other material lots that have been converted by a cannabis processor to a cannabis mix lot, cannabis concentrate or cannabis-infused product that must be or are intended to be converted further to an end product.

~~((17))~~ (26) "LCB" means the Washington state liquor and cannabis board.

(27) "Library" means an organized collection of resources made accessible to the public for reference or borrowing supported with money derived from taxation.

~~((18))~~ (28) "Licensed premises" means all areas of a premises where the licensee has leasehold rights as listed in the property lease submitted to the board. 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.

~~((19))~~ (29) "Licensee" or "cannabis licensee" means any person or entity that holds a cannabis license, or any person or entity who is a true party of interest in a cannabis license, as outlined in WAC 314-55-035.

~~((20))~~ (30) "Lot" means either of the following:

(a) The flowers from one or more cannabis plants of the same strain. A single lot of flowers cannot weigh more than five pounds; or

(b) The trim, leaves, or other plant matter from one or more cannabis plants. A single lot of trim, leaves, or other plant matter cannot weigh more than 15 pounds.

~~((21))~~ (31) "Lozenge" means a cannabis-infused product such as a hard candy, mint, pastille, tablet, or similar type of edible product that is generally swallowed whole, chewed and swallowed, or dissolved in the mouth.

~~((22) "Cannabis strain" means a pure breed or hybrid variety of Cannabis reflecting similar or identical combinations of properties such as appearance, taste, color, smell, cannabinoid profile, and potency.~~

~~(23) "Cannabis mix" means an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm.~~

~~(24) "Cannabis mix infused" or "mix infused" means an end product that contains cannabis mix and may contain other intermediate products or useable cannabis.~~

~~(25) "Cannabis mix packaged" or "mix packaged" means an end product containing only cannabis mix and no other product types.~~

~~(26))~~ (32) "Member," except as that term is used in relation to registered cooperatives, means a principal or governing person of a given entity including, but not limited to: LLC member/manager, president, vice president, secretary, treasurer, CEO, director, stockholder, partner, general partner, limited partner. This includes all spouse-

ses of all principals or governing persons named in this definition and referenced in WAC 314-55-035.

~~((27))~~ (33) "Package" has the meaning provided in RCW 69.50.101.

(34) "Paraphernalia" means items used for the storage or use of useable cannabis, cannabis concentrates, or cannabis-infused products, such as, but not limited to, lighters, roach clips, pipes, rolling papers, bong, and storage containers. Items for growing, cultivating, and processing cannabis, such as, but not limited to, butane, lights, and chemicals are not considered "paraphernalia."

~~((28))~~ (35) "Pesticide" means, but is not limited to: (a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest; (b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and (c) any spray adjuvant. Pesticides include substances commonly referred to as herbicides, fungicides, insecticides, and cloning agents.

~~((29))~~ (36) "Perimeter" means a property line that encloses an area.

~~((30))~~ (37) "Plant" means a cannabis plant.

~~((31))~~ (38) "Plant canopy" means the square footage dedicated to live plant production, such as maintaining mother plants, propagating plants from seed to plant tissue, clones, vegetative or flowering area. Plant canopy does not include areas such as space used for the storage of fertilizers, pesticides, or other products, quarantine, office space, etc.

~~((32))~~ (39) "Playground" means a public outdoor recreation area for children, usually equipped with swings, slides, and other playground equipment, owned and/or managed by a city, county, state, federal government, or metropolitan park district.

~~((33))~~ (40) "Product(s) otherwise taken into the body" means a cannabis-infused product for human consumption or ingestion intended for uses other than inhalation, oral ingestion, or external application to the skin.

~~((34))~~ (41) "Public park" means an area of land for the enjoyment of the public, having facilities for rest and/or recreation, such as a baseball diamond or basketball court, owned and/or managed by a city, county, state, federal government, or metropolitan park district. Public park does not include trails.

~~((35))~~ (42) "Public transit center" means a facility located outside of the public right of way that is owned and managed by a transit agency or city, county, state, or federal government for the express purpose of staging people and vehicles where several bus or other transit routes converge. They serve as efficient hubs to allow bus riders from various locations to assemble at a central point to take advantage of express trips or other route to route transfers.

~~((36))~~ (43) "Recreation center or facility" means a supervised center that provides a broad range of activities and events intended primarily for use by persons under 21 years of age, owned and/or managed by a charitable nonprofit organization, city, county, state, federal government, or metropolitan park district.

~~((37))~~ (44) "Residence" means a person's address where he or she physically resides and maintains his or her abode.

~~((38))~~ (45) "Secondary school" means a high and/or middle school with a physical location: A school for students who have com-

pleted their primary education, usually attended by children in grades seven to 12 and recognized by the Washington state superintendent of public instruction.

~~((39))~~ (46) "Selling price" means the same meaning as in RCW 82.08.010, except that when the product is sold under circumstances where the total amount of consideration paid for the product is not indicative of its true value. Selling price means the true value of the product sold as determined or agreed to by the ~~((WSLCB))~~ LCB. For purposes of this subsection:

(a) "Product" means cannabis, cannabis concentrates, useable cannabis, or cannabis-infused products; and

(b) "True value" means market value based on sales at comparable locations in the state of the same or similar product of like quality and character sold under comparable conditions of sale to comparable purchasers. In the absence of such sales of the same or similar product, true value means the value of the product sold as determined by all of the seller's direct and indirect costs attributed to the product.

~~((40))~~ (47) "Synthetic cannabinoid" includes any chemical compound identified in RCW 69.50.204 (c) [(3)] (30) [(dd)] (i) or by the pharmacy quality assurance commission under RCW 69.50.201.

(48) "Terpenes" means a class of compounds that impart smell, taste, or both occurring in the cannabis plant which consist of a carbon skeleton derived from isoprene units. The word "terpene" may include, but is not limited to, the following:

(a) "Botanical terpenes" means constituents derived from a spice, fruit, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, or leaf or similar plant material. Their significant function in cannabis products is flavoring. This includes:

(i) Essential oil, which is natural oil typically obtained by distillation and possessing the characteristic fragrance of the plant or other source from which it is extracted;

(ii) Oleoresin, which is a natural or artificial mixture of essential oils and a resin;

(iii) Distillate; or

(iv) Any product of roasting, heating, or enzymolysis which contains terpenes.

(b) "Synthetic terpenes" means any terpene that does not occur in the cannabis plant, or in other botanical sources, and is produced through chemical manipulation in a laboratory or similar facility.

(c) "Terpenoids" means the natural products and related compounds formally derived from isoprene units, or "isoprenoids," that have the same meaning as that found in the current version of the International Union of Pure and Applied Chemistry (IUPAC) and as hereafter amended.

~~((41))~~ (49) "Tetrahydrocannabinols" has the meaning provided in RCW 69.50.204.

(50) "Total THC" means any tetrahydrocannabinol, as defined in chapter 69.50 RCW, identified in the product testing process measured in milligrams per gram, taking into account the conversion from acidic to neutral form.

(51) "THC concentration" has the meaning provided in RCW 69.50.101.

(52) "Unit" ((means an individually packaged cannabis-infused solid or liquid product meant to be eaten or swallowed, not to exceed 10 servings or 100 milligrams of active tetrahydrocannabinol (THC), or Delta 9)) has the meaning provided in RCW 69.50.101.

~~((42) "WSLCB" means the Washington state liquor and cannabis board.)~~

(53) "WSDA" means the Washington state department of agriculture.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-035 Qualifying for a cannabis license. A cannabis license must be issued in the name(s) of the true party(ies) of interest. The board may conduct an investigation of any true party of interest who exercises control over the applicant's business operations. This may include financial and criminal background investigations.

(1) **True parties of interest.** True parties of interest must qualify to be listed on the license, and meet residency requirements consistent with this chapter. For purposes of this title, "true party of interest" means:

Entity	True party(ies) of interest
Sole proprietorship	Sole proprietor
General partnership	All partners
Limited partnership, limited liability partnership, or limited liability limited partnership	All general partners All limited partners
Limited liability company (LLC)	All LLC members All LLC managers
Privately held corporation	All corporate officers and directors (or persons with equivalent title) All stockholders
Multilevel ownership structures	All persons and entities that make up the ownership structure
Any entity(ies) or person(s) with a right to receive revenue, gross profit, or net profit, or exercising control over a licensed business	Any entity(ies) or person(s) with a right to receive some or all of the revenue, gross profit, or net profit from the licensed business during any full or partial calendar or fiscal year Any entity(ies) or person(s) who exercise(s) control over the licensed business
Nonprofit corporations	All individuals and entities having membership rights in accordance with the provisions of the articles of incorporation or bylaws

(2) A married couple may not be a true party of interest in more than five retail cannabis licenses, more than three producer licenses, or more than three processor licenses. A married couple may not be a true party of interest in a cannabis retailer license and a cannabis

producer license or a cannabis retailer license and a cannabis processor license.

(3) The following definitions apply to this chapter unless the context clearly indicates otherwise:

(a) "Control" means the power to independently order, or direct the management, managers, or policies of a licensed business.

(b) "Financial institution" means any bank, mutual savings bank, consumer loan company, credit union, savings and loan association, trust company, or other lending institution under the jurisdiction of the department of financial institutions.

(c) "Gross profit" means sales minus the cost of goods sold.

(d) "Net profit" means profits minus all other expenses of the business.

(e) "Revenue" means the income generated from the sale of goods and services associated with the main operations of business before any costs or expenses are deducted.

(4) For purposes of this chapter, "true party of interest" does not include (this is a nonexclusive list):

(a) A person or entity receiving payment for rent on a fixed basis under a lease or rental agreement. Notwithstanding, if there is a common ownership interest between the applicant or licensee, and the entity that owns the real property, the board may investigate all funds associated with the landlord to determine if a financier relationship exists. The board may also investigate a landlord in situations where a rental payment has been waived or deferred.

(b) A person who receives a bonus or commission based on their sales, so long as the commission does not exceed 10 percent of their sales in any given bonus or commission period. Commission-based compensation agreements must be in writing.

(c) A person or entity contracting with the licensee(s) to receive a commission for the sale of the business or real property.

(d) A consultant receiving a flat or hourly rate compensation under a written contractual agreement.

(e) A person with an option to purchase the applied for or licensed business, so long as no money has been paid to the licensee under an option contract or agreement for the purchase or sale of the licensed business, or a business that is applying for a license.

(f) Any business or individual with a contract or agreement for services with a licensed business, such as a branding or staffing company, will not be considered a true party of interest, as long as the licensee retains the right to and controls the business.

(g) A financial institution.

(5) **Notification.**

(a) Except as provided in this subsection (4) (a) (i), (ii), and (iii), after licensure the licensee must continue to disclose the source of all funds to be invested in the licensed business, including all funds obtained from financiers, prior to investing the funds into the licensed business.

(i) Revenues of the licensed cannabis business that are reinvested in the business do not require notification or vetting by the board.

(ii) Proceeds of a revolving loan where such loan has been approved by the board within the three previous years do not need to be vetted by the board, unless the source of the funds has changed or the approved loan amount has increased.

(iii) If the source of funds is an identified true party of interest on the license, or a previously approved financier associated

with the license, or a previously approved revolving loan, the board will allow these funds to be used upon receipt of an application to use such funds. The board will then investigate the source of funds. If the board cannot verify the source of funds after reasonable inquiry, or the board determines that the funds were obtained in a manner in violation of the law, the board may take actions consistent with the provisions of this chapter.

(b) Licensees must receive board approval before making any ownership changes consistent with WAC 314-55-120.

(c) Noncompliance with the requirements of this section may result in action consistent with this chapter.

(6) **Disclosure agreements and intellectual property.**

(a) Licensed cannabis businesses may enter into agreements consistent with the provisions of RCW 69.50.395.

(b) Notwithstanding the foregoing, no producer or processors may enter into an intellectual property agreement with a retailer.

(7) **Financiers.**

(a) Consistent with WAC 314-55-010(~~((11))~~) (21), a financier is any person or entity, other than a financial institution or a government entity, that provides money as a gift, a grant, or loans money to an applicant, business, or both, and expects to be paid back the amount of the loan, with or without reasonable interest.

(b) A financier may not receive an ownership interest, control of the business, a share of revenue, gross profits or net profits, a profit sharing interest, or a percentage of the profits in exchange for a loan or gift of funds, unless the financier, if directly involved in the loaning of funds, receives board approval and has qualified on the license as a true party of interest.

(c) Washington state residency requirements do not apply to financiers who are not also a true party of interest, but all financiers must reside within the United States.

(d) The board will conduct a financial and criminal background investigation on all financiers.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-080 Medical cannabis endorsement. (1) A medical cannabis endorsement added to a cannabis retail license allows the cannabis retail licensee to:

(a) Sell cannabis for medical use to qualifying patients and designated providers; and

(b) Provide cannabis at no charge, at their discretion, to qualifying patients and designated providers.

(2) Qualifying patients between 18 and 21 years of age with a recognition card may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement and may purchase products for their personal medical use. Qualifying patients who are under the age of 18 with a recognition card and who accompany their designated providers may enter and remain on the premises of a retail outlet holding a medical cannabis endorsement, but may not purchase products for their personal medical use. Only a designated provider may purchase products for a qualifying patient under the age of 18 who holds a valid recognition card.

(3) **To maintain a medical cannabis endorsement in good standing, a cannabis retailer must:**

- (a) Follow all rules adopted by the department of health regarding retail sales of medical cannabis;
- (b) Have a consultant on staff in accordance with department of health rules;
- (c) Prohibit the medical use of cannabis by anyone at the retail outlet at all times, including medical use by qualifying patients;
- (d) Maintain at all times, a representative assortment of cannabis products necessary to meet the needs of qualified patients and designated providers;
- (e) Not market cannabis concentrates, useable cannabis, or cannabis-infused products in a way that make them especially attractive to minors;
- (f) Demonstrate the ability to enter qualifying patients and designated providers in the medical cannabis authorization database established by the department of health;
- (g) Issue recognition cards and agree to enter qualifying patients and designated providers into the database in compliance with the department of health standards;
- (h) Keep records to document the validity of tax exempt sales as prescribed by the department of revenue for a minimum of five years. For the documentation requirements in RCW 69.50.375 (3)(e), licensees are not required to separately keep copies of the qualifying patient's or designated provider's recognition card because this information is stored in the medical cannabis authorization database;
- (i) Train employees on the following:
 - (i) Procedures regarding the recognition of valid authorizations and the use of equipment to enter qualifying patients and designated providers into the medical cannabis authorization database;
 - (ii) Recognition of valid recognition cards; and
 - (iii) Recognition of strains, varieties, THC concentration, CBD concentration, and THC to CBD ratios of cannabis concentrates, useable cannabis, and cannabis-infused products available for sale when assisting qualifying patients and designated providers at the retail outlet.

(4) ~~((A cannabis retailer holding a medical cannabis endorsement may sell products with a THC concentration of 0.3 percent or less.))~~ The licensee may ~~((also))~~ provide ~~((these))~~ cannabis products complying with chapter 246-70 WAC at no charge to qualifying patients or designated providers.

(5) **Unlicensed practice of medicine.** No owner, employee, or volunteer of a retail outlet and holding a medical cannabis endorsement may:

- (a) Offer or undertake to diagnose or cure any human or animal disease, ailment, injury, infirmity, deformity, pain, or other condition, physical or mental, real or imaginary, by use of cannabis products or any other means or instrumentality; or
- (b) Recommend or suggest modification or elimination of any course of treatment that does not involve the medical use of cannabis products.

(6) Failure to comply with subsections (3) and (5) of this section may result in suspension or revocation of the medical cannabis endorsement.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-095 Cannabis servings and transaction limitations.

Personal possession limits and transaction limits are detailed in RCW 69.50.360 and 69.50.4013.

(1) For persons age 21 and older and qualifying patients or designated providers who are not entered into the medical cannabis authorization database, cannabis serving and transaction limitations are as follows:

(a) **Single serving.** A single serving of a cannabis-infused product must not exceed 10 milligrams of active (~~tetrahydrocannabinol (THC), or Delta 9~~) delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligram per serving.

(b) (~~Maximum number of servings.~~ The maximum number of servings in) **Single package.** Any one single (~~unit~~) package of cannabis-infused product meant to be eaten or swallowed or otherwise taken into the body (~~is 10 servings or 100 milligrams of active THC, or Delta 9~~) must not exceed 100 milligram of active delta-9 THC.

(c) **Single concentrate unit.** A single unit of cannabis concentrate cannot exceed one gram.

(~~e~~) **(d) Transaction limits.**

(i) A single transaction is limited to:

(A) One ounce of useable cannabis;

(B) (~~Sixteen~~) 16 ounces of cannabis-infused product meant to be eaten or swallowed in solid form;

(C) (~~Seven~~) 7 grams of cannabis-infused extract or cannabis concentrate for inhalation; (~~and~~)

(D) (~~Seventy-two~~) 72 ounces of cannabis-infused product in liquid form for oral ingestion or applied topically to the skin(~~; and~~

~~(E) Ten units of a cannabis-infused product otherwise taken into the body~~), unless the product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit; and

(E) 200 mg of active delta-9 THC within a cannabis-infused product in liquid form if the product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit.

(ii) A licensee or employee of a licensee is prohibited from conducting a transaction that facilitates an individual in obtaining more than the personal possession amount.

(2) For qualifying patients and designated providers who are entered into the medical cannabis authorization database, serving and transaction limits are as follows:

(a) **Single serving.** Except as provided in chapter 246-70 WAC, a single serving of a cannabis-infused product meant to be eaten, swallowed, or applied must not exceed 10 milligrams of active (~~tetrahydrocannabinol (THC), or Delta 9~~) delta-9 THC. Additional tetrahydrocannabinol compounds other than delta-9 THC may be present in the product, but any additional single tetrahydrocannabinol compound other than delta-9 THC must not exceed 0.5 milligrams per serving, and the combined concentration of additional tetrahydrocannabinol compounds must not exceed 1.0 milligram per serving.

(b) (~~Maximum number of servings.~~) **Single package.** Except as provided in chapter 246-70 WAC, (~~the maximum number of servings in~~

~~any one single unit)) a single package of cannabis-infused product meant to be eaten, swallowed or applied ((is 10 servings or)) must not exceed 100 milligrams of active delta-9 THC((, or Delta-9)).~~

~~(c) **Single concentrate unit.** A single unit of cannabis concentrate cannot exceed one gram.~~

~~((e)) (d) **Transaction limitation.** A single transaction by a retail store with a medical cannabis endorsement to a qualifying patient or designated provider who is entered into the medical cannabis database is limited to three ounces of useable cannabis, 48 ounces of cannabis-infused product meant to be eaten or swallowed in solid form, 21 grams of cannabis-infused extract or cannabis concentrate for inhalation, and 216 ounces of cannabis-infused product in liquid form meant to be eaten or swallowed, and up to 200 mg of active delta-9 THC within a cannabis-infused product in liquid form meant to be eaten or swallowed if product is packaged in individual units containing no more than 4 milligrams of active delta-9 THC per unit.~~

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-102 Quality assurance and quality control. (1) ~~((Lab certification and accreditation for)) **Certified laboratory quality control testing.**~~ To become certified, a third-party lab must meet the board's certification and accreditation requirements as described in WAC 314-55-0995 and this chapter before conducting quality control tests required under this section. Cannabis licensees must use a laboratory certified by the board (certified laboratory) to conduct quality control testing required under this chapter. Prior to becoming certified, laboratories must be accredited by the WSDA as specified in chapter 16-309 WAC.

~~(a) ((Certified labs must be)) Licensees must use certified laboratories to conduct ((the following)) testing on cannabis and cannabis products in the following required fields of testing:~~

- ~~(i) Water activity;~~
- ~~(ii) ((Potency)) Cannabinoid concentration analysis;~~
- ~~(iii) Foreign matter inspection;~~
- ~~(iv) Microbiological screening;~~
- ~~(v) Mycotoxin screening;~~
- ~~(vi) Pesticide screening; and~~
- ~~(vii) Residual solvent screening.~~

~~(b) Certified labs may be certified for heavy metal testing. Certified labs must comply with the guidelines for each quality control field of testing described in this chapter if they offer that testing service.~~

~~(c) Certified labs may reference samples for mycotoxin, heavy metal, or pesticide testing by subcontracting for those fields of testing.~~

(2) General product quality control testing requirements for certified labs.

~~(a) Certified labs must record an acknowledgment of the receipt of samples from producers or processors. Certified labs must also verify if any unused portion of the sample is destroyed after the completion of required testing.~~

~~(b) Certified labs must report quality control test results directly to the board in the required format.~~

(c) Product must not be converted, transferred, or sold by the licensee until the required tests are reported to the board and the licensee.

(d) Certified labs must fail a sample if the results for any limit test are above allowable levels regardless of whether the limit test is required in the testing tables in this chapter.

(e) Certified labs must test samples on an "as is" or "as received" basis.

(f) For the purposes of this section, limits have been written to the number of significant digits that certified laboratories are expected to use when reporting to the board and on associated certificates of analysis.

(3) **Quality control analysis and screening.** The following analysis and screening are only required for samples that have not been previously tested, or that have failed quality control testing.

(a) **((Potency)) Cannabinoid concentration analysis.**

~~(i) ((Certified labs must test and report the following cannabinoids to the board when testing for potency:))~~ A cannabinoid concentration analysis is required to determine the concentration of cannabinoid compounds present in cannabis and cannabis products. The results of the cannabinoid concentration analysis must be reported to the board in the state's traceability system in the required format. The cannabinoid concentration analysis must include testing for at least the following cannabinoids:

(A)

Cannabinoid	Lower Limit of Quantitation (mg/g)	CAS #
CBD	1.0	13956-29-1
CBDA	1.0	1244-58-2
Δ^9 -THC	1.0	1972-08-3
Δ^9 -THCA	1.0	23978-85-0

(B) Any THC compound that is labeled, advertised, or marketed as part of the product;

(C) Total delta-9 THC;

~~((C))~~ (D) Total THC for tetrahydrocannabinol compounds other than delta-9 THC;

(E) Total CBD.

(ii) Calculating total THC and total CBD.

(A) Total delta-9 THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA: $M \text{ total delta-9 THC} = M \text{ delta-9 THC} + (0.877 \times M \text{ delta-9 THCA})$.

(B) Total THC for tetrahydrocannabinol compounds other than delta-9 that are present in an amount greater than 0.2 mg/g must be calculated as follows, where M is the mass or mass fraction of the neutral (THC) or acidic form (THCA) of the tetrahydrocannabinol compound: $M \text{ total THC} = M \text{ THC} + (\text{molar mass of THC compound} \times M \text{ THCA})$.

(C) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: $M \text{ total CBD} = M \text{ CBD} + (0.877 \times M \text{ CBDA})$.

(iii) Regardless of analytical equipment or methodology, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.

(b) **Water activity testing.** The sample fails quality control testing for water activity if the results exceed the following limits:

- (i) Water activity rate of more than 0.65 a_w for useable cannabis;
- (ii) Water activity rate of more than 0.85 a_w for solid edible products.

(c) **Foreign matter screening.** The sample fails quality control testing for foreign matter screening if the results exceed the following limits:

- (i) Five percent of stems 3 mm or more in diameter; or
- (ii) Two percent of seeds or other foreign matter; or
- (iii) One insect fragment, one hair, or one mammalian excreta in sample.

(d) **Microbiological screening.** The sample and the related population fails quality control testing for microbiological screening if the results exceed the following limits:

Unprocessed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 ⁴
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1
Processed Plant Material	Colony Forming Unit per Gram (CFU/g)
Bile Tolerant Gram Negative bacteria (BTGN)	1.0 * 10 ³
Shiga toxin-producing Escherichia coli (STEC)	<1
Salmonella spp.	<1

(e) **Mycotoxin screening.** The sample and the related population fails quality control testing if the results exceed the following limits:

Mycotoxin	µg/kg	CAS #
Aflatoxins (Sum of Isomers)	20.	
• Aflatoxin B1		1162-65-8
• Aflatoxin B2		7220-81-7
• Aflatoxin G1		1165-39-5
• Aflatoxin G2		7241-98-7
Ochratoxin A	20.	303-47-9

(f) **Residual solvent screening.** Except as otherwise provided in this subsection, a sample and the related population fails quality control testing for residual solvents if the results exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for any class one solvents as defined in *United States Pharmacopoeia USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality control testing. When residual solvent screening is required, certified labs must test for the solvents listed in the table below at a minimum.

Solvent	µg/g	ppm (simplified)	CAS #
Acetone	5.0 * 10 ³	5000	67-64-1

Solvent	µg/g	ppm (simplified)	CAS #
Benzene	2.0	2	71-43-2
Butanes (Sum of Isomers)	5.0 * 10 ³	5000	
• n-butane			106-97-8
• 2-methylpropane (isobutane)			75-28-5
Cyclohexane	3.9 * 10 ³	3880	110-82-7
Chloroform	2.0	2	67-66-3
Dichloromethane	6.0 * 10 ²	600	75-09-2
Ethanol	5.0 * 10 ³	5000	64-17-5
Ethyl acetate	5.0 * 10 ³	5000	141-78-6
Heptanes (Single Isomer)	5.0 * 10 ³	5000	
• n-heptane			142-82-5
Hexanes (Sum of Isomers)	2.9 * 10 ²	290	
• n-hexane			110-54-3
• 2-methylpentane			107-83-5
• 3-methylpentane			96-14-0
• 2,2-dimethylbutane			75-83-2
• 2,3-dimethylbutane			79-29-8
Isopropanol (2-propanol)	5.0 * 10 ³	5000	67-63-0
Methanol	3.0 * 10 ³	3000	67-56-1
Pentanes (Sum of Isomers)	5.0 * 10 ³	5000	
• n-pentane			109-66-0
• methylbutane (isopentane)			78-78-4
• dimethylpropane (neopentane)			463-82-1
Propane	5.0 * 10 ³	5000	74-98-6
Toluene	8.9 * 10 ²	890	108-88-3
Xylenes (Sum of Isomers)	2.2 * 10 ³	2170	
• 1,2-dimethylbenzene (ortho-)			95-47-6
• 1,3-dimethylbenzene (meta-)			108-38-3
• 1,4-dimethylbenzene (para-)			106-42-3

(g) **Heavy metal screening.** Heavy metal screening is required for all DOH compliant product as described in chapter 246-70 WAC. Heavy metal screening is optional for non-DOH compliant product; however, heavy metal limits provided below apply to all products. Any product exceeding the provided limits is subject to recall and destruction. The board may conduct random or investigation driven heavy metal screening for compliance. A sample and related quantity of product fail quality control testing for heavy metals if the results exceed the limits provided in the table below.

Metal	µg/g
Arsenic	2.0
Cadmium	0.82
Lead	1.2
Mercury	0.40

(h) **Pesticide screening.** For purposes of pesticide screening, a sample and the related quantity of cannabis is considered to have

passed if it meets the standards described in WAC 314-55-108 and applicable department of agriculture rules.

(4) **Required quality control tests.** The following quality control tests are required for each of the cannabis products described below. Licensees and certified labs may opt to perform additional quality control tests on the same sample.

(a) **Cannabis flower.** Cannabis flower requires the following quality control tests:

Product	Test(s) Required
Cannabis flower	1. Water activity testing 2. ((Potency)) <u>Cannabinoid concentration</u> analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening

(b) If cannabis flower will be sold as useable flower, no further testing is required.

(c) **Intermediate products.** Intermediate products must meet the following requirements related to quality control testing:

(i) All intermediate products must be homogenized prior to quality assurance testing;

(ii) For the purposes of this section, a batch is defined as a single run through the extraction or infusion process;

(iii) Cannabis mix must be chopped or ground so no particles are greater than 3 mm; and

(iv) Intermediate products require the following quality assurance tests:

Intermediate Product Type	Tests Required
Cannabis mix	1. Water activity testing 2. ((Potency)) <u>Cannabinoid concentration</u> analysis 3. Foreign matter inspection 4. Microbiological screening 5. Mycotoxin screening 6. Pesticide screening
Concentrate or extract made with hydrocarbons (solvent based made using n-butane, isobutane, propane, heptane, or other solvents or gases approved by the board of at least 99% purity)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with a CO ₂ extractor like hash oil	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening
Concentrate or extract made with ethanol	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Mycotoxin screening 3. Residual solvent test 4. Pesticide screening

Intermediate Product Type	Tests Required
Concentrate or extract made with approved food grade solvent	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Residual solvent test 5. Pesticide screening
Concentrate or extract (nonsolvent) such as kief, hash, rosin, or bubble hash	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening
Infused cooking oil or fat in solid form	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Microbiological screening 3. Mycotoxin screening 4. Pesticide screening

(d) **End products.** All cannabis, cannabis-infused products, cannabis concentrates, cannabis mix packaged, and cannabis mix infused sold from a processor to a retailer require the following quality assurance tests:

End Product Type	Tests Required
Infused solid edible	1. ((Potency)) <u>Cannabinoid concentration</u> analysis 2. Water activity testing
Infused liquid (like a soda or tonic)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Infused topical	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Cannabis mix packaged (loose or rolled)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Cannabis mix infused (loose or rolled)	1. ((Potency)) <u>Cannabinoid concentration</u> analysis
Concentrate or cannabis-infused product for inhalation	1. ((Potency)) <u>Cannabinoid concentration</u> analysis

(e) End products consisting of only one intermediate product that has not been changed in any way are not subject to ((potency)) cannabinoid concentration analysis.

(5) Useable flower, a batch of cannabis concentrate, or a batch of cannabis-infused product may not be sold until the completion and successful passage of required quality control testing, except:

(a) Licensees may wholesale and transfer batches or quantities of cannabis flower and other material that will be extracted, and cannabis mix and nonsolvent extracts, for the purposes of further extraction prior to completing required quality control testing.

(b) Business entities with multiple locations licensed under the same UBI number may transfer cannabis products between the licensed locations under the same UBI number prior to quality control testing.

(c) Licensees may wholesale and transfer failed batches or quantities of cannabis flower to be extracted pursuant to subsection (6) of this section, unless failed for tests that require immediate destruction.

(6) **Failed test samples.**

(a) Upon approval by the board, failed quantities of cannabis or batches may be used to create extracts. After processing, the extract

must pass all quality control tests required in this section before it may be sold, unless failed for tests that require immediate destruction.

(b) Retesting. A producer or processor must request retesting. The board may authorize the retest to validate a failed test result on a case-by-case basis. The producer or the processor requesting the retest must pay for the cost of all retesting.

(c) Remediation. Remediation is a process or technique applied to quantities of cannabis flower, lots, or batches. Remediation may occur after the first failure, depending on the failure, or if a retest process results in a second failure. Pesticide failures may not be remediated.

(i) Producers and processors may remediate failed cannabis flower, lots, or batches so long as the remediation method does not impart any toxic or harmful substance to the useable cannabis, cannabis concentrates, or cannabis-infused product. Remediation solvents or methods used on the cannabis product must be disclosed to:

(A) A licensed processor;

(B) The producer or producer/processor who transfers the cannabis products;

(C) A licensed retailer carrying cannabis products derived from the remediated cannabis flower, lot, or batch; or

(D) The consumer upon request.

(ii) The entire quantity of cannabis from which the failed sample(s) were deducted must be remediated.

(iii) No remediated quantity of cannabis may be sold or transported until quality control testing consistent with the requirements of this section is completed.

(iv) If a failed quantity of remediated cannabis is not remediated or reprocessed in any way after a first failure, it cannot be retested. Any subsequent certificates of analysis produced without remediation or reprocessing of the failed quantity of cannabis will not supersede the original compliance testing certificate of analysis.

(7) **Referencing.** Certified (~~(labs)~~) laboratories may reference samples for mycotoxins, heavy metals, and pesticides testing to other certified labs by subcontracting for those fields of testing. (~~(Labs)~~) Laboratories must record all referencing to other labs on a chain-of-custody manifest that includes, but is not limited to, the following information: Lab name, certification number, transfer date, address, contact information, delivery personnel, sample ID numbers, field of testing, and receiving personnel.

(8) Certified (~~(labs)~~) laboratories are not limited in the amount of useable cannabis and cannabis products they may have on their premises at any given time, but a certified (~~(lab)~~) laboratory must have records proving all cannabis and cannabis-infused products in the certified lab's possession are held only for the testing purposes described in this chapter.

(9) A certificate of analysis issued by a certified (~~(lab)~~) laboratory for any cannabis product subject to the requirements of this chapter that has not already been transferred to a retail location expires 12 calendar months after issuance.

(10) The board, or its designee, may request that a licensee or a certified lab provide an employee of the board or their designee samples of cannabis or cannabis products, or samples of the growing medium, soil amendments, fertilizers, crop production aids, pesticides, or water for random or investigatory compliance checks. Samples may be

randomly screened and used for other quality control tests deemed necessary by the board.

(11) All cannabis products produced, processed, distributed, or sold after the effective date of these rules, must comply with these rules and this chapter; however, postharvest products in the possession of or being processed by a licensee that do not comply with these rules as of their effective date may be sold, distributed, or both within a reasonable period of time, determined by the board.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-105 Cannabis product packaging and labeling. (1) The following definitions apply to this section, unless the context clearly indicates otherwise:

(a) "Cartoon" means any drawing or other depiction of an object, person, animal, creature, or any similar caricature that meets any of the following criteria:

(i) The use of comically exaggerated features;

(ii) The attribution of human characteristics to animals, plants, or other objects;

(iii) The attribution of animal, plant, or other object characteristics to humans;

(iv) The attribution of unnatural or extra-human abilities.

(b) "Child resistant packaging" means packaging that is used to reduce the risk of poisoning in persons under the age of 21 through the ingestion of potentially hazardous items including, but not limited to, cannabis concentrates, useable cannabis, and cannabis-infused products.

(c) "Especially appealing to persons under the age of 21" means a product or label that includes, but is not limited to:

(i) The use of cartoons;

(ii) Bubble-type or other cartoon-like font;

(iii) A design, brand, or name that resembles a noncannabis consumer product that is marketed to persons under the age of 21;

(iv) Symbols or celebrities that are commonly used to market products to persons under the age of 21;

(v) Images of persons under the age of 21; or

(vi) Similarities to products or words that refer to products that are commonly associated or marketed to persons under the age of 21.

(d) "Cannabis concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than 10 percent, consistent with RCW 69.50.101(~~(+z)~~).

(e) "Cannabis edible" means a cannabis-infused product as defined in RCW 69.50.101(~~(+ff)~~).

(f) "Cannabis topical" or "topical" means any product containing parts of the cannabis plant that is intended for application to the body's surface including, but not limited to, lotions, ointments, salves, gels, or cream that are not intended for ingestion, inhalation, or insertion by humans or animals.

(g) "Structure and function claims" mean a description of the role of a cannabis product intended to affect normal structure and function in humans, characterized by the means by which a cannabis

product acts to maintain such structure or function, or describe the general well-being from consumption of a cannabis product, consistent with the guidance provided in 21 U.S.C. Sec. 343(6).

(h) "Useable cannabis" means dried cannabis flowers consistent with RCW 69.50.101(~~((w))~~). The term "useable cannabis" does not include either cannabis-infused products or cannabis concentrates.

(2) **Cannabis concentrates.** The following standards apply to all packaging and labeling of cannabis concentrates:

(a) (~~((Containers or))~~) Packaging containing cannabis concentrates must protect the product from contamination. (~~((Containers or))~~) Packaging must not impart any toxic or harmful substance to the cannabis concentrate.

(b) Cannabis concentrates must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis concentrates.

(c) Cannabis concentrates must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Cannabis concentrate labels must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Cannabis concentrate labels must clearly and visibly provide all of the following information:

(i) The business or trade name and the (~~((nine))~~) 9-digit Washington state unified business identifier (UBI) number of the cannabis producer and processor;

(ii) The lot number of the product (~~((the unique identifier number generated by the board's traceability system))~~). This must be the same number that appears on the transport manifest;

(iii) The net weight in ounces and grams or volume as applicable;

(iv) (~~((Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and))~~) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(~~((v))~~) (vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(~~((vi))~~) (vii) If solvents were used to create concentrate or extract, a statement that discloses the type of extraction method, including in solvents or gases used to create the concentrate; and

(~~((vii))~~) (viii) A complete list of any other chemicals, compounds, additives, thickening agents, terpenes, or other substances used to produce or added to the concentrate or extract at any point during production. A copy of the complete list of chemicals, compounds, additives, thickening agents, terpenes, or other substances must be kept and maintained at the facility in which the cannabis concentrates are processed.

(f) Cannabis concentrate labels may not contain any statement, depiction, or illustration that:

- (i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);
- (ii) Promotes over consumption;
- (iii) Represents that the use of cannabis has curative or therapeutic effects;
- (iv) Depicts a person under the age of 21 consuming cannabis; or
- (v) Is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.
- (g) The following statements must be included on all cannabis concentrate labels:
 - (i) "Warning - May be habit forming;"
 - (ii) "Unlawful outside Washington State;"
 - (iii) "It is illegal to operate a motor vehicle while under the influence of cannabis;"
 - (iv) The cannabis universal symbol as provided in WAC 314-55-106; and
 - (v) "Smoking is hazardous to your health."
- (h) Product labeling for cannabis concentrates identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:
 - (i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or
 - (ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.
 - (iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.
 - (i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product that is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."
 - (j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product that is not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."
- (3) **Cannabis edibles in solid form.** The following standards apply to all packaging and labeling of cannabis edibles in solid form:
 - (a) (~~Containers or~~) Packaging containing cannabis edibles in solid form must protect the product from contamination. (~~Containers or~~) Packaging must not impart any toxic or harmful substance to the cannabis edibles in solid form.
 - (b) Cannabis edibles in solid form must be packaged:
 - (i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or
 - (ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis edibles in solid form.
 - (c) Cannabis-infused edibles in solid form, such as capsules, lozenges, and similar products approved by the board on a case-by-case basis may be packaged loosely within a resealing outer package that is child resistant in accordance with Title 16 C.F.R. 1700 of the Poison Prevention Packaging Act.

(d) Cannabis edibles in solid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(e) Labels for cannabis edibles in solid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(f) Labels for cannabis edibles in solid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product ~~((the unique identifier number generated by the board's traceability system))~~. This must be the same number that appears on the transport manifest;

(iii) The serving size, the amount of product per serving, and the number of servings contained within the ~~((unit. If more than one serving is in a package, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving))~~ package must be prominently displayed;

(iv) Net weight in ounces and grams or volume as applicable;

(v) Total THC ((~~delta-9-tetrahydrocannabinol~~) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD), calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula((s)) referenced in WAC 314-55-102;

(vi) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vii) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

~~((vii))~~ (viii) A list of ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Consumer Protection Act of 2004;

~~((viii))~~ (ix) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or that were added to the extract.

(g) Labels for cannabis edibles in solid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents that the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(h) The following warning statements must be included on all labels for all cannabis edibles in solid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106; and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(i) Product labeling for cannabis edibles in solid form identified as compliant cannabis product under RCW 69.50.375(~~(+4)~~) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(j) Where there is one statement made under (i) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(k) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(4) **Cannabis edibles in liquid form.** The following standards apply to all packaging and labeling of cannabis edibles in liquid form:

(a) (~~Containers or~~) Packaging containing cannabis edibles in liquid form must protect the product from contamination. (~~Containers or~~) Packaging must not impart any toxic or harmful substance to the cannabis edibles in liquid form.

(b) Cannabis edibles in liquid form must be packaged:

(i) In child resistant packaging consistent with 16 C.F.R. Part 1700, Poison Prevention Packaging Act; or

(ii) In plastic that is two mil or greater in thickness, heat sealed without an easy-open tab, dimple, corner, or flap that will protect persons under the age of 21 from accidental exposure to cannabis edibles in liquid form.

(iii) Cannabis edibles in liquid form that include more than one serving must be packaged with a resealable closure or cap. Cannabis edibles in liquid form must include a measuring device such as a measuring cup or dropper. Hash marks on the (~~bottle~~) package or package cap qualify as a measuring device.

(c) Cannabis edibles in liquid form must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(d) Labels for cannabis edibles in liquid form must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(e) Labels for cannabis edibles in liquid form must clearly and visibly provide all of the following information:

(i) The business or trade name and the (~~nine~~) 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product (~~(the unique identifier number generated by the board's traceability system)~~). This must be the same number that appears on the transport manifest;

(iii) The serving size, the amount of product per serving, and the number of servings contained within the (~~unit. If more than one~~

~~servings is in a) package(, the label must prominently display the serving size, the number of servings in the package and the amount of product per serving)) must be prominently displayed;~~

(iv) Net weight in ounces and grams or volume as applicable;

~~((v) Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;)) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;~~

(v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

(vii) A list of all ingredients in descending order of predominance by weight or volume as applicable and a list of major food allergens as defined in the Food Allergen Labeling and Protections Act of 2004;

(viii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract.

(f) Labels for cannabis edibles in liquid form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(g) The following warning statements must be included on all labels for all cannabis edibles in liquid form. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106; and

(v) "Caution: Intoxicating effects may be delayed by 2+ hours."

(h) Product labeling for cannabis edibles in liquid form identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(i) Where there is one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the

State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(j) Where there is more than one statement made under (h) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(5) **Useable cannabis.** The following standards apply to all packaging and labeling of useable cannabis:

(a) ~~((Containers or))~~ Packaging containing useable cannabis must protect the product from contamination. ~~((Containers or))~~ Packaging must not impart any toxic or harmful substance to the useable cannabis.

(b) Useable cannabis must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Useable cannabis must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for useable cannabis must clearly and visibly provide all of the following information:

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product ~~((the unique identifier number generated by the board's traceability system))~~. This must be the same number that appears on the transport manifest;

(iii) Net weight in ounces and grams or volume as applicable;

(iv) ~~((Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;))~~ Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use.

(e) Labels for useable cannabis may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all useable cannabis. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

- (iv) The cannabis universal symbol as provided in WAC 314-55-106; and
- (v) "Smoking is hazardous to your health."
- (g) Product labeling for useable cannabis identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:
- (i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or
 - (ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.
 - (iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.
 - (h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."
 - (i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."
- (6) **Cannabis mix.** Cannabis mix is defined in WAC 314-55-010(~~(+22)~~) (7) as an intermediate lot that contains multiple strains of useable cannabis and is chopped or ground so no particles are greater than 3 mm. The following standards apply to all packaging and labeling of cannabis mix:
- (a) (~~Containers or~~) Packaging containing cannabis mix must protect the product from contamination. (~~Containers or~~) Packaging must not impart any toxic or harmful substance to the cannabis mix.
 - (b) Cannabis mix must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.
 - (c) Cannabis mix must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.
 - (d) Labels for cannabis mix must clearly and visibly provide all of the following information:
 - (i) The business or trade name and the (~~nine~~) 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;
 - (ii) The lot number of the product (~~(the unique identifier number generated by the board's traceability system)~~). This must be the same number that appears on the transport manifest;
 - (iii) Net weight in ounces and grams or volume as applicable;
 - (iv) (~~Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;~~) Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;
 - (v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use;

~~((vi))~~ (vii) If solvents were used, a statement that discloses the type of extraction method, including any solvents, gases, or other chemicals or compounds used to produce or added to the extract;

~~((vii))~~ (viii) Any other chemicals or compounds used to produce or were added to the concentrate or extract.

(e) Labels for cannabis mix form may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis, or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all cannabis mix. The following warning statements must legible, unobscured, and visible to the consumer:

(i) "Warning - May be habit forming;"

(ii) "Unlawful outside Washington State;"

(iii) "It is illegal to operate a motor vehicle under the influence of cannabis;"

(iv) The cannabis universal symbol as provided in WAC 314-55-106; and

(v) "Smoking is hazardous to your health."

(g) Product labeling for cannabis mix identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(7) **Cannabis topicals.** The following standards apply to all packaging and labeling of cannabis topicals:

(a) ~~((Containers or))~~ Packaging containing a cannabis topical must protect the product from contamination. ~~((Containers or))~~ Packaging must not impart any toxic or harmful substance to the cannabis topical.

(b) Cannabis topicals must not be labeled as organic unless permitted by the U.S. Department of Agriculture consistent with the Organic Foods Production Act.

(c) Cannabis topicals must comply with the version of NIST Handbook 130, Uniform Packaging and Labeling regulation adopted in chapter 16-662 WAC.

(d) Labels for cannabis topicals must clearly and visibly provide all of the following information:

(i) The business or trade name and the ~~((nine))~~ 9-digit Washington state unified business identifier (UBI) number of the licensees that produced and processed the cannabis or cannabis products;

(ii) The lot number of the product ~~((the unique identifier number generated by the board's traceability system))~~. This must be the same number that appears on the transport manifest;

(iii) The label must prominently display the net weight in ounces and grams or volume as applicable, and may not exceed serving and transaction limits as described in WAC 314-55-095;

(iv) ~~((Total THC (delta-9-tetrahydrocannabinol) meaning the concentration of THC and THCA, total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;))~~ Total THC, calculated individually for each tetrahydrocannabinol compound present in amounts greater than 0.2 mg/g, as defined in WAC 314-55-010, using the formula referenced in WAC 314-55-102;

(v) Total CBD (cannabidiol) meaning the concentration of CBDA and CBD, using the formulas referenced in WAC 314-55-102;

(vi) Medically and scientifically accurate and reliable information about the health and safety risks posed by cannabis use; and

~~((vi))~~ (vii) A list of all ingredients in descending order of predominance by weight or volume as applicable.

(e) Labels for cannabis topicals may not contain any statement, depiction, or illustration that:

(i) Is false or misleading, consistent with guidance provided in 21 C.F.R. Sec. 101.18(a);

(ii) Promotes over consumption;

(iii) Represents the use of cannabis has curative or therapeutic effects;

(iv) Depicts a person under the age of 21 consuming cannabis ~~((r))~~ or is especially appealing to persons under 21 years of age as defined in subsection (1)(c) of this section.

(f) The following warning statements must be included on all labels for all cannabis topicals. The following warning statements must be legible, unobscured, and visible to the consumer:

(i) "Unlawful outside Washington State;"

(ii) The cannabis universal symbol as provided in WAC 314-55-106; and

(iii) "DO NOT EAT" in bold, capital letters.

(g) Product labeling for cannabis topicals identified as compliant cannabis product under RCW 69.50.375(4) and chapter 246-70 WAC may include:

(i) A structure or function claim describing the intended role of the product to maintain the structure or any function of the body; or

(ii) Characterization of the documented mechanism by which the product acts to maintain such structure or function, provided that the claim is truthful and not misleading.

(iii) Any statement made under this subsection may not claim to diagnose, mitigate, treat, cure, or prevent any disease.

(h) Where there is one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided it is not false or misleading, the disclaimer must state, "This statement has not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(i) Where there is more than one statement made under (g) of this subsection, or there is a warning describing the psychoactive effects of the cannabis product, provided they are not false or misleading, the disclaimer must state, "These statements have not been evaluated by the State of Washington. This product is not intended to diagnose, treat, cure, or prevent any disease."

(8) **Optional label information.** Optional label information includes the following: Harvest date, "best by" date, and manufactured dates.

(9) **Accompanying materials.** Accompanying materials must be provided with a cannabis product or made available to the consumer purchasing cannabis products.

A producer or processor must provide the following product-specific information, for as long as the product is for sale, through an internet link, web address, or QR code on the product label as follows:

(a) A statement disclosing all pesticides applied to the cannabis plants and growing medium during production of the useable cannabis or the base cannabis used to create the concentrate or the extract added to infused products;

(b) A list disclosing all of the chemicals, compounds, additives, thickening agents, terpenes, or other substances added to any cannabis concentrate during or after production.

(10) **Upon request materials.** A consumer may request the name of the certified lab and quality assurance test results for any cannabis or cannabis product. A retailer must provide the information upon request.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-106 Cannabis warning symbol requirement. The following requirements are in addition to the packaging and labeling requirements provided in WAC 314-55-105.

(1) Cannabis-infused products for oral ingestion sold at retail must be labeled on the principal display panel or front of the product package with the "not for kids" warning symbol ("warning symbol") created and made available in digital form to licensees without cost by the Washington poison center (WPC). The warning symbol may be found on the WPC's website.

(a) The warning symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers and children that the product is not for kids, but must not be smaller than three-quarters of an inch in height by one-half of an inch in width; and

(b) The warning symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package, except that a licensee must use a black border around the edges of the white background of the warning

symbol image when the label or packaging is also white to ensure visibility of the warning symbol.

(c) Licensees may download the digital warning symbol from the WPC and print stickers, or purchase and use a sticker made available by the WPC, in lieu of incorporating the warning symbol on the label or packaging as required under subsection (1) of this section. If a licensee elects to use a warning symbol sticker, the sticker:

(i) Must meet all requirements of (a) and (b) of this subsection; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(2) All cannabis products sold at retail must be labeled on the principal display panel or front of the product package with the cannabis universal symbol ("universal symbol") created and made available in digital form to licensees without cost by the ((WSLCB)) LCB. The digital file for the universal symbol is available on the ((WSLCB's)) LCB's website.

(a) The universal symbol must be of a size so as to be legible, readily visible by the consumer, and effective to alert consumers that the product is or contains cannabis, but must not be smaller than three-quarters of an inch in height by three-quarters of an inch in width;

(b) The universal symbol must not be altered or cropped in any way other than to adjust the sizing for placement on the principal display panel or front of the product package; and

(c) Licensees may download the digital universal symbol from the WSLCB's website and print stickers in lieu of incorporating the universal symbol on the label or packaging as required under (a) and (b) of this subsection. If a licensee elects to use a universal symbol sticker, the sticker:

(i) Must meet all requirements of this section; and

(ii) Must not cover or obscure in any way labeling or information required on cannabis products by WAC 314-55-105.

(3) For the purposes of this section, "principal display panel" means the portion(s) of the surface of the immediate ((~~container~~)) package or of any outer ((~~container~~)) package or wrapping, which bear(s) the labeling designed to be most prominently displayed, shown, presented, or examined under conditions of retail sale. "Immediate ((~~container~~)) package" means the external container holding the cannabis product.

AMENDATORY SECTION (Amending WSR 22-14-111, filed 7/6/22, effective 8/6/22)

WAC 314-55-109 Cannabinoid additives—Requirements, restrictions, and quality assurance testing. (1) As provided in RCW 69.50.326 Licensed cannabis producers and licensed cannabis processors may use a cannabidiol (CBD) product obtained from a source not licensed under this chapter, provided the CBD product:

(a) ((Has a THC level of 0.3 percent or less; and)) Is not cannabis or a cannabis product, as defined in chapter 69.50 RCW; and

(b) Has been tested for contaminants and toxins by a testing laboratory accredited under this chapter and in accordance with testing standards established in this section.

(2) Licensed cannabis producers and licensed cannabis processors may use a CBD product obtained from a source not licensed under this chapter and chapter 69.50 RCW as an additive for the purpose of enhancing the CBD concentration of any product authorized for production, processing, and sale under this chapter. However, useable cannabis, except cannabis that is an intermediate product that will be converted into a cannabis-infused product or a cannabis concentrate, may not be treated or otherwise adulterated in any way including the addition of a CBD product consistent with the rules of this chapter. Except as allowed under this section, CBD product additives must be lawfully produced by, or purchased from, a producer or processor licensed under this chapter. The testing requirements for CBD products derived from cannabis produced by cannabis licensees are provided in WAC 314-55-102. The testing requirements in this section are required in addition to quality assurance testing otherwise required under this chapter for cannabis products.

(3) **Traceability requirements.** A licensee must enter CBD products obtained from a source not licensed under this chapter into the state traceability system and keep the information in the traceability system completely up to date, consistent with cannabis and cannabis product recordkeeping and traceability requirements in WAC 314-55-083. A licensee must keep CBD products obtained from a source not licensed under this chapter labeled and quarantined in an area separate from cannabis and cannabis products under video surveillance consistent with the requirements for controlled areas in WAC 314-55-083(3) until the CBD products successfully pass quality assurance testing or are destroyed due to failure of tests as provided in this section. At no time during the quarantine period can the product be handled or moved under any circumstances, except for purposes of deducting samples as required under this section, and is subject to auditing by the ((WSLCB)) LCB or its designee(s). CBD products obtained from a source not licensed under this chapter that fail quality assurance testing as provided in this section must not be added to any cannabis product and must be disposed of consistent with WAC 314-55-097 and the disposal logged into the traceability system consistent with WAC 314-55-083.

(4) **Testing requirements.** The following sample deduction and testing requirements apply to CBD products obtained from a source not licensed under this chapter. Such products must successfully pass quality assurance testing prior to being added to any cannabis product. Samples that fail quality assurance testing and the corresponding products that the samples were deducted from must be disposed of consistent with WAC 314-55-097.

(a) **Sample size and deduction requirements.** Licensed producers, licensed processors, certified labs, and their employees must adhere to the minimum sampling protocols as provided in this section. Samples must be deducted in a way that is most representative of the product the sample is deducted from. The minimum sample size for the testing requirements under this section for CBD products is one percent of the product as packaged by the manufacturer of the CBD product but in no case shall the sample be less than two grams. Licensees, certified labs, and their employees may not adulterate or change in any way the representative sample before the sample is tested.

(i) All samples must be collected/deducted in a sanitary environment using sanitary practices and ensure 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 chapters 16-165 and 16-167 WAC.

(ii) Persons collecting samples must wash their hands prior to collecting a sample, wear appropriate gloves, and must use sanitary utensils and storage devices when collecting samples.

(iii) Samples must be placed in a sanitary plastic or glass container and stored in a location that prevents the propagation of pathogens and other contaminants, such as a secure, low-light, cool and dry location.

(iv) The licensee must maintain the CBD products from which the sample was deducted in a secure, low-light, cool, and dry location to prevent the products from becoming contaminated or degraded prior to the CBD products being added or incorporated into cannabis products after successful passage of testing requirements.

(v) Each quality assurance sample must be clearly marked "quality assurance sample" and be labeled with the following information:

(A) The unique identifier for the product generated by the state traceability system;

(B) The name of the certified lab receiving the sample;

(C) The license number and business or trade name of the licensee sending the sample;

(D) The date the sample was collected; and

(E) The weight of the sample.

(vi) Certified labs may retrieve samples from a cannabis licensee's licensed premises and transport the sample(s) directly to the lab. Certified labs may also return any unused portion of the sample(s).

(b) **Required fields of testing.**

(i) ~~((Potency testing. Potency testing))~~ **Cannabinoid concentration analysis.** Cannabinoid concentration analysis is required to confirm the product is ((less than 0.3 percent THC)) not cannabis or a cannabis product, as defined in chapter 69.50 RCW, contains detectable levels of CBD, and to ((determine)) measure the levels of THC, THC-A, CBD, and CBD-A in the product, as provided in WAC 314-55-102. Synthetic cannabinoids as defined in RCW 69.50.204 are prohibited under RCW 69.50.401 and any test result that suggests the presence of a synthetic cannabinoid must be immediately reported to the ((WSLCB)) board in the required format. The cannabinoid concentration analysis must be conducted consistent with the requirements under WAC 314-55-102.

~~((A) Certified labs must test and report the following cannabinoids to the WSLCB in the state traceability system when testing for potency:~~

~~(I) THCA;~~

~~(II) THC;~~

~~(III) Total THC;~~

~~(IV) CBDA;~~

~~(V) CBD; and~~

~~(VI) Total CBD.~~

~~(B) Calculating total THC and total CBD.~~

~~(I) Total THC must be calculated as follows, where M is the mass or mass fraction of delta-9 THC or delta-9 THCA: M total delta-9 THC = M delta-9 THC + (0.877 x M delta-9 THCA).~~

~~(II) Total CBD must be calculated as follows, where M is the mass or mass fraction of CBD and CBDA: M total CBD = M CBD + (0.877 x M CBDA).~~

~~(C) Regardless of analytical equipment or methodology used for testing, certified labs must accurately measure and report the acidic (THCA and CBDA) and neutral (THC and CBD) forms of the cannabinoids.~~

~~(D))~~ The following ~~((potency))~~ cannabinoid concentration analysis results fail quality control and assurance testing for the purposes of this section and the sample and corresponding product from which the sample was deducted must be disposed of consistent with this section and WAC 314-55-097:

~~((I))~~ (A) The CBD product ~~((tests above 0.3 percent THC))~~ is cannabis or a cannabis product, as defined in chapter 69.50 RCW;

~~((II))~~ (B) The CBD product does not contain any detectable ~~((amounts))~~ levels of CBD or CBD-A; and

~~((III))~~ (C) The sample test results indicate that a substance is present that is not THC, CBD, or inert substance which the THC or CBD is dissolved into.

(ii) Pesticide screening.

~~((Certified third-party labs))~~ Licensees must use a certified laboratory to screen for any pesticides that are not allowed and are designated as having the potential for misuse on a list created, maintained, and periodically updated by the department of health in consultation with the Washington state department of agriculture and the ~~((WSLCB))~~ LCB.

(B) If the ~~((WSLCB))~~ LCB, WSDA, other designee of the ~~((WSLCB))~~ LCB, or certified lab identifies a pesticide that is not allowed for use or application on cannabis under this chapter and is above the action levels provided in WAC 314-55-108, that sample and corresponding product from which the sample was deducted has failed quality assurance testing. A sample that tests at or above the action levels for pesticides consistent with WAC 314-55-108 fails pesticide testing requirements for the purposes of this section. A sample and corresponding product from which the sample was deducted that fails quality assurance testing under this section must be destroyed consistent with WAC 314-55-097.

~~((Certified third-party labs))~~ Cannabis licensees must also use certified laboratories to screen for pyrethrins and piperonyl butoxide (PBO) in samples of CBD products obtained from a source not licensed under this chapter. Certified ~~((third-party labs))~~ laboratories may also screen for additional pesticides not specifically required under this section and per the DOH list, however, any sample that tests at or above the action level for any pesticide(s) as established in WAC 314-55-108 fails the testing requirements under this section and must be disposed of consistent with WAC 314-55-097.

(iii) Heavy metal screening. For the purposes of heavy metal screening, a sample fails quality assurance testing and must be disposed of consistent with WAC 314-55-097 if it meets or exceeds the following limits:

Metal	Limit, µg/daily dose (5 grams)
Inorganic arsenic	10.0
Cadmium	4.1
Lead	6.0
Mercury	2.0

(iv) Residual solvents screening. ~~((Certified labs))~~ Cannabis licensees must use a certified laboratory to test for the solvents listed in the table below at a minimum. Except as otherwise provided in this subsection, a sample and corresponding product from which the sample was deducted fail quality assurance testing for residual sol-

vents and must be disposed of consistent with WAC 314-55-097 if the results meet or exceed the limits provided in the table below. Residual solvent results of more than 5,000 ppm for class three solvents, 50 ppm for class two solvents, and 2 ppm for class one solvents as defined in *United States Pharmacopoeia, USP 30 Chemical Tests / <467> - Residual Solvents (USP <467>)* not listed in the table below fail quality assurance testing.

Solvent	ppm
Acetone	5,000
Benzene	2
Butanes	5,000
Cyclohexane	3,880
Chloroform	2
Dichloromethane	600
Ethyl acetate	5,000
Heptanes	5,000
Hexanes	290
Isopropanol (2-propanol)	5,000
Methanol	3,000
Pentanes	5,000
Propane	5,000
Toluene	890
Xylene*	2,170

* Usually 60% *m*-xylene, 14% *p*-xylene, 9% *o*-xylene with 17% ethyl benzene.

(v) **Microbiological screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for microbiological screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

	Enterobacteria (bile-tolerant gram-negative bacteria)	<i>E. coli</i> (pathogenic strains) and <i>Salmonella spp.</i>
Unprocessed Plant Material	10 ⁴	Not detected in 1g
Extracted or Processed Botanical Product	10 ³	Not detected in 1g

(vi) **Mycotoxin screening.** The sample and corresponding product from which the sample was deducted fail quality assurance testing for mycotoxin screening and must be disposed of consistent with WAC 314-55-097 if the results exceed the following limits:

- (A) Total of Aflatoxin B1, B2, G1, G2: 20 µg/kg of substance; and
 (B) Ochratoxin A: 20 µg/kg of substance.

(5) **Test results reporting requirements.** Cannabis licensees must use a certified ((~~labs must~~)) laboratory to report all test results as required by this section into the state traceability system within 24 hours of completion of the tests.

(6) **Retesting.** At the request of the producer or processor, the ((WSLCB)) LCB may authorize a retest to validate a failed test result

on a case-by-case basis. All costs of the retest will be borne by the producer or the processor requesting the retest. ((Potency)) Retesting cannabinoid concentrations will not generally ((not)) be authorized.

(7) **Remediation.** Producers and processors may remediate failed products so long as the remediation method does not impart any toxic or deleterious substance to the CBD products obtained from a source outside the regulated system. Remediation solvents or methods used on the product must be disclosed to a licensed processor the producer or producer/processor transfers the products to; a licensed retailer carrying cannabis products derived from the remediated product; or consumer upon request. The product(s) the failed sample(s) were deducted from must be remediated using the same remediation technique. No remediated CBD products obtained from a source outside the regulated system may be sold, transported, or used in the processing of cannabis products until the completion and successful passage of quality assurance testing as required in this section.

(8) A licensee or certified lab that violates any of the provisions of this section is subject to disciplinary action, including possible summary suspension or revocation of the producer license, processor license, producer/processor license, or lab certification.

WSR 24-16-128
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed August 6, 2024, 11:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-12-070.

Title of Rule and Other Identifying Information: Factory assembled structures (FAS) rules: WAC 296-150C-3000 Commercial coach fees, 296-150F-3000 Factory-built housing and commercial structure fees, 296-150I-3000 Penalties, fees, and refunds, 296-150M-3000 Manufactured/mobile home fees, 296-150P-3000 Recreational park trailer fees, 296-150R-3000 Recreational vehicle fees, 296-150T-3000 Factory-built temporary worker housing fees, and 296-150V-3000 Conversion vendor units and medical units—Fees.

Hearing Location(s): On September 18, 2024, at 9:00 a.m., at the Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically <https://lni-wa.gov.zoom.us/j/81144054133?pwd=GD6nUwDzJwpsvENBpBchab0wZEQ81G.1>, Passcode %=y=X^7D; or join by phone (audio only) 253-215-8782, Meeting ID 811 4405 4133, Passcode 63666985. The in-person and virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: October 22, 2024.

Submit Written Comments to: Meagan Edwards, L&I, Field Services and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email Meagan.Edwards@lni.wa.gov, fax 360-704-1980, beginning August 7, 2024, at 8 a.m., by September 18, 2024, at 5 p.m.

Assistance for Persons with Disabilities: Contact Meagan Edwards, phone 360-522-0125, fax 360-704-1980, email Meagan.Edwards@lni.wa.gov, by September 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to propose amendments to FAS rules to increase fees by the fiscal growth factor rate of 6.40 percent. The fee increase is the maximum allowed by the state office of financial management for fiscal year 2025.

Reasons Supporting Proposal: A fee increase is needed to cover operating costs for the FAS program. The current fee levels are insufficient to cover current program expenses. The increase will ensure that revenues match expenditures.

Statutory Authority for Adoption: Chapter 43.22 RCW, Department of labor and industries, and chapter 43.22A RCW, Mobile and manufactured home installation.

Statute Being Implemented: Chapter 43.22 RCW, Department of labor and industries, and chapter 43.22A RCW, Mobile and manufactured home installation.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Melissa McBride, Program Manager, Tumwater, Washington, 360-902-5571; Implementation and Enforcement: Steve Reinmuth, Assistant Director, Tumwater, Washington, 360-902-6348.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule proposal is exempt from the cost-benefit analysis requirement under the Administrative Procedure Act. RCW 34.05.328 (5) (b) (vi) exempts rules that set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

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

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:

Is fully exempt.

August 6, 2024
 Joel Sacks
 Director

OTS-5603.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150C-3000 Commercial coach fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction: VB	4. Square footage of building:
5. Valuation of the building shall be based on the following:	
• Square footage of the building multiplied by the amount in the BVD valuation table	\$
6. Total valuation:	\$
PERMIT FEE	
7. Calculate from building permit fee table using the total valuation	\$
STRUCTURAL PLAN REVIEW FEE*	
8. One year design review: (Valid for one year) multiply the total on line 7 by ((0.454)) 0.483...	\$
9. Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.649)) 0.690.....	\$
* Minimum plan review fee is 2 1/2 hours x ((\$98.70)) \$105.00 per hour	
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)	
10. Fire and life-safety plan review:	
a. One year design—Multiply the total on line 7 by ((0.194)) 0.206.....	\$
b. Master plan design—Multiply the total on line 7 by ((0.323)) 0.343.....	\$
• Required for all structures that are more than 4,000 square feet and for all A and I occupancy	
PLUMBING PLAN-REVIEW FEE	
11. Plumbing ((\$23.20 + \$7.50)) \$24.60 + \$7.90 per fixture	\$
12. Medical gas ((\$23.20 + \$7.50)) \$24.60 + \$7.90 per gas outlet	\$
DESIGN RENEWAL OR ADDENDUM	

13.	((12.99%)) 13.82% of building permit + ((\$98.70)) \$105.00	\$
RESUBMITTAL			
14.	((12.99%)) 13.82% of building permit + ((\$98.70)) \$105.00	\$
ELECTRICAL PLAN-REVIEW FEE			
15.	See WAC 296-46B-906(9) for electrical review fees		
INSIGNIA FEES			
16.	FIRST SECTION	\$	((29.50)) 31.30
17.	EACH ADDITIONAL SECTION	\$	((18.10)) 19.20
TOTAL FEES			
18.	Total plan review fees:	Add lines 8 or 9 and 10 through 15	\$
19.	Total fees due:	Includes plan fees and insignia fees	\$
20.	Total amount paid		\$

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof

INITIAL FILING FEE (first time applicants)	(\$48.70) \$51.80
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((1-299*)) 1.382*	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((1-299*)) 1.382*	
RENEWAL FEE - 10% of permit fee × ((1-299)) 1.382 +	(\$98.70) \$105.00
RESUBMIT FEE - 10% of permit fee × ((1-299)) 1.382 +	(\$98.70) \$105.00
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((1-299)) 1.382 +	(\$98.70) \$105.00
PLUMBING PLAN FEE, ((\$23.20)) \$24.60 + PER FIXTURE FEE of	(\$7.50) \$7.90
MEDICAL GAS PLAN FEE, ((\$23.20)) \$24.60 + PER OUTLET FEE of	(\$7.50) \$7.90
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((1-299)) 1.382	
One year design 15% of the permit fee × ((1-299)) 1.382	
ELECTRICAL PLAN REVIEW - Find fee @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN (minimum 3 hours)	(\$98.70) \$105.00 per hour
INITIAL FEE - ONE YEAR DESIGN (minimum 2 hours)	(\$98.70) \$105.00 per hour
RENEWAL FEE (minimum 1 hour)	(\$98.70) \$105.00 per hour
ADDENDUM (minimum 1 hour)	(\$98.70) \$105.00 per hour

PLANS APPROVED BY LICENSED PROFESSIONALS - 10% of permit fee × ((1-299)) 1.382 +	((98.70)) \$105.00
FEEES FOR RESUBMITTAL OF DESIGN PLANS APPROVED BY A PROFESSIONAL OR FIRM	((98.70)) \$105.00 per hour
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS - 5% of permit fee × ((1-299)) 1.382 +	((98.70)) \$105.00
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time* and mileage***)	((98.70)) \$105.00
TRAVEL (Per hour)	((98.70)) \$105.00
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	((98.70)) \$105.00
TRAVEL (Per hour**)	((98.70)) \$105.00
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
ALTERATION INSPECTION (one hour minimum + alteration insignia fee)	((128.30)) \$136.50
INSIGNIA FEES:	
FIRST SECTION (NEW or ALTERATION)	((29.50)) \$31.30
EACH ADDITIONAL SECTION (NEW or ALTERATION)	((18.10)) \$19.20
REISSUED-LOST/DAMAGED	((18.10)) \$19.20
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	((98.70)) \$105.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((18.10)) \$19.20
REFUND FEE	((32.30)) \$34.30

*Minimum plan review fee is 2 1/2 hours at the field technical service rate
 **Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments
 ***Per state guidelines
 ****Actual charges incurred

OTS-5604.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150F-3000 Factory-built housing and commercial structure fees.

GENERAL INFORMATION	
Manufacture:	Manufacturer #
1. Building use:	2. Building occupancy:
3. Type of construction:	4. Square footage of building:
5. Valuation of the building shall be based on the following:	
<ul style="list-style-type: none"> Square footage of the building multiplied by the amount in the BVD valuation table 	\$
6. Total valuation:	\$

PERMIT FEE		
7.	Calculate from building permit fee table using the total valuation	\$
STRUCTURAL PLAN REVIEW FEE*		
8.	One year design review: (Valid for one year) multiply the total on line 7 by ((0.454)) 0.483	\$
9.	Master plan review: (Valid for the code cycle) multiply the total on line 7 by ((0.649)) 0.690	\$
* Minimum plan review fee is 2 1/2 hours x ((\$111.10)) \$118.20 per hour		
FIRE AND LIFE-SAFETY PLAN REVIEW FEE (if required)		
10.	Fire and life-safety plan review:	
a.	One year design—Multiply the total on line 7 by ((0.194)) 0.206	\$
b.	Master plan design—Multiply the total on line 7 by ((0.323)) 0.343	\$
• Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy		
PLUMBING PLAN-REVIEW FEE		
11.	Plumbing ((\$23.20 + \$7.50)) \$24.60 + \$7.90 per fixture	\$
12.	Medical gas ((\$23.20 + \$7.50)) \$24.60 + \$7.90 per gas outlet	\$
DESIGN RENEWAL OR ADDENDUM		
13.	((12.99%)) 13.82% of building permit + ((\$111.10)) \$118.20	\$
RESUBMITTAL		
14.	((12.99%)) 13.82% of building permit + ((\$111.10)) \$118.20	\$
ELECTRICAL PLAN-REVIEW FEE		
15.	See WAC 296-46B-906(9) for electrical review fees	
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)		
16.	Notification to local enforcement agency fee:	\$ ((47.70)) 50.70
INSIGNIA FEES		
17.	FIRST SECTION	\$ ((355.60)) 378.30
18.	EACH ADDITIONAL SECTION	\$ ((31.60)) 33.60
TOTAL FEES		
19.	Total plan review fees: Add lines 8 or 9 and 10 through 15	\$
20.	Total fees due: Includes plan fees, insignia fees, and NLEA fees	\$
21.	Total amount paid	\$

Square Foot Construction Costs (BVD Table)^{a, b, c, and d}

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
A-1 Assembly, theaters, with stage	211.15	203.98	198.73	190.05	178.25	173.30	183.31	162.97	156.05
A-1 Assembly, theaters, without stage	193.16	185.99	180.74	172.06	160.31	155.36	165.32	145.04	138.12
A-2 Assembly, nightclubs	163.22	158.56	154.17	148.00	138.96	135.24	142.52	126.06	121.36
A-2 Assembly, restaurants, bars, banquet halls	162.22	157.56	152.17	147.00	136.96	134.24	141.52	124.06	120.36
A-3 Assembly, churches	195.10	187.93	182.68	174.00	162.21	157.26	167.26	146.94	140.02
A-3 Assembly, general, community halls, libraries, museums	163.81	156.64	150.39	142.71	129.91	125.96	135.97	114.63	108.71
A-4 Assembly, arenas	192.16	184.99	178.74	171.06	158.31	154.36	164.32	143.04	137.12

Group (2009 International Building Code)	IA	IB	IIA	IIB	IIIA	IIIB	IV	VA	VB
B Business	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
E Educational	176.97	170.85	165.64	158.05	146.37	138.98	152.61	127.91	123.09
F-1 Factory and industrial, moderate hazard	97.87	93.28	87.66	84.46	75.44	72.26	80.79	62.17	58.48
F-2 Factory and industrial, low hazard	96.87	92.28	87.66	83.46	75.44	71.26	79.79	62.17	57.48
H-1 High hazard, explosives	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	N.P.
H-2, 3, 4 High hazard	91.74	87.15	82.53	78.33	70.49	66.31	74.66	57.22	52.53
H-5 HPM	164.76	158.78	153.49	145.97	132.45	127.63	139.92	116.43	110.93
I-1 Institutional, supervised environment	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
I-2 Institutional, hospitals	277.07	271.09	265.80	258.28	243.90	N.P.	252.23	227.88	N.P.
I-2 Institutional, nursing homes	193.00	187.02	181.74	174.22	160.98	N.P.	168.16	144.96	N.P.
I-3 Institutional, restrained	187.72	181.73	176.45	168.93	156.64	150.82	162.87	140.63	133.13
I-4 Institutional, day care facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
M Mercantile	121.57	116.92	111.53	106.36	96.96	94.25	100.88	84.07	80.36
R-1 Residential, hotels	166.21	160.43	155.99	149.29	137.39	133.80	145.70	123.43	119.10
R-2 Residential, multiple family	139.39	133.61	129.17	122.47	111.23	107.64	119.54	97.27	92.94
R-3 Residential, one and two family	131.18	127.60	124.36	121.27	116.43	113.53	117.42	108.79	101.90
R-4 Residential, care/assisted living facilities	164.82	159.04	154.60	147.90	135.84	132.25	144.15	121.88	117.55
S-1 Storage, moderate hazard	90.74	86.15	80.53	77.33	68.49	65.31	73.66	55.22	51.53
S-2 Storage, low hazard	89.74	85.15	80.53	76.33	68.49	64.31	72.66	55.22	50.53
U Utility, miscellaneous	71.03	67.02	62.71	59.30	52.86	49.43	56.33	41.00	39.06

- a Private garages use utility, miscellaneous
- b Unfinished basements (all use group) = \$15.00 per sq. ft.
- c For shell only buildings deduct 20 percent
- d N.P. = not permitted

Table 1-A - Building Permit Fees

Total Valuation	Fee
\$1.00 to \$500.00	\$23.50
\$501.00 to \$2,000.00	\$23.50 for the first \$500.00 plus \$3.05 for each additional \$100.00, or fraction thereof, to and including \$2,000.00
\$2,001.00 to \$25,000.00	\$69.25 for the first \$2,000.00 plus \$14.00 for each additional \$1,000.00, or fraction thereof, to and including \$25,000.00
\$25,001.00 to \$50,000.00	\$391.25 for the first \$25,000.00 plus \$10.10 for each additional \$1,000.00, or fraction thereof, to and including \$50,000.00
\$50,001.00 to \$100,000.00	\$643.75 for the first \$50,000.00 plus \$7.00 for each additional \$1,000.00, or fraction thereof, to and including \$100,000.00
\$100,001.00 to \$500,000.00	\$993.75 for the first \$100,000.00 plus \$5.60 for each additional \$1,000.00, or fraction thereof, to and including \$500,000.00
\$500,001.00 to \$1,000,000.00	\$3,233.75 for the first \$500,000.00 plus \$4.75 for each additional \$1,000.00, or fraction thereof, to and including \$1,000,000.00

Total Valuation	Fee
\$1,000,001.00 and up	\$5,608.75 for the first \$1,000,000.00 plus \$3.65 for each additional \$1,000.00, or fraction thereof
INITIAL FILING FEE (first time applicants)	((\$86.70) <u>\$92.20</u>)
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN (code cycle), 50% of permit fee × ((1-299*)) <u>1.382*</u>	
INITIAL FEE - ONE YEAR DESIGN, 35% of permit fee × ((1-299*)) <u>1.382*</u>	
RENEWAL FEE - 10% of permit fee × ((1-299)) <u>1.382</u> +	((\$111.10) <u>\$118.20</u>)
RESUBMIT FEE - 10% of permit fee × ((1-299)) <u>1.382</u> +	((\$111.10) <u>\$118.20</u>)
ADDENDUM (approval expires on same date as original plan) - 10% of permit fee × ((1-299)) <u>1.382</u> +	((\$111.10) <u>\$118.20</u>)
PLUMBING PLAN FEE, ((\$23.20) <u>\$24.60</u>) + PER FIXTURE FEE of	((\$7.50) <u>\$7.90</u>)
MEDICAL GAS PLAN FEE, ((\$23.20) <u>\$24.60</u>) + PER OUTLET FEE of	((\$7.50) <u>\$7.90</u>)
Note: Mechanical systems are included in the primary plan fee	
FIRE SAFETY PLAN REVIEW AS REQUIRED (Required for all structures that are more than 4,000 square feet and for all A, I, and H occupancy)	
MASTER DESIGN - 25% of permit fee × ((1-299)) <u>1.382</u>	
One year design - 15% of the permit fee × ((1-299)) <u>1.382</u>	
ELECTRICAL PLAN REVIEW - Find fees @ http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE-MASTER DESIGN (minimum 3 hours)	((\$111.10) <u>\$118.20</u> per hour)
INITIAL FEE-ONE YEAR DESIGN (minimum 2 hours)	((\$111.10) <u>\$118.20</u> per hour)
RENEWAL FEE (minimum 1 hour)	((\$111.10) <u>\$118.20</u>)
ADDENDUM (minimum 1 hour)	((\$111.10) <u>\$118.20</u> per hour)
PLANS APPROVED BY LICENSED PROFESSIONALS - 10% of permit fee × ((1-299)) <u>1.382</u> +	((\$111.10) <u>\$118.20</u>)
FEES FOR RESUBMITTAL OF DESIGN PLANS APPROVED BY A PROFESSIONAL OR FIRM	((\$111.10) <u>\$118.20</u> per hour)
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST THREE SETS - 5% of permit fee × ((1-299)) <u>1.382</u> +	((\$111.10) <u>\$118.20</u>)
DEPARTMENT INSPECTION FEES	
INSPECTION/REINSPECTION (Per hour** plus travel time** and mileage***)	((\$111.10) <u>\$118.20</u>)
TRAVEL (Per hour**)	((\$111.10) <u>\$118.20</u>)
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour**)	((\$111.10) <u>\$118.20</u>)
TRAVEL (Per hour**)	((\$111.10) <u>\$118.20</u>)
PER DIEM***	
HOTEL****	
MILEAGE***	
RENTAL CAR****	
PARKING****	
AIRFARE****	
INSIGNIA FEES:	
FIRST SECTION	((\$355.60) <u>\$378.30</u>)
EACH ADDITIONAL SECTION	((\$31.60) <u>\$33.60</u>)
REISSUED-LOST/DAMAGED	((\$86.70) <u>\$92.20</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour** plus travel time** and mileage***)	((\$111.10) <u>\$118.20</u>)
NOTIFICATION TO LOCAL ENFORCEMENT AGENCY (NLEA)	((\$47.70) <u>\$50.70</u>)

PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	(((\$17.60)) \$18.70
REFUND FEE	(((\$32.30)) \$34.30

*Minimum plan review fee is 2 1/2 hours at the field technical service rate.
 **Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
 ***Per state guidelines.
 ****Actual charges incurred.

OTS-5605.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150I-3000 Penalties, fees, and refunds.

Penalties

(1) Monetary penalties for infractions listed in WAC 296-150I-0210 may be assessed for each violation of chapter 43.22A RCW in the following amount:

(a) Failure to have a certified installer on the installation site whenever installation work is being performed:

First Final Violation	\$250.00
Each Additional Final Violation	\$1,000.00

(b) Failure to correct all nonconforming aspects of the installation identified by the local enforcement agency or by an authorized representative of the department within thirty days of issuance of notice of the same:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(c) Failure by a certified installer to affix a certification tag to an installed manufactured or mobile home:

First Final Violation	Warning
Second Final Violation	\$250.00
Third Final Violation	\$500.00
Each Additional Final Violation	\$1,000.00

(d) Transfer of certification tag(s) from a certified installer to another certified installer without prior written approval of the department:

First Final Violation	Warning
Each Additional Final Violation	\$250.00

(e) Transfer of certification tag(s) from a certified installer to a noncertified installer:

First Final Violation to Each Contractor in Violation	\$250.00
Each Additional Final Violation to Each Contractor in Violation	\$1,000.00

Fees and Refunds

The following fees are payable to the department in advance:

Installer test and certification	(\$321.80))	
	<u>\$342.30</u>	
Homeowner test and approval	(\$160.80))	
	<u>\$171.00</u>	
Manufactured home installation inspector test and certificate	(\$160.80))	
	<u>\$171.00</u>	
Refund	(\$31.90))	
	<u>\$33.90</u>	
Certification renewal	(\$160.80))	
	<u>\$171.00</u>	
Continuing education class	(\$64.10))	
	<u>\$68.20</u>	
Retake failed examination and training at scheduled class	(\$48.10))	
	<u>\$51.10</u>	
Manufactured home installer training manual (on thumb drive)	(\$15.90))	
	<u>\$16.90</u>	
Installer certification tag	(\$11.00))	
	<u>\$11.70</u>	
L&I manufactured home installation inspection permit*	See WAC 296-150M-3000	for fee

* Only available when L&I has an interagency agreement with the local enforcement agency in accordance with WAC 296-150I-0370.

(2) The department shall refund fees paid for training and certification or certification renewal as a manufactured home installer if the application is denied for failure of the applicant to comply with the requirements of chapter 43.22A RCW or these rules.

(3) If an applicant has paid fees to attend training or to take an examination and is unable to attend the scheduled training or examination, the applicant may:

- (a) Change to another scheduled training and examination; or
- (b) Request a refund.

(4) An applicant who fails the examination shall not be entitled to a refund.

OTS-5606.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150M-3000 Manufactured/mobile home fees.

DESIGN PLAN FEES:	
STRUCTURAL ALTERATION	((216.00)) <u>\$229.80</u>
RESUBMITTAL FEE	((95.30)) <u>\$101.30</u>
ADDENDUM (Approval expires on the same date as original plan.)	((95.30)) <u>\$101.30</u>
ELECTRONIC PLAN SUBMITTAL FEE ((6.50)) <u>\$6.90</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT INSPECTION FEES:	
Combination permit - Mechanical and electrical inspections	((236.10)) <u>\$251.20</u>
Heat pump	((236.10)) <u>\$251.20</u>

Air conditioning	((236.10)) <u>\$251.20</u>
Air conditioning with replacement furnace	((236.10)) <u>\$251.20</u>
Gas furnace installation includes gas piping	((236.10)) <u>\$251.20</u>
Fire safety inspection	((236.10)) <u>\$251.20</u>
MECHANICAL	
Gas*** piping	((104.80)) <u>\$111.50</u>
Wood stove	((104.80)) <u>\$111.50</u>
Pellet stove	((104.80)) <u>\$111.50</u>
Gas*** Room heater	((104.80)) <u>\$111.50</u>
Gas*** Decorative appliance	((104.80)) <u>\$111.50</u>
Range: Changing from electric to gas***	((104.80)) <u>\$111.50</u>
Gas*** Water heater replacement	((78.40)) <u>\$83.40</u>
ELECTRICAL	
Electric water heater replacement	((131.20)) <u>\$139.50</u>
Electric water heater replacing gas*** water heater	((131.20)) <u>\$139.50</u>
Each added or modified 120 volt circuit (maximum charge is two circuits)	((131.20)) <u>\$139.50</u>
Each added 240 volt circuit (for other than heat pumps, air conditioners, furnaces, water heaters, ranges, hot tubs or spas)	((131.20)) <u>\$139.50</u>
Hot tub or spa (power from home electrical panel)	((131.20)) <u>\$139.50</u>
Replace main electrical panel/permanently installed transfer equipment	((131.20)) <u>\$139.50</u>
Low voltage fire/intrusion alarm	((131.20)) <u>\$139.50</u>
Any combination of furnace, range and water heater changing from electric to gas***	((131.20)) <u>\$139.50</u>
PLUMBING	
Fire sprinkler system	((294.90)) <u>\$313.70</u>
Each added fixture	((78.40)) <u>\$83.40</u>
Replacement of water piping system (this includes two inspections)	((263.30)) <u>\$280.10</u>
STRUCTURAL	
Inspection as part of a mechanical/fire safety installation (cut truss/floor joist, sheet rocking)	((117.60)) <u>\$125.10</u>
Reroofs (may require a plan review)	((210.30)) <u>\$223.70</u>
Changes to home when additions bear loads on home per the design of a professional (also requires a plan review)	((210.30)) <u>\$223.70</u>
Other structural changes (may require a plan review)	((210.30)) <u>\$223.70</u>
MISCELLANEOUS	
OTHER REQUIRED INSPECTIONS (per hour*)	((86.00)) <u>\$91.50</u>
ALL REINSPECTIONS (per hour*)	((86.00)) <u>\$91.50</u>
Manufactured home installation inspection permit (only available in cities and counties with L&I inspection contract)	((602.90)) <u>\$641.40</u>
Refund	((25.90)) <u>\$27.50</u>
INSIGNIA FEES:	
REISSUED - LOST/DAMAGED	((25.90)) <u>\$27.50</u>
IPIA	
DEPARTMENT AUDIT FEES	
REGULARLY SCHEDULED IPIA AUDIT:	
First inspection on each section (one time only)	((43.10)) <u>\$45.80</u>
Second and succeeding inspections of unlabeled sections (per hour*)	((95.30)) <u>\$101.30</u>
OTHER IPIA FEES:	
Red tag removal during a regularly scheduled IPIA audit (per hour* separate from other fees)	((95.30)) <u>\$101.30</u>
Red tag removal at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Increased frequency surveillance (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Attendance at manufacturers training classes (per hour* only)	((95.30)) <u>\$101.30</u>
Subpart "I" investigations (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Alterations to a labeled unit (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
IPIA Issues/Responses (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Monthly surveillance during a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Monthly surveillance at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((95.30)) <u>\$101.30</u>
Plant certifications, recertifications and addenda updates (per hour* plus travel time* and mileage** per each inspector)	((95.30)) <u>\$101.30</u>

Response to HBT audit during a regularly scheduled IPIA audit (per hour*)	((\$95.30) <u>\$101.30</u>)
Response to HBT audit at a time other than a regularly scheduled IPIA audit (per hour* plus travel time* and mileage**)	((\$95.30) <u>\$101.30</u>)
Alternative construction (AC) letter inspections at placement site (per hour* plus travel time* and mileage**)	((\$95.30) <u>\$101.30</u>)
Replacement of HUD labels (per hour* plus travel time* and mileage**)	((\$95.30) <u>\$101.30</u>)
State administrative agency (SAA) inspection fee (per hour* plus travel time* and mileage**)	((\$95.30) <u>\$101.30</u>)
State administrative agency (SAA) dispute resolution filing fee	((\$95.30) <u>\$101.30</u>)
State administrative agency (SAA) dispute resolution (per hour*)	((\$95.30) <u>\$101.30</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour plus travel time* and mileage**)	((\$88.60) <u>\$94.20</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (one free copy per year upon request)	((\$17.30) <u>\$18.40</u>)
VARIANCE INSPECTION FEE	((\$210.30) <u>\$223.70</u>)
HOMEOWNER REQUESTED INSPECTION	((\$210.30) <u>\$223.70</u>)
DECERTIFICATION OF A MOBILE/MANUFACTURED HOME	((\$210.30) <u>\$223.70</u>)
DEMOLITION OF A MOBILE/MANUFACTURED HOME	((\$210.30) <u>\$223.70</u>)
ENERGY CONSERVATION PERMIT	((\$35.60) <u>\$37.80</u>)

NOTE: Local jurisdictions may have other fees that apply.

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Gas means all gases; natural, propane, etc.

OTS-5607.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150P-3000 Recreational park trailer fees.

INITIAL FILING FEE	((\$44.90) <u>\$47.70</u>)
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE WITHOUT STRUCTURAL REQUIREMENTS	((\$127.50) <u>\$135.60</u>)
NEW PLAN REVIEW FEE WITH STRUCTURAL REQUIREMENTS	((\$168.60) <u>\$179.30</u>)
RESUBMITTAL FEE	((\$91.20) <u>\$97.00</u>)
ADDENDUM (Approval expires on same date as original plan.)	((\$91.20) <u>\$97.00</u>)
PLANS APPROVED BY LICENSED PROFESSIONALS	((\$31.80) <u>\$33.80</u>)
FEES FOR RESUBMITTAL OF DESIGN PLANS APPROVED BY A PROFESSIONAL OR FIRM	((\$91.20) <u>\$97.00</u> per hour)
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	((\$91.20) <u>\$97.00</u>)
TRAVEL (per hour)*	((\$91.20) <u>\$97.00</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	((\$91.20) <u>\$97.00</u>)
TRAVEL (per hour)*	((\$91.20) <u>\$97.00</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	

PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	(((\$136.20)) \$144.90
INSIGNIA FEES:	
STATE CERTIFIED	(((\$32.30)) \$34.30
ALTERATION	(((\$44.90)) \$47.70
REISSUED-LOST/DAMAGED	(((\$16.50)) \$17.50
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	(((\$91.20)) \$97.00
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	(((\$16.70)) \$17.70
REFUND FEE	(((\$32.30)) \$34.30

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

OTS-5608.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150R-3000 Recreational vehicle fees.

STATE PLAN	
INITIAL FILING FEE	(((\$38.90)) \$41.30
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE	(((\$108.80)) \$115.70
RESUBMITTAL FEE	(((\$78.60)) \$83.60
ADDENDUM (Approval expires on same date as original plan.)	(((\$78.60)) \$83.60
PLANS APPROVED BY LICENSED PROFESSIONALS	(((\$15.90)) \$16.90
FEES FOR RESUBMITTAL OF DESIGN PLANS APPROVED BY A PROFESSIONAL OR FIRM	(((\$78.70)) \$83.70 per hour
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	(((\$78.70)) \$83.70
TRAVEL (per hour)*	(((\$78.70)) \$83.70
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	(((\$78.70)) \$83.70
TRAVEL (per hour)*	(((\$78.70)) \$83.70
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	(((\$117.70)) \$125.20
INSIGNIA FEES:	
STATE CERTIFIED	(((\$28.90)) \$30.70
ALTERATION	(((\$38.90)) \$41.30

REISSUED-LOST/DAMAGED	((\$13.90)) <u>\$14.70</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	((\$78.70)) <u>\$83.70</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	((\$14.60)) <u>\$15.50</u>

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
 **Per state guidelines.
 ***Actual charges incurred.

SELF CERTIFICATION	
INITIAL FILING FEE	((\$38.90)) <u>\$41.30</u>
DESIGN PLAN FEES:	
NEW PLAN REVIEW FEE (one time fee)	((\$110.30)) <u>\$117.30</u>
RESUBMITTAL FEE	((\$78.70)) <u>\$83.70</u>
ADDENDUM (Approval expires on same date as original plan.)	((\$78.70)) <u>\$83.70</u>
ELECTRONIC PLAN SUBMITTAL FEE ((\$5.80)) <u>\$6.10</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.	
DEPARTMENT AUDIT FEES:	
AUDIT (per hour)*	((\$78.70)) <u>\$83.70</u>
TRAVEL (per hour)*	((\$78.70)) <u>\$83.70</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING	
AIRFARE***	
DEPARTMENT INSPECTION FEES:	
INSPECTION (per hour)*	((\$78.70)) <u>\$83.70</u>
TRAVEL (per hour)*	((\$78.70)) <u>\$83.70</u>
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
SELF CERTIFIED	((\$28.90)) <u>\$30.70</u>
ALTERATION	((\$38.90)) <u>\$41.30</u>
REISSUED-LOST/DAMAGED	((\$13.90)) <u>\$14.70</u>
OTHER FEES:	
FIELD TECHNICAL SERVICE (per hour* plus travel time* and mileage**)	((\$78.70)) <u>\$83.70</u>
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year)	((\$14.60)) <u>\$15.50</u>
REFUND FEE	((\$28.90)) <u>\$30.70</u>

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.
 **Per state guidelines.
 ***Actual charges incurred.

OTS-5609.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

WAC 296-150T-3000 Factory-built temporary worker housing fees.

INITIAL FILING FEE	((\$68.20) <u>\$72.50</u>)
DESIGN PLAN FEES:	
INITIAL ONE YEAR DESIGN	((\$198.50) <u>\$211.20</u>)
RENEWAL FEE	((\$68.20) <u>\$72.50</u>)
RESUBMIT FEE	((\$98.70) <u>\$105.00</u>)
ADDENDUM (Approval expires on same date as original plan)	((\$98.70) <u>\$105.00</u>)
ELECTRONIC PLAN SUBMITTAL FEE ((\$6.60) <u>\$7.00</u> per page for the first set of plans and \$1.00 per page for each additional set of plans. These fees are in addition to any applicable design plan fees required under this section.)	
Supplemental submissions of plans (resubmittals, addendums, renewals, code updates, etc.) shall be charged per hour or fraction of an hour*	((\$117.10) <u>\$124.50</u>)
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((\$18.40) <u>\$19.20</u>)
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((\$98.70) <u>\$105.00</u>)
TRAVEL (Per hour)*	((\$98.70) <u>\$105.00</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
DEPARTMENT AUDIT FEES:	
AUDIT (Per hour*)	((\$98.70) <u>\$105.00</u>)
TRAVEL (Per hour*)	((\$98.70) <u>\$105.00</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
INSIGNIA FEES:	
FIRST SECTION	((\$278.60) <u>\$296.40</u>)
EACH ADDITIONAL SECTION	((\$26.60) <u>\$28.30</u>)
REISSUED-LOST/DAMAGED	((\$68.20) <u>\$72.50</u>)
ELECTRICAL COMMERCIAL/INDUSTRIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	((\$288.50) <u>\$306.90</u>)
Additional Feeder	((\$54.50) <u>\$57.90</u>)
ELECTRICAL MULTIFAMILY RESIDENTIAL	
Electrical Service/feeders 200 Amperage plus	
Service/feeder	((\$152.80) <u>\$162.50</u>)
Additional Feeder	((\$38.60) <u>\$41.00</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((\$98.70) <u>\$105.00</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free per year)	((\$18.40) <u>\$19.20</u>)
REFUND FEE	((\$32.30) <u>\$34.30</u>)

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

OTS-5610.1

AMENDATORY SECTION (Amending WSR 23-21-084, filed 10/17/23, effective 12/1/23)

**WAC 296-150V-3000 Conversion vendor units and medical units—
Fees.**

INITIAL FILING FEE	((\$48.70) <u>\$51.80</u>)
DESIGN PLAN FEES:	
INITIAL FEE - MASTER DESIGN	((\$338.80) <u>\$360.40</u>)
INITIAL FEE - ONE YEAR DESIGN	((\$138.40) <u>\$147.20</u>)
RENEWAL FEE	((\$58.60) <u>\$62.30</u>)
RESUBMIT FEE	((\$98.70) <u>\$105.00</u>)
ADDENDUM (Approval expires on same date as original plan)	((\$98.70) <u>\$105.00</u>)
PLANS APPROVED BY LICENSED PROFESSIONALS	((\$86.10) <u>\$91.60</u>)
FEES FOR RESUBMITTAL OF DESIGN PLANS APPROVED BY A PROFESSIONAL OR FIRM	((\$91.10) <u>\$96.90</u> per hour)
ELECTRICAL PLAN REVIEW - For medical units, find fees at http://apps.leg.wa.gov/wac/default.aspx?cite=296-46B-906	
RECIPROCAL PLAN REVIEW:	
INITIAL FEE - MASTER DESIGN	((\$150.80) <u>\$160.40</u>)
INITIAL FEE - ONE YEAR DESIGN	((\$91.10) <u>\$96.90</u>)
RENEWAL FEE	((\$91.10) <u>\$96.90</u>)
ADDENDUM	((\$91.10) <u>\$96.90</u>)
APPROVAL OF EACH SET OF DESIGN PLANS BEYOND FIRST TWO SETS	((\$18.10) <u>\$19.20</u>)
DEPARTMENT INSPECTION FEES:	
INSPECTION/REINSPECTION (Per hour* plus travel time* and mileage**)	((\$98.70) <u>\$105.00</u>)
TRAVEL (Per hour)*	((\$98.70) <u>\$105.00</u>)
PER DIEM**	
HOTEL***	
MILEAGE**	
RENTAL CAR***	
PARKING***	
AIRFARE***	
ALTERATION INSPECTION (One hour plus insignia alteration fee)	((\$147.90) <u>\$157.30</u>)
INSIGNIA FEES:	
FIRST SECTION/ALTERATION	((\$28.20) <u>\$30.00</u>)
REISSUED-LOST/DAMAGED	((\$18.10) <u>\$19.20</u>)
EXEMPT	((\$48.70) <u>\$51.80</u>)
OTHER FEES:	
FIELD TECHNICAL SERVICE (Per hour* plus travel time* and mileage**)	((\$98.70) <u>\$105.00</u>)
PUBLICATION PRINTING AND DISTRIBUTION OF RCWs AND WACs (One free copy per year upon request)	((\$18.10) <u>\$19.20</u>)
REFUND FEE	((\$32.30) <u>\$34.30</u>)

*Minimum charge of 1 hour; time spent greater than 1 hour is charged in 1/2 hour increments.

**Per state guidelines.

***Actual charges incurred.

WSR 24-16-130
PROPOSED RULES
LIQUOR AND CANNABIS
BOARD

[Filed August 6, 2024, 12:11 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-23-062.

Title of Rule and Other Identifying Information: Chapter 314-55 WAC; rule language is being proposed to WAC 314-55-570 to implement E2SSB 5080 (chapter 220, Laws of 2023) to expand and improve the social equity in cannabis program, including revisions to the scoring and application process, county licensing thresholds, and local jurisdiction objections.

Hearing Location(s): On September 11, 2024, at 10:00 a.m. All public liquor and cannabis board (board) activity will be held in a "hybrid" environment. This means that the public will have options for in person or virtual attendance. The boardroom headquarters building at 1025 Union Avenue, Olympia, WA 98504 will be open for in-person attendance and the public may also log in using a computer or a device, or call in using a phone, to listen to the meeting through the Microsoft Teams application. The public may provide verbal comments during the specified public comment and rules hearing segments. TVW also regularly airs these meetings. Please note that although the board room will be staffed during a meeting, board members and agency participants may continue to appear virtually. For more information about board meetings, please visit <https://lcb.wa.gov/Boardmeetings/> Board meetings.

Date of Intended Adoption: No earlier than September 25, 2024.

Submit Written Comments to: Cassidy West, Policy and Rules Manager, P.O. Box 48030, Olympia, WA 98504-3080, email rules@lcb.wa.gov, fax 360-704-5027, beginning August 6, 2024, 12:00 p.m., by September 11, 2024, 12:00 p.m.

Assistance for Persons with Disabilities: Contact Anita Bingham, ADA coordinator, human resources, phone 360-878-4235, fax 360-664-9689, TTY 711 or 1-800-833-6388, email anita.bingham@lcb.wa.gov, by September 4, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules are intended to expand and improve the social equity in cannabis program as directed by E2SSB 5080, chapter 220, Laws of 2023. This includes revising definitions, adjusting eligibility criteria, refining the application and scoring processes to ensure a more equitable distribution of cannabis licenses to individuals from communities impacted by previous drug war policies. The proposed rules modify WAC 314-55-570, as follows:

1. Definitions: Definitions are amended to enhance clarity, inclusivity, and conform with statute: "Disproportionately impacted area," "social equity plan," "family member," "median household income," "preliminary letter of approval," "social equity contractor," and "social equity program applicant." A new definition for social equity registrant was created and the definition for social equity applicant modified to distinguish two phases of the application process. A social equity registrant is an individual who has registered to be evaluated for qualification under the social equity criteria. A social equity applicant is an individual who has submitted an application for eligibility for the social equity program, has been evaluated and

scored by the social equity contractor based on the scoring rubric, and received a preliminary letter of approval by the board.

2. Initial Application Process: The initial application process has been amended to provide for registration through an online portal to reduce barriers to entry associated with the eligibility screening for the social equity program, such as financial costs and compliance burden associated with applying for a business license through other state agencies before the social equity contractor scoring evaluation.

3. Scoring Rubric: The scoring rubric is adjusted to focus on the four areas of qualification for the social equity program identified in E2SSB 5080. The scoring rubric criteria are modified to more equitably consider the obstacles encountered by candidates from marginalized communities, in response to feedback from the community advocating for a nuanced evaluation of qualifications and circumstances.

4. License Mobility: Changes to the license mobility requirements involve allowing HB 2870 applicants who have not secured a location within 90 days after the closure of the 5080 application window to locate their license to a different county from its original allocation.

5. Right to Appeal: Appeal rights are clearly established for applicants withdrawn or denied a license.

6. Title Certificate Holders: The rule allows title certificate holders to reinstate their licenses under the social equity program with eligibility determination and relocation options, providing avenues for title certificate holders to reenter the market under social equity considerations reflecting public feedback on inclusivity and equitable access to licensing opportunities.

7. Local Objection: Local jurisdictions can object to the location of proposed cannabis retail licenses based on preexisting ordinances limiting retail outlet density. The board will give substantial weight to these objections.

8. County Thresholds: E2SSB 5080 required the board to identify thresholds for the number of producer, processor, and retailer licenses in each county. The rule establishing the county thresholds will be evaluated every three years beginning in 2029 and will be published on the board's website. Established thresholds indicate the number of potentially viable licenses by county based on an analysis of market conditions and other relevant factors conducted by a third-party economist.

9. Conflict of Interest: Conflict of interest safeguards were added to reduce risk of any preferential treatment between the third-party vendor and applicants or licensees.

Reasons Supporting Proposal: The amendments seek to address historical disparities within the cannabis industry by providing greater opportunities for those impacted by the enforcement of cannabis prohibition. The rules aim to foster economic inclusivity and social restoration.

Statutory Authority for Adoption: RCW 69.50.331, 69.50.335, 69.50.345.

Statute Being Implemented: RCW 69.50.335, as amended by E2SSB 5080 (chapter 220, Laws of 2023).

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The board recommends that these rules be implemented as proposed to fulfill the legislative intent of E2SSB 5080, ensuring a robust and equitable social equity program.

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Cassidy West, Policy and Rules Manager, 1025 Union Avenue, Olympia, WA 98504, 360-878-4235; Implementation: Rebecca Smith, Director of Licensing and Regulation, 1025 Union Avenue, Olympia, WA 98504, 360-664-1753; and Enforcement: Chandra Wax, Director of Enforcement and Education, 1025 Union Avenue, Olympia, WA 98504, 360-664-1726.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required under RCW 34.05.328 because the subject of the proposed rule making does not qualify as a significant legislative rule or other rule requiring a cost-benefit analysis under RCW 34.05.328 (5) (c).

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

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

Is exempt under RCW 34.05.310 (4) (e).

Explanation of exemptions: This rule proposal is exempt because it involves agency actions that are mandated by statute, implementing E2SSB 5080, chapter 220, Laws of 2023, to expand and improve the social equity in cannabis program, as described in RCW 69.50.331 and 69.50.335.

Scope of exemption for rule proposal:

Is fully exempt.

August 6, 2024

David Postman
Chair

OTS-5703.2

AMENDATORY SECTION (Amending WSR 22-21-058, filed 10/12/22, effective 11/12/22)

WAC 314-55-570 Social equity in cannabis program. (1) Definitions.

(a) "**Disproportionately impacted area (DIA)**" means a census tract within Washington state where community members were more likely to be impacted by the war on drugs. (~~(These areas are determined using a standardized statistical equation to identify areas of high unemployment, low income, and demographic indicators consistent with populations most impacted by the war on drugs, including areas with higher rates of arrest for drug charges.)~~) The board will provide maps to identify disproportionately impacted areas. The maps will reflect census tracts from different time periods to account for gentrification. These areas are determined using a standardized statistical equation to identify areas in the top 15th percentile in at least two of the following demographic indicators of populations most impacted by the war on drugs:

(i) The area has a high rate of people living under the federal poverty level;

(ii) The area has a high rate of people who did not graduate from high school;

(iii) The area has a high rate of unemployment; or

(iv) The area has a high rate of people receiving public assistance.

(b) **"Family member"** means:

(i) A biological, adopted, or foster child, a stepchild, a child's spouse, or a child to whom the ~~((applicant))~~ social equity registrant, as defined in this subsection below, stands in loco parentis (in place of the parent), is a legal guardian, or is a de facto parent, regardless of age or dependency status;

(ii) Grandchild, grandparent, parent, or sibling of a child as defined in (b)(i) of this subsection;

(iii) Spouse or domestic partner;

(iv) Any individual who regularly resides in the ~~((applicant's))~~ registrant's home or where the relationship creates an expectation that the ~~((applicant))~~ registrant care for the ~~((person))~~ individual and that individual depends on the applicant for care, or that the individual care for the ~~((applicant))~~ registrant and that the ~~((applicant))~~ registrant depends on the individual for care.

(c) **"~~((Median))~~ Household income"** means the ~~((most recent median household))~~ gross income ~~((within))~~ for the previous calendar year and includes the ~~((state))~~ sum of ~~((Washington as calculated))~~ the income received in the previous calendar year by ~~((the United States Census Bureau))~~ all household members aged 15 years and older before taxes and deductions.

(d) **"~~((Person))~~ Individual"** means a real human being, distinguished from a corporation, company, or other business entity.

(e) **"Median household income"** means the median income for households in Washington for the previous calendar year, as determined by the United States Census Bureau.

(f) **"Preliminary letter of approval"** means an approval letter issued to a social equity program applicant. The letter may be used for the purposes of ~~((securing a grant from the department of commerce))~~ applying for funding and/or a location, and ~~((other necessities to complete))~~ additional information that may be necessary for continuing with the licensing application process.

~~((f))~~ (g) **"Social equity program applicant"** means ~~((a person(s) who meets the requirements of))~~ an individual or entity that receives a preliminary letter of approval to apply for the social equity licensing program.

~~((g))~~ (h) **"Social equity contractor"** means a third party responsible ~~((to review))~~ for reviewing and ~~((score))~~ scoring social equity program applications to identify which applicants qualify to apply for a social equity license.

~~((h))~~ (i) **"Social equity licensee"** means ~~((a person))~~ an individual or entity that holds a social equity cannabis license or any ~~((person))~~ individual or entity who is a true party of interest in a social equity in cannabis license as described in WAC 314-55-035.

~~((i))~~ **"Social equity plan"** means a plan that addresses the following elements including, but not limited to:

~~(i)~~ A description of how issuing a cannabis retail license to the social equity applicant will meet social equity goals as described in statute;

~~(ii)~~ The social equity applicant's personal or family history with the criminal justice system, including any offenses involving cannabis; and

~~(iii) Business plans involving partnerships or assistance to organizations or residents with connections or contributions to populations with a history of high rates of enforcement of cannabis prohibition.~~

~~(j) "Social equity title certificate holder" means a cannabis retail license title certificate holder that meets the requirements of a social equity program applicant as determined by the social equity contractor, and is unable to open for business in the city or county where the cannabis retail license is located.)~~ (j) **"Social equity registrant"** means any individual or entity that registers to be evaluated for the social equity program. Qualification is evaluated based on the registrant's application materials submitted to the social equity contractor. If a registrant is deemed qualified for the social equity program and selected to move forward, the registrant becomes a social equity applicant, as defined in this subsection.

~~(2) ((Social equity applicant requirements.~~

~~(a-))~~ **Registering for the social equity program.** Registration through a designated portal is required prior to submitting application materials to the social equity contractor. If two or more individuals are registering as a single applicant, only one individual may fill out the registration form on behalf of the other individuals who are applying.

(a) **Registration window.** The registration window(s) will be open for 30 calendar days. The board may reopen the registration window after conducting an evaluation that considers market demand, impacts related to license density, and availability of licenses.

(3) **Social equity application process.** After the registration window closes, the social equity contractor will provide the registrant with directions for submitting social equity program application materials and verification documents.

(a) **Submission requirements.** Social equity program application materials must be submitted directly to the social equity contractor in the form, manner, and time frame required by the social equity contractor. Application materials submitted after the specified time frame will not be reviewed or scored. Registrants are responsible for ensuring the application is complete, accurate, and successfully submitted.

(4) **Qualifying for the social equity program.** To ~~((be considered))~~ qualify for the social equity program under this chapter and RCW 69.50.335, the ~~((following requirements))~~ criteria provided in this subsection must be met ~~((by each applicant:~~

~~(b) At least a))~~. Social equity applicants with the highest scores will be prioritized the social equity contractor to proceed with the social equity license application process. The social equity contractor will provide the board with a list of the selected registrants that may move forward in the application process as an applicant.

(a) **51 percent ownership.** An applicant must have 51 percent ownership and control by one or more individuals. Each individual comprising the 51 percent majority ~~((, or controlling interest, in the applicant, must be held by a person, or persons, who has or have resided in Washington state for six months prior to the application date, consistent with RCW 69.50.331, and meets at least two of the following qualifications))~~ must meet at least two of the four qualifications below:

(i) **Qualification 1:** ~~((The social equity applicant or applicants have lived in a disproportionately impacted area))~~ Resided in a dis-

proportionately impacted area (DIA) in Washington state for a minimum of five years any time between 1980 and 2010 ((;—e#)). Time spent living in a DIA does not need to be consecutive.

(A) Proof of address documentation that may demonstrate currently living or having lived in a DIA include, but are not limited to, documents such as: Bank statements, lease agreements, home insurance or car policy, federal or state tax returns that show the address for each year, utility bills, employment records, school records, voter registration. Any combination of documents may be utilized to demonstrate the qualification.

(B) Affidavits may be used as a supplemental document to demonstrate the registrant meets the qualifications under (4)(a)(i) of this subsection, provided that the affidavit is accompanied by other documents. The social equity contractor reserves the right to verify the authenticity and accuracy of the submitted affidavit and supporting documentation. Additional documentation or evidence may be requested to support the claims made in the affidavit. Failure to provide truthful information or to comply with the verification request may be considered a misrepresentation of fact, under WAC 314-55-050, 314-55-073, or 314-55-505.

(ii) **Qualification 2:** ((The social equity applicant or a family member of the applicant has)) Been arrested or convicted ((e#)) for a cannabis offense ((;—e#)).

(A) Documentation to demonstrate the qualification may include, but are not limited to, documents that contain details such as the date of the arrest or conviction, the charges, and the law enforcement agency involved. Examples of documents may include, but are not limited to, the following: Arrest records from the agency that made the arrest, booking reports, bail papers, police reports or police logs, court documents (e.g., arrest warrants, charging documents, or minutes from the arraignment), criminal history records, news reports to establish the event, witness testimonies, online inmate locator services for the family member, legal representation who can provide details about the arrest or conviction, court mandated community service paperwork, court mandated paperwork, or background checks. Any combination of documents may be utilized to demonstrate the qualification.

(B) Affidavits may be used as a supplemental document to demonstrate an arrest or conviction was a cannabis offense provided that the affidavit is accompanied by court records that provide evidence of an arrest or conviction for a schedule 1 drug offense. Court records include, but are not limited to, arrest records, charging documents, plea agreements, court orders, or sentencing documents. The social equity contractor reserves the right to verify the authenticity and accuracy of the submitted affidavit and supporting documentation. Additional documentation or evidence may be requested to support the claims made in the affidavit. Failure to provide truthful information or to comply with the verification request may be considered a misrepresentation of fact, under WAC 314-55-050, 314-55-073, or 314-55-505.

(iii) **Qualification 3:** ((The social equity applicant's)) Had a household income ((in the year prior to submitting the application was)) less than the median household income within the state of Washington as ((ealeulated)) determined by the United States Census Bureau for the calendar year preceding the date of application.

(A) Proof of household income documentation include, but are not limited to, documents such as: Federal tax return, W-2 forms issued by an employer that shows annual wages and taxes withheld, 1099-NEC forms, bank statements showing consistent deposits, employer income

verification letter stating your salary and terms of employment, unemployment benefits statements, court ordered agreements, annuity statements from an insurance company showing regular annuity payments, workers' compensation letter from an employer or insurance company detailing workers' compensation payments, profit or loss statements for self-employed individuals, a statement showing business income and expenses. Any combination of documents may be utilized to demonstrate the qualification.

(iv) **Qualification 4:** Is both socially and economically disadvantaged as defined by the office of minority and women's business enterprises.

(A) Examples of documentation to demonstrate the qualification may include, but are not limited to, those identified by the office of minority and women's business enterprises for certification. Any combination of documents may be utilized to demonstrate the qualification.

~~((3) **Social equity application process.**)~~ (5) **Registering for the social equity program.**

(a) **Application window.**

(i) The ~~((board will open the application))~~ registration window will be open for ~~((an initial period of))~~ 30 calendar days.

(ii) ~~((At its sole discretion,))~~ The board may reopen the ~~((application))~~ registration window:

(A) After ~~((initial))~~ conducting an evaluation ~~((of applications is received and locations are still available; or~~

~~(B) If additional allotments become available after the initial application window has closed pursuant to RCW 69.50.335.~~

~~(b) **Initial application requirements.**~~

~~(i) The social equity application must be submitted electronically through the department of revenue's business licensing online application system.~~

~~(ii) The social equity applicant must apply to the department of revenue's business licensing service within the 30-day application window. All required information must be completed on the application and payment must be submitted within the 30-day application window for the application to be accepted.~~

~~(iii) The social equity applicant, whether applying as a person, persons, or entity, may apply for a cannabis license only once during each application window described in subsection (4) (c) of this section.~~

~~(iv) An application to reinstate the license of a social equity title certificate holder will not be considered a new social equity license application. The social equity title certificate holder may submit an application for a social equity license and an application to reinstate their existing license through the social equity program.~~

~~(v) A location address is not required at the time of application) that considers market demand, impacts related to license density, and availability of licenses.~~

~~((e))~~ (6) **Social equity contractor review.** ((Once)) After the ((application)) registration window is closed, the social equity contractor will ~~((evaluate and prioritize all applications received within the 30-day application window))~~ provide the registrant with directions for submitting social equity program application materials and verification documents.

~~((i) The social equity applicant must select one county where they wish to operate their business and notify the social equity con-~~

tractor of their selection in the form and manner required by the social equity contractor.

~~(ii) The social equity applicant must submit documentation verifying the eligibility requirements described in (c) (D) (viii) of this subsection to the social equity contractor in the form and manner required by the social equity contractor.~~

~~(iii) Examples of documentation that may verify eligibility requirements include, but are not limited to:~~

~~(A) School records, rental agreements, utility bills, mortgage statements, loan documents, bank records, or tax returns that show the applicant's address(es), or a signed declaration that includes the applicant's address(es) indicating that the applicant resided in a DIA; or~~

~~(B) The applicant's arrest or conviction records, or family member's arrest or conviction records and an affirmation of the familial relationship signed by the applicant and the family member; or~~

~~(C) The applicant's tax returns demonstrating their income for the prior year; or~~

~~(D) Any other documentation that verifies the eligibility requirements described in (c) (D) (viii) of this subsection.~~

~~(iv) If additional materials are needed, the social equity applicant will receive a letter electronically from the social equity contractor directing the applicant to submit additional application materials directly to the social equity contractor.~~

~~(v) The social equity applicant must submit complete and accurate additional application materials directly to the social equity contractor within 15 business days of the date of the letter. It is the responsibility of the social equity applicant to comply with the application requirements in this section and ensure the application is complete, accurate, and successfully submitted to the social equity contractor.~~

~~(vi) If the application is determined to be incomplete by the social equity contractor, the social equity applicant will be provided with 14 days to submit a complete application. The social equity contractor will score the application based on the materials submitted within the time frame.~~

~~(vii) The social equity contractor will review the application materials, including the social equity plan provided by the social equity applicant to determine if the applicant meets the requirements of a social equity applicant.~~

~~(viii) After the social equity contractor determines that the requirements have been met, the social equity contractor will score social equity applications using the following scoring rubric to prioritize social equity applicants:))~~ (a) **Submission requirements.** Social equity program application materials must be submitted directly to the social equity contractor in the form, manner, and time frame required by the social equity contractor. Application materials submitted after the specified time frame will not be reviewed or scored. Registrants are responsible for ensuring the application is complete, accurate, and successfully submitted.

(b) **Who is eligible to be scored:** Scoring by the social equity contractor will be limited to each registrant who meet two out of the four required social equity program qualifications.

(c) **Scoring rubric.** The social equity contractor will prioritize social equity program registrants based on the below scoring rubric criteria. The total score will be based on a cumulative total, adding together the highest achieved score for each of the 7 categories:

Social Equity Application Scoring Rubric		
Category	Eligibility Requirements	Point Scale
	1. Lived in a disproportionately impacted area (DIA) 1-5 years = 15 points 6-10 years = 20 points 11+ years = 40 points	40
	((1a. How long have you lived in a DIA? 5y-10y = 20 points 10+ years = 40 points	40))
	2. Convicted of a drug offense? (Self) = 5 points Convicted of a cannabis offense? (Self) = 40 points	((10)) 40
	((2a. Convicted of a cannabis offense? (Self)	40))
	3. Convicted of a drug offense? (Family) = 5 points Convicted of a cannabis offense? (Family) = 20 points	((5)) 20
	((3a. Convicted of a cannabis offense? (Family)	5))
	4. If you were convicted of a cannabis offense, what type of sentence did you receive: Fine = 10 points Served probation or Confined to home = ((20)) 30 points ((Confined to home = 40 points)) Served time in jail or prison = 80 points	80
	((5. Did you or your family member's incarceration keep you from getting employment?	5
	6. Did you lose your home or ability to purchase a home or rent a home as a result of your convictions or arrests?	5))
	((7.)) 5. Is your household income less than the median household income within the state of Washington as calculated by the United States Census Bureau?	((40)) 30
	((8. Did you own or operate)) 6. Owned a medical cannabis dispensary or collective garden, licensed as a business, prior to July 1, 2016 ((10 points?)) = 5 points	((10))
	((or Did you own and operate)) Owned a medical cannabis dispensary or collective garden licensed as a business in a DIA ((30 points?)) = 25 points	((30 in a DIA)) 25
	((9. Have you held or do you currently hold 51 percent majority/controlling interest of a state cannabis (marijuana) retailer license? No = 10 points Yes = 0 points)) 7. Applied during the HB 2870 social equity application window, qualified as a social equity applicant, but were not eligible to be issued a license	((10)) 15
	Total Maximum Points	((310)) 250 points

~~((ix) The social equity contractor will provide the board with a list of eligible and scored social equity applicants.~~

~~(x) Neither the social equity contractor nor its employees shall benefit from any license or licenses granted as a result of their review.~~

~~(d) (i) **Board review.** Social equity applicants that are scored highest by the social equity contractor within the county selected by the social equity applicant will be processed by the board.~~

~~(ii) In the event of a tie, the board will use a double blind lottery conducted by an independent third party to identify the application(s) that will be processed.) (d) **Preliminary score.** Upon initial assessment of the social equity program application materials, the social equity contractor will provide the registrant with a preliminary score, along with a comprehensive explanation of the score detailing the points allocated for each criterion.~~

(i) The registrant may submit additional documentation to potentially improve the final score. Documentation must be submitted in the form and manner specified by the social equity contractor no later than 21 calendar days after being provided the preliminary score.

(e) **Final score.** Prior to issuing the final score, the social equity contractor may adjust the registrant's preliminary score based on a review of any additional documentation provided. The social equity contractor will notify registrants and qualified social equity applicants of the final score and include a detailed explanation of the scoring decision.

(f) **Prioritization.** Qualified registrants with highest final scores will be prioritized by the social equity contractor to be included on the list of social equity applicants who are selected to apply for a social equity license.

(g) **Double-blind lottery.** If a tie should occur among qualified registrants with identical scores, a double-blind lottery will be used to prioritize the social equity applicants who may proceed with applying for a social equity license. The double-blind lottery will be conducted by a third-party contractor who is separate from the social equity contractor reviewing and scoring the application.

(h) **Conflict of interest.** It is a conflict of interest and violation of this chapter if the social equity contractor, the third-party contractor conducting the double-blind lottery, or employees of any contractor benefit from any social equity license granted under this section. Any conflicts of interest between a contractor and applicant or cannabis licensee may result in the denial of an application or a revocation of the cannabis license.

(7) **Board notification.**

~~((e))~~ (a) **Preliminary letter of approval.** Once the social equity applications that will be processed are identified as described in this section, eligible social equity applicants will be issued a preliminary letter of approval.

~~((4) **Additional provisions.**~~

~~(a) **Time restrictions.** There are no time restrictions for a social equity applicant to select and secure a location.~~

~~(b) **Ownership changes.** Social equity applicants may not make ownership changes to an application after the application has been reviewed, scored, and prioritized by the social equity contractor.)~~ (b) **Withdrawal letter.** The board will issue a withdrawal letter notifying registrants that are not eligible to apply for a social equity license if:

(i) The social equity program application or additional materials are determined to be incomplete or incorrect by the social equity contractor;

(ii) The social equity program application materials are not received by the social equity contractor in a timely manner;

(iii) The social equity registrant is not qualified for the social equity program based on the determination made by the social equity contractor;

(iv) The social equity registrant is deemed qualified for the social equity program but did not score high enough to be prioritized, based on the score provided by the social equity contractor or the social equity registrant was not selected in a lottery to determine which registrants could move forward.

(v) The social equity registrant makes a voluntary request to the board, in writing, to voluntarily withdraw the social equity program application being reviewed and scored by the social equity contractor.

The voluntary withdrawal of a social equity program application does not result in a hearing right.

~~((e)) (8) Social equity ((applicants may apply for a social equity)) license ((once per)) application ((window)). ((If a social equity applicant applies more than once, the board will accept only the first application.~~

~~(d) **License mobility.** Social equity licenses that are currently designated to specific cities may be located anywhere within the county in which the city is located. However, the license may not be transferred outside of that county.~~

~~(e) **Qualifying for the social equity program will not result in or guarantee cannabis business license approval.** Social equity applicants must meet all license qualifications in WAC 314-55-077 and this chapter to receive a license.) Once the board issues the preliminary letter of approval, selected applicants may submit social equity license application materials to the board. Qualifying as a social equity applicant does not guarantee the issuance of a social equity license.~~

(a) **Licensing requirements.** To qualify for a social equity license, applicants must meet the licensing requirements provided in this chapter, RCW 69.50.331, and RCW 69.50.335.

(b) **Location and financing.** There are no time restrictions for when a social equity applicant must select and secure a location and/or financing.

(c) **County threshold.** The board will establish license thresholds for each county to ensure there is an adequate amount of access to licensed sources of cannabis, cannabis concentrates, usable cannabis, and cannabis-infused products to discourage purchases from the illegal market. The board shall conduct a license threshold determination every three years, beginning July 1, 2029. In making its determination, the board shall consider market conditions, economic trends, demographics, and other relevant factors. County thresholds will be publicly posted and updated every three years and will be accessible to all stakeholders and the general public via the internet.

(d) **License mobility.** Effective 90 days after the license application window closes in 2025, social equity applicants, who applied under chapter 236, Laws of 2020, and are unable to secure a location in the county where the license is allocated, may locate the initial license location to any city, town, or county in the state of Washington.

(e) **Local ordinance.** The board will substantially consider an objection from an incorporated city or town, or county for a proposed location of a social equity retail license if an ordinance limiting retail outlet density is in effect in the area prior to the board receiving the license application.

(f) **License transfer and assumption.** Licenses awarded under this section may not be transferred or assumed within the first year of the license being issued. Once permitted, licenses awarded under this section may only be transferred to or assumed by individuals or groups of individuals who meet the definition of a social equity program applicant for a period of five years from the date of the initial license was approved.

(g) **Appeals.** An applicant or licensee may request an administrative hearing to contest the withdrawal, denial, nonrenewal, or revocation of a license pursuant to chapter 34.05 RCW. A request for a hearing must be made in writing and received by the board no later than 20

days after the date the notification of withdrawal, denial, nonrenewal, or revocation was mailed to the applicant or licensee.

~~((5) Social equity title certificate holders.))~~ (9) Title certificate holders. A title certificate holder ~~((that meets the requirements of a social equity program applicant as determined by the social equity contractor may reinstate their retail cannabis license anywhere within the county that they hold their title certificate.~~

~~(6) Application withdrawal.~~ The board will withdraw a social equity application if:

~~(a) The social equity program application or additional materials are determined to be incomplete or incorrect by the social equity contractor;~~

~~(b) The social equity program application materials are not timely received by the social equity contractor;~~

~~(c) The social equity applicant is not selected to continue with the licensing application process; or~~

~~(d) The social equity applicant(s) requests withdrawal of the social equity program application at any time in the application process. The social equity applicant(s) must request withdrawal in writing. The voluntary withdrawal of a social equity program application does not result in a hearing right.)~~ means a licensee who is unable to open for business in the city or county where the cannabis retail license is located due to a ban or moratorium.

(a) Title certificate holders may reinstate their existing cannabis license anywhere in the county where the license was originally allocated.

(b) Title certificate holders that meet the requirements of a social equity applicant may reinstate their existing license under the social equity program, effective 90 days after the license application window closes in 2025 and may relocate the title certificate privilege for an initial license location to any city, town, or county in Washington state. To reinstate a license under the social equity program, title certificate holders must register and submit application materials to the social equity contractor for an eligibility determination. Scoring by the social equity contractor is not required as part of eligibility determination.

(i) Prior to submitting application materials to the board to reinstate the license under the social equity program, the title certificate holders must have an established business entity structure that has been approved by the board.

(ii) An application to reinstate a license and application for a social equity license must be submitted to the board.

(iii) Neither a new location for the retail license in the county or financing are required at the time of the application to reinstate an existing cannabis license.

(10) Social equity plan reimbursement. All cannabis licensees with an active license may submit a social equity plan, as defined in RCW 69.50.101, to the board for a one-time reimbursement that equals the cost of the licensee's annual cannabis license renewal fee, one per entity. The board will reimburse the licensee no later than 30 calendar days after the social equity plan has been received and verified.

(a) Reimbursements may only be provided to licenses that are currently operational, and not in the process of assumption, acquisition, or discontinuation of business activities.

(b) Social equity applicants or those who hold a social equity license are not required to pay a license renewal fee.

WSR 24-16-131
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed August 6, 2024, 12:37 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-13-091.

Title of Rule and Other Identifying Information: Apprenticeship rules; WAC 296-05-008 Meetings and adjudicative proceedings.

Hearing Location(s): On September 10, 2024, at 1:00 p.m., virtual and telephonic hearing. Join electronically <https://lni-wa-gov.zoom.us/j/85786239556?pwd=aSZRbVxW7BE0eszK0ZNslbNYIp6XRd.1>, Meeting ID 857 8623 9556, Passcode Hearing10!; or join by phone (audio only) Dial (US) 253-205-0468, Meeting ID 857 8623 9556, Passcode 6410590116. The virtual/telephonic hearing will begin at 1:00 p.m. and will continue until all oral/spoken comments are received.

Date of Intended Adoption: October 17, 2024.

Submit Written Comments to: Kristin Murphy, Department of Labor and Industries (L&I), Fraud Prevention and Labor Standards, Apprenticeship, P.O. Box 44530, Olympia, WA 98504-4530, email ApprenticeshipRules@Lni.wa.gov, beginning August 7, 2024, 8:00 a.m., by September 10, 2024, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Kristin Murphy, phone 564-999-0975, TTY 1-800-833-6388, email ApprenticeshipRules@Lni.wa.gov, by August 25, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposed rule making is to adjust the submission deadline for when an apprenticeship program submits proposed new program standards or changes to their existing apprenticeship program standard(s). The proposed rule change would adjust the submission deadline from 45 days to 60 days before the next regularly scheduled Washington state apprenticeship and training council (WSATC) meeting.

Reasons Supporting Proposal: In 2022, the Washington state legislature passed ESSB 5600 concerning the sustainability and expansion of state-registered apprenticeship programs. In part, the bill established industry sector platforms intended to collaborate and support apprenticeships (RCW 49.04.240). Among the responsibilities, the relevant industry sector platform must review proposed standards when submitted by an apprenticeship program and provide a recommendation to the WSATC for consideration in approving or denying the proposed apprenticeship program standards.

Rule making is needed to adjust the timeline for which an apprenticeship program submits proposed new program standards, or changes to their existing apprenticeship program standard(s). In addition to the staff review process, the change is needed to allow time for industry sector platforms to review and provide recommendations prior to the WSATC meeting materials submission deadline. Currently, apprenticeship program standards requests must be submitted 45 days prior to the next regularly scheduled WSATC quarterly meeting. This rule making is proposing to adjust the submission deadline to 60 days to allow adequate time for the additional level of review.

Statutory Authority for Adoption: RCW 49.04.010.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Kristin Murphy, Tumwater, Washington, 564-999-0975; Implementation and Enforcement: Peter Guzman, Tumwater, Washington, 360-584-3706.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule making is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(c)(i) because it is procedural and does not independently impose a penalty or sanction on a person or entity.

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

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

Explanation of exemptions: This rule proposal is exempt under RCW 19.85.025 based on RCW 34.05.310 (4)(g) because the proposed rule change relates to a filing process requirement.

Scope of exemption for rule proposal:

Is fully exempt.

August 6, 2024
Joel Sacks
Director

OTS-5537.1

AMENDATORY SECTION (Amending WSR 23-09-056, filed 4/18/23, effective 5/19/23)

WAC 296-05-008 Meetings and adjudicative proceedings. (1) Regular meetings: Convened on the third Thursday of January, April, July, and October, held at locations within Washington, and open to the general public. Members of the public cannot be required to register their name, give any information, or fulfill any condition prior to attending council meetings. All council meetings must be conducted according to the provisions of chapter 42.30 RCW, Open Public Meetings Act and chapter 34.05 RCW, Administrative Procedure Act.

(a) Notice of regular meetings: The supervisor must distribute notice not later than 30 calendar days prior to the meeting date to anyone who has requested notice of the regular meetings.

(b) The supervisor must send notices to all WSATC members, including ex officio members, and approved program sponsors.

(c) The following WSATC activities must take place in open public meetings:

- (i) All transactions of official business;
- (ii) All commitments or promises;
- (iii) All collective discussions;
- (iv) All collective decisions; and
- (v) All council actions.

(d) The approval or disapproval of committee programs, plant programs, or amendments to those programs can only occur at regular quarterly meetings unless the council is responding to a court mandate,

which can occur at a special meeting. The approval or disapproval of committee programs, plant programs, or amendments to those programs can also occur at a special meeting when the council considers the record and enters a final order following an adjudication conducted under subsection (6) of this section.

(e) Rescheduling regular meetings: Called at the request of the chair or by a majority of the WSATC members.

(i) When a regular meeting is rescheduled, the rescheduled meeting must occur on a date that is after the original scheduled date of the meeting (and not before the original scheduled date), and no more than 28 calendar days after the original scheduled date.

(ii) Notice of the rescheduled meeting: The supervisor must distribute notice to all WSATC members, including ex officio members, and approved program sponsors. Rescheduling must comply with the provisions of chapter 42.30 RCW, Open Public Meetings Act and chapter 34.05 RCW, Administrative Procedure Act.

(iii) The rescheduling of a regular meeting does not affect other deadlines in these rules. All deadlines and time frames will remain based on the original scheduled date of the regular meeting; only the date of the regular meeting will be affected by the change.

(2) Special meetings: Called at the request of the chair or by a majority of the WSATC members, and open to the general public.

(a) Procedure for special meetings: To call a special meeting, the calling members must:

(i) Mail a written notice with the date, time, and location of the meeting that specifies the business to be transacted at the meeting, either personally or by mail, at least seven calendar days before the specified date of the meeting, to each member of the WSATC, all approved program sponsors, and those who have requested prior notice of special meetings.

(ii) Waiver: The notice requirements to WSATC members may be waived in writing at or prior to the meeting, but all members must agree to waive notice and file the waiver with the supervisor.

(b) Content of special meetings: The subject matter of the special meeting must not exceed the scope of the written notice. If the WSATC takes action on a matter exceeding the scope of the written notice, the action is not final even if the members waive notice.

(c) Special meetings for rule changes: To call a special meeting to consider rule changes, the WSATC must:

(i) Provide written notice with the date, time, and location of the meeting that specifies the rules to be changed at the meeting, either personally, by mail, or by electronic means at least 20 calendar days before the meeting.

(ii) Waiver: The notice requirements may not be waived for special meetings when rule changes are contemplated.

(3) Registered apprenticeship standards actions: When a party requests specific action from the WSATC related to apprenticeship standards, such request must:

(a) Be in writing; and

(b) Signed by the committee's elected chair and secretary, or by an authorized signer approved by the petitioning sponsor;

(c) Sent to the apprenticeship supervisor at least ((45)) 60 days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting.

(4) Other actions: When a party requests specific action or consideration from the WSATC on other issues, such requests must:

(a) Be in writing; and

(b) Sent to the apprenticeship supervisor at least 15 business days prior to the date of the regular quarterly meeting.

Requests that are untimely are deferred to the next quarterly meeting unless waived by the supervisor.

(5) Voting: All council members, except ex officio members, appointed by the director of the department of labor and industries are voting members of the council.

(a) A quorum is two-thirds of the WSATC members entitled to vote.

(b) The chair shall establish a standing tie-breaker committee comprised of three WSATC members entitled to vote:

(i) An employer representative;

(ii) An employee representative; and

(iii) A public member.

(c) The apprenticeship supervisor or designee shall act as secretary to the tie-breaker committee and furnish all information necessary for a decision.

(d) In case of a tie vote on any proposed standards brought before the WSATC, the tie-breaker committee shall meet or confer, review the record, and render a decision within 30 calendar days.

(6) Adjudicative proceedings: All hearings and adjudication, under chapter 49.04 RCW and these rules, shall be conducted according to chapters 34.05 RCW and 10-08 WAC. The chair (or designee) is the presiding officer for adjudicative proceedings held before the WSATC. The WSATC may either adjudicate matter(s) itself, or refer matter(s) to the office of administrative hearings for initial adjudication.

If the initial adjudication is before the WSATC, the WSATC will enter a final order. If the initial adjudication is held at the office of administrative hearings, the administrative hearings judge shall issue an initial order. The WSATC, upon review of the initial order shall enter the final order. An initial order shall become final without further WSATC action five business days after the next regular or rescheduled quarterly meeting unless:

(a) The WSATC upon its own motion determines that the initial order should be reviewed; or

(b) A party to the proceedings files a petition for review of the initial order.

(7) Final WSATC orders or decisions affecting registration and oversight of apprenticeship programs and agreements for federal purposes may be appealed within 30 calendar days to the director of the department pursuant to the following:

(a) An appellant must file with the director an original and four copies of the notice of appeal.

(i) The notice of appeal must specify findings and conclusions at issue in the appeal;

(ii) The director or designee shall serve notice of receipt of the appeal, including copies of the appeal on all parties within five business days from date of receipt;

(iii) The respondent parties may file with the director or designee written arguments within 30 calendar days after the date the notice of receipt of appeal was served upon them.

(b) The director or designee shall review the record in accordance with the Administrative Procedure Act, chapter 34.05 RCW. The director or designee shall issue a final decision affirming, modifying, or reversing the WSATC final order or decision or may remand the matter to the WSATC for further proceedings.

(c) With respect to cancellation of programs only, any aggrieved party may appeal, for federal purposes, a final decision by the director (or director's designee) by following the procedures in 29 C.F.R. 29.8 (b) (5).

(d) Any aggrieved party may appeal the final decision to superior court pursuant to chapter 34.05 RCW. If no party appeals within the period set by RCW 34.05.542, the director's decision is final and binding on all parties.

(8) Limitations: Nothing in this part or in any apprenticeship agreement will operate to invalidate:

(a) Any apprenticeship provision in any collective bargaining agreement between employers and employees establishing higher apprenticeship standards; or

(b) Any special provision for veterans, minority person, or women in the standards, apprentice qualifications or operation of the program, or in the apprenticeship agreement, which is not otherwise prohibited by law, executive order, or authorized regulation.

(9) Retroactivity: The WSATC may make any action or decision which it takes retroactive to the date of the previous business session.

**WSR 24-16-132
PROPOSED RULES****WESTERN WASHINGTON UNIVERSITY**

[Filed August 6, 2024, 1:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-10-034.

Title of Rule and Other Identifying Information: Chapter 516-21 WAC, Student conduct code.

Hearing Location(s): On September 10, 2024, at 2:00 p.m. Western Washington University (WWU) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance <https://wwu-edu.zoom.us/meeting/register/tJArD-quqzMuGtN8iLPrYkEOOBvUoB5OhGk8>. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Jennifer Sloan, 516 High Street, Mailstop 9044, email sloanj2@wwu.edu, beginning April 23, 2024, by September 9, 2024.

Assistance for Persons with Disabilities: Contact Jennifer Sloan, phone 360-650-3117, email sloanj2@wwu.edu, by August 30, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WWU is updating the rules regarding standards of conduct for students, chapter 516-21 WAC.

Reasons Supporting Proposal: WWU is modifying, clarifying, and updating WWU's standards of conduct for students to clarify the student conduct process based on lessons learned and Washington State University's recent code review.

Statutory Authority for Adoption: RCW 28B.35.120(12).

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

Name of Proponent: WWU, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Michael Sledge, Executive Director, Student Life, 516 High Street, Mailstop 9006, Bellingham, WA 98225, 360-650-2484.

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

A cost-benefit analysis is not required under RCW 34.05.328. WWU does not consider this rule to be a significant legislative rule and is not making significant amendments to a policy or regulatory program.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 6, 2024
Jennifer L. Sloan
Rules Coordinator

OTS-5672.1

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-010 Introduction. The student conduct code is intended to support the mission and values of Western Washington University by promoting integrity, responsibility, and accountability. As a public institution of higher education, the university is committed to maintaining a learning environment that supports student development through fostering community values and promoting holistic wellness for the Western community. As members of this community, students are expected to understand and comply with the student conduct code, as well as other university rules, regulations, procedures, and policies.

The board of trustees of Western Washington University, acting under the authority of RCW 28B.35.120(12) has established the following regulations for student conduct. The responsibility for enforcement of the student conduct code lies with the university president and is delegated to the vice president ((øf)) for enrollment and student services.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-020 Definitions. As used in this chapter, the following words and phrases mean:

- (1) ((**Appeals board.** The student conduct appeals board. (2-)) **Catalog.** The *Western Washington University General Catalog*. ((+3)) (2) **Code.** The student conduct code.
- (3) **Conduct board.** The persons designated by the dean of students to consider a conduct matter, typically for a full hearing but may also be convened for an appeal. Conduct board members are experienced and were provided appropriate training specific to their role.
- (4) **Conduct hold.** A block placed on a student's official university record at the request of a conduct officer or dean of students. A conduct hold prohibits a student from registering for classes, and may prohibit the request of an official transcript, or receiving a degree from the university until the hold has been removed.
- (5) **Conduct officer.** A conduct officer or their authorized designee as determined by the dean of students. Conduct officers include conduct board members and all receive appropriate training as required for decision makers under Title IX regulations.
- (6) **Day.** Any day, Monday through Friday (excluding holidays), during which university offices are open.
- (7) **Dean of students.** The person designated by the vice president for enrollment and student services for oversight and administration of the code.
- (8) **Guest.** Any person who is not a member of the university community, who is on university property or attending an official university function at the invitation and/or hosting of a student.
- (9) **Member of the university community.** Any person who is a student, university official, registered volunteer or who is otherwise employed or contracted by the university. Any question regarding a person's status in a particular situation for purposes of this code shall be determined by the dean of students.

(10) **Official university function.** Any live or virtual activity, on or off campus, that is initiated, sponsored, or supervised by any entity of Western Washington University.

(11) **Preponderance of evidence.** Defined as "more likely than not," the standard of responsibility that is used when determining whether a violation of the student conduct code has occurred.

(12) **Reasonable person similarly situated.** The standard of a reasonable person taking into consideration any particularized circumstances, perspectives, and identities of the complainant within the context of the alleged conduct/incident.

(13) **Retaliation.** Retaliation includes, but is not limited to, intimidation, threats, harassment, and/or other adverse action taken against any student or other person for filing a complaint or participating in a university investigation or student conduct proceeding in good faith.

(14) **Sexual violence.** Sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

(15) **Shuttle diplomacy.** Resolution without direct contact between parties.

(16) **Student.** Any person who:

(a) Has been formally admitted to the university;

(b) Is enrolled in one or more classes at the university, including nonmatriculated international students attending language institutes or foreign study programs;

(c) Is participating in a certificate, degree, distance learning, or professional enrichment program, through extended education and summer programs;

(d) Is participating in a university-sponsored study abroad program;

(e) Was enrolled in a prior quarter or summer session at the university and is eligible to continue enrollment in the quarter or summer session that immediately follows; or

(f) Withdrew from the university after an alleged violation of the code, for conduct that occurred while they were enrolled in or participating in a program offered by the university.

~~((16))~~ (17) **Title IX.** Title IX refers to any behavior covered under federal regulation and investigated by Western's office of civil rights and Title IX compliance. Definitions and regulations related to alleged violations of Title IX begin in WAC ~~((516-21-191.~~

~~(17) **Title IX committee.** The student conduct committee that hears cases under Title IX. The committee consists of at least a chair, and may include faculty and/or staff, and is responsible for conferring and drafting an initial conduct order as described in WAC 516-21-298))~~ 516-21-291. How the university responds to and addresses discrimination on the basis of sex (including sex-based characteristics, sex-based stereotypes, pregnancy and related conditions, gender identity, or sexual orientation), and related retaliation are governed by state and federal laws, regulations, and court rulings in addition to university policy under POL-U1600.02 and POL-U1600.04. To the extent this code conflicts with state or federal law, state or federal law shall take precedence.

(18) **University.** Western Washington University and all associated programs, including those offered online and/or at off-campus program sites and includes those properties identified in subsection (20) of this section.

(19) **University official.** Any person employed or contracted by the university, who is performing assigned teaching, administrative, or professional responsibilities. University officials may be full- or part-time, and may include student staff members.

(20) **University property.** All land, buildings, facilities, electronic presences, and other property that is owned, used, leased, or controlled by Western Washington University wherever located. University property also includes computer systems, virtual programs and platforms, and adjacent streets and sidewalks.

(21) **WAC.** An abbreviation for the Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-030 Jurisdiction. (1) General. The student conduct code applies to all student conduct that occurs on university property or in connection with any official university function including university-sponsored activities and transit to/from university functions or activities.

(2) Off-campus conduct. In addition to subsection (1) of this section, student conduct that occurs off campus may be subject to the student conduct code when it:

(a) Adversely affects the safety or well-being of any member of the university community; or

(b) Adversely affects the pursuit of the university's vision, mission, or values; or

(c) Involves academic work or any records, documents, or identifications of the university.

In determining whether to exercise jurisdiction over such conduct, a conduct officer shall consider the seriousness of the alleged offense, the risk of harm involved, and whether the alleged complainant(s) are members of the university community. Any question of interpretation or application of jurisdiction shall be referred to the dean of students for final determination.

(3) Students are responsible for their conduct from the time they have confirmed their enrollment at Western through the awarding of their degree. This includes conduct that occurs before classes begin, after classes end, and during periods between actual terms of enrollment. (~~Students who are found to be in violation of the code may be subject to sanctions under the code.~~)

(4) Online conduct. The student conduct code applies to behavior conducted online, via electronic mail, text message, or other electronic means, subject to subsections (1) and (2) of this section.

(5) International and national study programs. Students who participate in any university-sponsored or sanctioned international or national study program must observe the following rules and regulations:

(a) The laws of the host country and/or state;

(b) The academic and disciplinary regulations of the educational institution or residential housing program where the student is studying;

(c) Any other agreements related to the student's study program;
and

(d) These standards of conduct.

(6) A student with a pending conduct violation may not avoid the conduct process by withdrawing from the university. In these circumstances, either:

(a) The university will proceed with the conduct process and, if so, the respondent will be provided with a continued opportunity to participate; and/or

(b) A conduct hold may be placed on the student's official record, preventing them from registering for classes, requesting an official transcript, or receiving a degree from the university. This hold will remain in place until the student has met with the conduct officer to discuss the alleged conduct violation(s) and may include completion of conduct process.

~~((5))~~ (7) The code applies to the conduct of any student employee whose position is conditioned upon their student status.

~~((6))~~ (8) Sanctions against student organizations are decided by procedures established by the university administrative unit governing that organization's recognition. Conduct proceedings against individual member(s) of a student organization can be initiated under this code, independent of any departmental action(s) taken against the student organization.

(9) Recognized or registered student organizations that violate university policies and the standards of conduct are subject to sanctions. A recognized or registered student organization may be held accountable for the behavior of its officers, members, or guests when the university demonstrates that:

(a) The organization or its officers should have foreseen that behavior constituting a violation was likely to occur, yet failed to take reasonable precautions against such behavior;

(b) A policy or practice of the organization was responsible for a violation; or

(c) The behavior constituting a violation was committed by, condoned by, or involved multiple organization officers, members, or guests.

(10) Relationship between student conduct process and other legal processes. The university is not required to stay a student conduct proceeding pending any criminal or civil proceeding, nor must the disposition of any such criminal or civil proceeding control the outcome of any student conduct proceeding.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-060 Conduct that harms or threatens health or safety.

Conduct that harms, attempts to harm, or threatens the health or safety of any member of the Western community by any means (e.g., in person, through a third party, online) is a violation of the code. This includes, but is not limited to:

(1) Physical assault.

(2) Any threat stated or implied, to the health, safety or well-being of others.

(3) Any contact or communication of a threatening nature that intimidates, harasses, and would cause a reasonable person similarly situated to fear for their safety or well-being.

(4) Intoxication or impairment through the use of alcohol or other substances to the point that a student is unable to exercise care for their own safety or well-being.

(5) Sexual violence including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-110 Harassment (other than sexual harassment or discriminatory harassment). Harassment is conduct by any means that is severe or pervasive. It is of such a nature that it would cause a reasonable person in the complainant's position substantial emotional distress and undermine their ability to work, study, or participate in their regular life activities or participate in the activities of the university. Harassment causes the complainant substantial emotional distress and undermines the complainant's ability to work, study, or participate in the complainant's regular life activities or participate in the activities of the university and harassment is a violation of the code.

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

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-115 Discrimination and discriminatory harassment. Discrimination or discriminatory harassment is prohibited on the basis of race, ethnicity, color, national origin, age, citizenship or immigration status, pregnancy, use of protective leave, genetic status, sex, sexual orientation, gender identity, gender expression, marital status, creed, religion, veteran or military status, disability or the use of a trained guide dog or service animal (including service animals in training) by a person with a disability; and as defined in Western Washington University policy POL-U1600.02 and POL-U1600.04, which prohibit discrimination, sexual harassment, and sexual misconduct. Anyone filing or involved in a complaint of discrimination is protected against retaliation.

(1) Sexual harassment is a violation of the code. Sexual harassment is any unwelcome conduct of a sexual nature including unwelcome sexual advances, requests for sexual favors, or other verbal, nonverbal, electronic, or physical conduct of a sexual nature, when:

(a) It has a tangible impact on a student's education including, but not limited to, classroom experiences, academic grades, living environment, participation in a university activity; or

(b) It is sufficiently severe, persistent and pervasive to interfere with a member of the university community's ability to work, study, or participate in their regular activities, or benefit from the university's programs or activities and creates a hostile environment.

(2) Gender-based harassment includes nonsexual acts of verbal, nonverbal, or physical aggression, intimidation, or hostility based on a person's gender or nonconformity with gender stereotypes, and is a

violation of the code. Gender-based harassment violates this code when it is sufficiently severe and/or pervasive, such that it denies or limits another's ability to work, study, participate in, or benefit from the university's programs or activities.

(3) Sexual violence includes sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination. Sexual violence is a violation of the code.

AMENDATORY SECTION (Amending WSR 12-01-021, filed 12/9/11, effective 1/9/12)

WAC 516-21-120 Hazing. Hazing, defined as any act that, as an explicit or implicit condition for initiation or admission into, affiliation with, or continued membership in a group or organization, endangers the health, safety, or well-being of any member of the university community, is a violation of the code. Examples of hazing include, but are not limited to:

(1) Requiring the consumption of any food, alcohol, drug, or other substance.

(2) Requiring forced participation in physical activities, including calisthenics, exercise, or other games or activities that entail physical exertion.

(3) Creation of excessive fatigue including requiring exposure to weather elements or to other physically or emotionally uncomfortable situations, (~~including~~) such as sleep deprivation, confinement in small spaces, physical bondage, and/or taking a student to an outlying area and dropping them off.

(4) Requiring conduct that can be reasonably expected to embarrass another, including the performance of public stunts or activities such as scavenger hunts or other degrading or humiliating activities.

(5) Requiring anything that would be illegal under city, state, or federal law, or in violation of any university policies or procedures, including the code.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-240 Student conduct ((system)) process. (1) The vice president for enrollment and student services is responsible for administration of the code. Supervision of the code has been delegated by the vice president to the dean of students.

(2) A conduct officer(s) shall be appointed and supervised by the dean of students or their authorized designee. A conduct officer has the authority to consider complaints, make findings, and administer sanctions for violations of the code. In complaints alleging a violation of any type of sexual misconduct or gender-based discrimination including Title IX sexual harassment which encompasses quid pro quo harassment, hostile environment, domestic violence, dating violence, stalking or sexual assault which includes nonconsensual sexual intercourse, nonconsensual sexual contact, incest or statutory rape, complaints should be made to Western Washington University's office of civil rights and Title IX compliance. A final investigation report

from Western Washington University's office of civil rights and Title IX compliance (or their designee) will be provided to the conduct officer ((in lieu of the conduct officer's investigation)). The conduct officer will then consider this report and make a referral to the ((Title IX committee.

~~(3) Appeal board members shall be appointed to consider appeals of a conduct officer's findings and sanctions. Appeal board members shall include a pool of the following:~~

~~(a) Four faculty members, appointed by the faculty senate; and~~

~~(b) Four staff members, generally but not exclusively from the division of enrollment and student services, confirmed by the dean of students.~~

~~(4) An appeals board shall be composed of five members and any three persons constitute a quorum of a board. Generally, an appeals board will be comprised of faculty and staff. The dean of students, or their designee, will appoint a chair from this pool for each board. Board members may not have been involved in consideration of the complaint or involved in the complaint. Board members must be properly trained in accordance with state and/or federal guidance. The dean of students or their designee will have final authority to approve all of those serving on a board. The dean of students, or their designee, will work to ensure that any board is balanced and representative.~~

~~(5) A staff member appointed by the dean of students may advise the appeals board on technical details of the code and its procedures.~~

~~(6)) conduct board in matters requiring a full hearing.~~

~~(3) Conduct officers, ((the appeals)) conduct board, ((the Title IX committee,)) and the dean of students or authorized designees have full authority to administer a decision under the code.~~

~~(4) Consolidation. In any student conduct matter in which there are common issues or parties, the conduct officer or presiding officer may decide to consolidate the proceedings. This decision is within the sole discretion of the conduct officer or presiding officer.~~

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-250 Student rights in the conduct process. Alleged violations of the code will be resolved through the student conduct process, respecting fairness and due process for all involved parties.

(1) A student accused of violating the code, known as the respondent, has certain rights in the conduct process. These include the right to:

(a) Receive prior written notice to attend meetings with a conduct officer or hearings with an appeals board ((delivered via email to the student's official university email account));

(b) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;

(c) Be accompanied through the conduct process by an advisor of their choice and at their own expense. A respondent should select as an advisor a person who is not involved in the same complaint and whose schedule allows attendance at the scheduled date and time for the scheduled meeting or hearing. The scheduling conflicts of an advisor are not considered good cause for a delay;

- (d) Remain silent or decline to respond to any question(s) during any conduct meeting or hearing;
- (e) Review information relied upon by the conduct officer or appeals board in making a determination;
- (f) Receive written notification of the findings, decision, and basis for each ~~((r))~~ delivered ~~((via email to the student's official university email account,))~~ within seven business days of the date of the final meeting with a conduct officer, or ~~((ten))~~ 10 business days of the date of a hearing with an appeals board;
- (g) Request an appeal of a decision by a conduct officer, as described in WAC 516-21-280 Basis for appeal;
- (h) Request a review of an appeal, as described in WAC 516-21-280 Basis for appeal; and
- (i) Waive any of the rights contained in this section.
- (2) An individual who has filed a complaint alleging violence or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, known as the complainant, has certain rights in the conduct process. These include the right to:
- (a) Receive prior written notice to attend meetings with a conduct officer or hearings with an appeals board ~~((delivered via email to the student's official university email account));~~
- (b) Provide evidence on their own behalf, including the names or written statements of individuals who can offer information regarding the incident in question;
- (c) Be accompanied through the conduct process by an advisor of their choice and at their own expense. A complainant should select as an advisor a person who is not involved in the complaint and whose schedule allows attendance at the scheduled date and time for the scheduled meeting or hearing. The scheduling conflicts of an advisor are not considered good cause for a delay;
- (d) Remain silent or decline to respond to any question(s) during the conduct meeting;
- (e) Review information relied upon by the conduct officer or appeals board in making a determination;
- (f) Receive written notification of the findings, decision and basis for each, delivered ~~((via email to the complainant's official university email account,))~~ within seven business days of the date of the respondent's final meeting with a conduct officer or ~~((ten))~~ 10 business days of the date of a hearing with an appeals board;
- (g) Request an appeal of a decision by a conduct officer, as described in WAC 516-21-280 Basis for appeal;
- (h) Request a review of an appeal, as described in WAC 516-21-280 Basis for appeal; and
- (i) Waive any of the rights contained in this section.
- (3) For incidents involving sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, complainants shall have the following additional rights:
- (a) To be notified of the availability of counseling, academic support, and general assistance and support resources, both on campus and in the surrounding community;
- (b) Have past behavior unrelated to the alleged behavior excluded; the conduct officer, appeals board chair, or dean of students will make a final determination regarding such behavior if in question;

- (c) To be free from questioning about their sexual history involving anyone other than the respondent;
 - (d) Submit an oral or written impact statement to the conduct officer, and/or appeals board, and/or dean of students (if applicable), for consideration;
 - (e) To request an administrative no contact order against the respondent(s) during the conduct process;
 - (f) To have alternative accommodations to avoid being in the physical presence of the respondent during the conduct process; and
 - (g) Be free of any form of retaliation. Complainants should report any retaliation that occurs for further action. See *POL-U1600.02 Ensuring Equal Opportunity and Prohibiting Discrimination and Retaliation*.
- (4) Respondents and complainants have the right to request reasonable accommodations through Western's disability access center, and to have the reason for such requests be kept private from another involved party.

AMENDATORY SECTION (Amending WSR 17-05-100, filed 2/15/17, effective 3/18/17)

WAC 516-21-260 Procedures for immediate interim suspension. In consultation with university officials, the dean of students may suspend a student from the university on an immediate interim basis, pending criminal proceedings, or a medical evaluation, and/or action through the student conduct process.

- (1) An interim suspension may only be imposed when the dean of students has cause to believe that the student:
 - (a) Has violated the student conduct code; and
 - (b) Poses an immediate danger to the safety or security of the university community; and/or
 - (c) Poses an ongoing threat of serious disruption or interference with the normal operations of the university.
- (2) During the interim suspension, a student may be denied access to university activities and privileges, including access to classes, university property, and/or campus residence halls and apartments.
- (3) A student suspended from the university on an interim basis shall be notified in writing of the terms of the interim suspension. The notice, which shall be delivered via email (~~to the student's official university account~~) and in person if possible, shall include the alleged violation(s), the circumstances, reasons, and terms of the interim suspension, and the time, date and location of a meeting to discuss the interim suspension.
- (4) The interim suspension meeting shall occur no fewer than three business days and no more than seven business days from the date that the notification is sent. The student may elect to waive the three-day notice if an earlier date is mutually agreed upon. The purpose of the interim suspension meeting is for the student to have an opportunity to demonstrate why the terms specified in the interim suspension notice should not continue, or why the suspension should be less restrictive.
- (5) Cases of interim suspension are given priority through the student conduct process. The interim suspension will remain in effect until a final decision has been made on the pending code violation(s) or until the dean of students determines that the reasons for imposing

the interim suspension no longer exist or are not supported by available evidence.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-270 Proceedings for violations of the code. (1) Any member of the university community may file a complaint against a student for a violation of the student conduct code. A complaint should be made in writing to the office of student life. Additionally, information received from any source (police report, third party, online, etc.) may be considered a complaint.

(2) After a consideration of the complaint, a conduct officer may take any of the following actions:

(a) Review the complaint, ~~((investigate and make a finding whether the code was violated and impose sanction(s)))~~ and make a determination to resolve it through a brief hearing or full hearing, and communicate that decision to the relevant parties;

(b) Terminate the proceeding and enter a finding that there is no violation of the code and/or that the respondent is not responsible for the alleged conduct violation; ~~((or))~~

(c) Dismiss the ~~((investigation))~~ complaint, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises; or

(d) A conduct officer may resolve a matter by agreement/alternative dispute resolution. Agreements may be reached directly or through alternative dispute resolution including, but not limited to, shuttle diplomacy or mediation. When resolution of a matter is reached by agreement or alternative dispute resolution, the agreement must be in writing and signed by the parties and the conduct officer. In the agreement, the parties must be advised in writing that:

(i) The disposition is final and they are waiving any right to a hearing on the matter, including any right to appeal; and

(ii) If any party decides not to sign the agreement, and the matter proceeds to a hearing, neither the agreement nor a party's refusal to sign will be used against either party in the student conduct process. Complaints alleging conduct covered by Title IX are not subject to agreement/alternative dispute resolution through the student conduct process.

(3) In complaints alleging a violation of any type of sexual misconduct or gender-based discrimination including Title IX sexual harassment which encompasses quid pro quo harassment, hostile environment, domestic violence, dating violence, stalking or sexual assault which includes nonconsensual sexual intercourse, nonconsensual sexual contact, incest or statutory rape, complaints should be made to Western Washington University's office of civil rights and Title IX compliance. A final investigation report from Western Washington University's office of civil rights and Title IX compliance (or their designee) will be provided to the conduct officer ~~((in lieu of the conduct officer's investigation))~~. The conduct officer will then ~~((consider this report and make a finding as to whether the code was violated and impose sanction(s)).~~

~~((4))~~ make determinations regarding which code prohibitions may have been violated, and whether to resolve the matter through a brief hearing or full hearing.

(4) Brief hearings. The majority of student conduct matters are resolved through a brief hearing with a conduct officer. Such a hearing is a brief adjudication conducted in accordance with the Washington state Administrative Procedure Act chapter 34.05 RCW and allows the conduct officer to review available information, hear the relevant parties' views, make a determination, and assign sanctions.

(5) Full hearings. Full hearings are conducted by a conduct board and are used in matters in which the respondent faces possible suspension or expulsion; generally, a final investigation report from Western Washington University's office of civil rights and Title IX compliance are resolved through full hearings. Full board hearings are conducted in accordance with the Washington state Administrative Procedure Act.

(6) Any student charged by a conduct officer with a violation of the student code is provided at least three days written notice of the student's meeting date, time and location (five days for full hearings). Any request to extend the time and/or date of the conduct officer meeting should be addressed to the conduct officer. The written notice shall include:

(a) A brief summary of the complaint, including the sections of the code allegedly violated;

(b) The approximate time and place of the alleged behavior that forms the factual basis for the charge of violation;

(c) The time, date, and place of the meeting;

(d) A copy of, or link to, the code.

~~((5))~~ (7) The respondent and complainant (if applicable) are notified in writing of the determination made by the conduct officer or board, including the basis for any findings and sanctions. The notice includes information regarding the right to request an appeal.

~~((6))~~ (8) All notifications under the code are delivered by electronic mail to the students' university email account. Any notifications sent via regular U.S. mail (for instance, to students not currently enrolled) may be sent to the party's last known address or the address on file with the university registrar. Students are responsible for maintaining an updated mailing address on file with the registrar. Deadlines described in the code begin the date the notification is sent via electronic means.

~~((7))~~ (9) Upon written request to the dean of students' office, staff will be available to the respondent and complainant (if applicable) to assist in understanding the student conduct process.

~~((8))~~ (10) A conduct officer's or board's determinations and findings are made on the basis of a "preponderance of the evidence," that is, whether it is more likely than not that the respondent violated the code.

~~((9))~~ (11) Evidence is relevant if it tends to make existence of a fact more or less probable. A conduct officer, ~~((appeal))~~ conduct board chair, or dean of students shall have the discretion to determine admissibility of evidence.

~~((10))~~ (12) If respondent or complainant (if applicable) to whom notice of a meeting or hearing has been sent does not appear before a conduct officer or ~~((appeals))~~ board, the complaint may be considered in their absence, and the conduct officer or ~~((appeals))~~ board may issue a decision based upon that information.

~~((11))~~ (13) If any provision of this code is invalidated by court order or operation of law, the affected provision of the code will no longer apply.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-280 Basis for appeal. (1) A student found in violation of the code may appeal the conduct officer's or board's findings and/or the sanctions imposed. For incidents involving violence and/or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination, a complainant may also request an appeal. An appeal may be requested for any reason including:

- (a) The proceedings were not conducted in conformity with prescribed procedures and significantly impacted the outcome of the student conduct process;
- (b) The sanctions imposed are substantially disproportionate to the violation(s) committed;
- (c) The decision reached did not properly consider the information presented; and/or
- (d) New information becomes available that was unavailable at the time of the original meeting and could substantially impact the original decision. A summary of this new information and its potential impact must be included. The dean of students or designee may then refer the complaint to the conduct officer for further action as appropriate.

(2) The appeal must be submitted by the respondent or complainant (if applicable) in writing to the dean of students within ~~((ten))~~ 10 days of the decision. The appeal must state, as clearly and concisely as possible, the reason for the appeal.

~~(3) ((Appeals of a finding that resulted, or may have resulted, in suspension or expulsion are considered by an appeals board. All other appeals are considered by the dean of students.~~

~~(4))~~ No sanction will begin while an appeal or request for review is pending. However, interim measures (e.g., administrative no-contact orders, trespass, loss of privileges) may continue.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-290 Appeal procedures. (1) Appeals can be made by the respondent (or complainant in incidents involving violence and/or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination) and must be made to the dean of students.

(2) The dean of students or their designee reviews the appeal.

(3) Where new information, unavailable at the time of the original meeting, that could substantially impact the original decision, is received, the dean of students or designee may then refer the complaint to the conduct officer for further action as appropriate. The dean of students or their designee may, at their discretion, refer the complaint to a different conduct officer for reconsideration.

(4) In appeals in which the possible or recommended sanction is not expulsion or suspension as determined by the conduct officer, a designee of the dean of students will consider the appeal and may hold an informal meeting, giving each party an opportunity to be informed of the conduct officer's view of the matter and to explain their view of the matter.

(5) In appeals in which the possible or recommended sanction is expulsion or suspension as determined by the conduct officer, ~~((an appeals board considers the appeal.~~

~~(a) The appeals board will provide the respondent and complainant (if applicable) with five days' notice of an appeals hearing date, time and location. An appeal by respondent or complainant will be shared with the other party (parties).~~

~~(b) The appeals board meets confidentially and reviews the complaint, the results of the subsequent investigation and its findings, and the conduct officer's decision. The board provides an opportunity for respondent and complainant (if applicable) to share information and the board may call witnesses. The appeals board then deliberates in private.~~

~~(c) The chair of the appeals board will ensure that appropriate procedures and due process are in place for any respondent(s) and/or complainant(s), including:~~

~~(i) Only one official recording of the meeting is made and no other cameras or recording devices are allowed;~~

~~(ii) All written materials are shared with any respondent(s) and/or complainant(s);~~

~~(iii) Any respondent(s) and/or complainant(s) may be accompanied through the appeals board by an advisor of their choice and at their own expense;~~

~~(iv) Any respondent(s) and/or complainant(s) may make brief opening and closing statements;~~

~~(v) Any limits on questioning, including no direct questioning between any complainant and respondent; and~~

~~(vi) All witnesses and involved parties are sworn in under oath.~~

~~(d) After any appeal, the respondent and complainant (if applicable) may request that a decision be reviewed by the dean of students. This request for review must be made in writing within ten days of the written outcome of an appeal. The dean of students will review the written documentation only; any involved person (e.g., respondent, witnesses, complainant) may be called to meet if necessary and at the discretion of the dean of students.~~

~~(e) During limited times during the year, such as break periods and summer quarter, when board members are unavailable, an interim board may be appointed by) the dean of students will review the available documentation including the appeal, any investigation report, the board's decision, and recordings. Any involved person (e.g., respondent, witnesses, complainant) may be called to meet if necessary and at the discretion of the dean of students.~~

(6) Respondent and complainant (if applicable) will be informed of the outcome of reviews and/or appeals simultaneously and in writing within ~~((ten))~~ 10 days.

(7) If there is no request for appeal received by the dean of students within ~~((ten))~~ 10 days, the decision of the conduct officer is considered final. If there is no request for review within five days (or ~~((ten))~~ 10 days of an appeals board decision), the decision is considered final.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-294 Initiation of discipline under Title IX. (1)

Upon receiving the Title IX final investigation report from the Title IX coordinator, the ~~((student))~~ conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX and determine if other prohibitions of the code were violated.

(2) If the ~~((student))~~ conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the ~~((student))~~ conduct officer will initiate a ~~((Title IX disciplinary proceeding by filing a))~~ written disciplinary notice ~~((with the chair of the student conduct committee))~~ and ~~((serving))~~ serve the notice on the respondent and the complainant, and their respective advisors. The notice must:

- (a) Set forth the basis for Title IX jurisdiction;
 - (b) Identify the alleged Title IX violation(s);
 - (c) Set forth the facts underlying the allegation(s);
 - (d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);
 - (e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:
 - (i) The advisors will be responsible for questioning all witnesses on the party's behalf;
 - (ii) An advisor may be an attorney; and
 - (iii) Western Washington University will appoint the party an advisor of Western Washington University's choosing at no cost to the party, if the party fails to do so.
- (3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-295 Prehearing procedure under Title IX. (1)

Upon receiving the disciplinary notice, the ~~((chair of the student))~~ conduct ~~((committee))~~ board will send a full hearing notice to all parties, in compliance with WAC 516-21-250. In no event will the hearing date be set less than ~~((ten))~~ 10 days after the Title IX coordinator provided the final investigation report to the student conduct officer.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the full hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Western Washington University intends to offer the evidence at the hearing.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-296 Rights of parties under Title IX. (1) Western Washington University's student conduct procedures, WAC 516-21-250 and 516-21-270 and this supplemental procedure shall apply equally to all parties.

(2) Western Washington University bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor who will conduct all questioning on the party's behalf. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then ~~((the Title IX coordinator))~~ one will ~~((appoint an advisor of))~~ be appointed at Western Washington University's choosing on the party's behalf at no expense to the party.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-297 Evidence under Title IX. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The ~~((committee))~~ conduct board chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) No negative inference: The ~~((committee))~~ conduct board may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(5) Privileged evidence: The ~~((committee))~~ conduct board shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-298 Initial conduct order under Title IX. (1) In addition to complying with WAC 516-21-250 and 516-21-270, the ~~((student))~~ conduct ~~((committee))~~ board will be responsible for conferring and drafting an initial conduct order that:

- (a) Identifies the allegations of sexual harassment;
 - (b) Describes the grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;
 - (c) Makes findings of fact supporting the determination of responsibility;
 - (d) Reaches conclusions as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX;
 - (e) Contains a statement of, and rationale for, the committee's determination of responsibility for each allegation;
 - (f) Describes any disciplinary sanction or conditions imposed against the respondent, if any;
 - (g) Describes to what extent, if any, complainant is entitled to remedies designed to restore or preserve complainant's equal access to Western Washington University's educational programs or activities; and
 - (h) Describes the process for appealing the initial conduct order.
- (2) The ~~((committee))~~ conduct board chair will serve the initial conduct order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-299 Appeals under Title IX. (1) The parties shall have the right to request a review from the initial conduct order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. ~~((The right to request a review will be subject to the same procedures and time frames set forth in WAC 516-21-290 (5)(e).))~~ Appeals of initial conduct orders under Title IX ~~((move directly to the review stage of the student conduct code's proceedings))~~ will be considered by the dean of students.

(2) The vice president of enrollment and student services or their delegate will determine whether the grounds for a request for review have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial conduct order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).

(3) The vice president of enrollment and student services or their delegate shall serve the final decision on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-310 Confidentiality of conduct proceedings and records. (1) The confidentiality of all conduct proceedings and records will be maintained in compliance with the student records policy as applicable with state and federal laws. Conduct records prepared by a conduct officer, the ~~((appeals))~~ conduct board, ~~((the Title IX committee))~~ and/or the dean of students:

(a) Will be held in the office of student life for six years, except in cases of suspension, interim suspension, or expulsion, which are permanent records; and

(b) Will not be shared with any member of the public, except upon the informed written consent of the student(s) involved or as stated in the student records policy, or as required by law or court order. This includes, but may not be limited to:

(i) Information disclosed in conformance with exceptions to the prior written consent requirement of the Family Educational Rights and Privacy Act (FERPA) and implementing regulations found at 34 C.F.R. Sec. 99.

(ii) Files subjected to public records requests as required by state law.

(iii) In cases involving any crime of violence or a nonforcible sex offense where the complainant is deceased, final results of any disciplinary proceeding may be shared with the complainant's next of kin, upon their written request.

(2) The conduct officer's findings may be shared with the complainant, as required by law, in cases involving violence as defined by FERPA or sexual violence, including sexual assault, dating violence, domestic violence, and stalking or any other type of sexual misconduct or gender-based discrimination.

(3) The findings may also be shared with university officials involved in the completion or supervision of the sanction and/or the student. See also chapter 516-26 WAC, Student records.

AMENDATORY SECTION (Amending WSR 22-01-075, filed 12/10/21, effective 12/11/21)

WAC 516-21-340 Revision of the code. The code shall be reviewed every five years or more often, if needed ~~((, by a committee which shall include students, faculty, and staff))~~. Student conduct code revisions will receive the most significant community deliberation including attempts to solicit feedback from Western students, internal policy control groups, and Washington Administrative Code reviews which includes a public hearing. The office of student life is responsible for completing periodic reviews of state and federal legislation, and community feedback, to make recommendations for changes to the code. Once recommendations are complete, they will be forwarded to the vice president for enrollment and student services. See also POL-U1000.11 *Developing and Maintaining University Provisions of the Washington Administrative Code.*

WSR 24-16-146

PROPOSED RULES

BUILDING CODE COUNCIL

[Filed August 7, 2024, 11:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-11-063.

Title of Rule and Other Identifying Information: WAC 51-11C-40314
2021 Washington State Energy Code, Commercial provisions, use of electric resistance and fossil fuel-fired HVAC heating equipment.

Hearing Location(s): On September 20, 2024, at 10 a.m., at the Spokane Centerplace Regional Event Center, 2426 North Discovery Place, Spokane Valley, WA 99216. Zoom option available through link at sbcc.wa.gov/events/2024-09/council-meeting-09202024.

Date of Intended Adoption: October 18, 2024.

Submit Written Comments to: Daimon Doyle, email sbcc@des.wa.gov, by September 20, 2024.

Assistance for Persons with Disabilities: Contact Annette Harworth, email sbcc@des.wa.gov, by September 6, 2024.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The building code council was petitioned to amend items 5 and 7 of Section C403.1.4 in the 2021 Washington State Energy Code, Commercial provisions, to include options other than electric resistance heaters as supplemental heating for air-to-air heat pumps and ground-source heat pumps. The proposed rule shows two options: Keeping the rule as currently adopted (Option 1), or making the petition change (Option 2).

Reasons Supporting Proposal: RCW 19.27A.020, 19.27A.025.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.025.

Statute Being Implemented: Chapter 19.27A RCW.

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

Name of Proponent: Northwest Gas Association, public.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, 1500 Jefferson Street S.E., Olympia, WA 98504, 360-480-5699; Enforcement: Local jurisdictions.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Dustin Curb, 1500 Jefferson Street S.E., Olympia, WA 98504-1449, email sbcc@des.wa.gov.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule adds additional options to the current requirement and does not mandate additional requirements or increase costs.

August 7, 2024
Daimon Doyle
Council Chair

OTS-5623.1

OPTION 1: Retain WAC 51-11C-40314 as currently published.

OPTION 2: Make the following changes to Exceptions 5 and 7:

AMENDATORY SECTION (Amending WSR 24-03-085, filed 1/16/24, effective 3/15/24)

WAC 51-11C-40314 Section C403.1.4—HVAC heating equipment.

C403.1.4 Use of electric resistance and fossil fuel-fired HVAC heating equipment. HVAC heating energy shall not be provided by electric resistance or fossil fuel combustion appliances. For the purposes of this section, electric resistance HVAC heating appliances include, but are not limited to, electric baseboard, electric resistance fan coil and VAV electric resistance terminal reheat units and electric resistance boilers. For the purposes of this section, fossil fuel combustion HVAC heating appliances include, but are not limited to, appliances burning natural gas, heating oil, propane, or other fossil fuels.

EXCEPTIONS:

1. **Low heating capacity.** Buildings or areas of buildings, other than *dwelling units* or sleeping units, that meet the interior temperature requirements of Chapter 12 of the *International Building Code* with a total installed HVAC heating capacity no greater than 8.5 Btu/h (2.5 watts) per square foot of *conditioned space* are permitted to be heated using electric resistance appliances.
2. **Dwelling and sleeping units.** Dwelling or sleeping units are permitted to be heated using electric resistance appliances as long as the installed HVAC heating capacity in any separate space is not greater than:
 - 2.1. Seven hundred fifty (750) watts in Climate Zone 4, and 1000 watts in Climate Zone 5 in each habitable space with fenestration.
 - 2.2. One thousand (1,000) watts in Climate Zone 4, and 1300 watts in Climate Zone 5 for each habitable space that has two primary walls facing different cardinal directions, each with exterior fenestration. Bay windows and other minor offsets are not considered primary walls.
 - 2.3. Two hundred fifty (250) watts in spaces adjoining the *building thermal envelope* but without fenestration.
 For the purposes of this section, habitable space is as defined in the International Building Code. For buildings in locations with exterior design conditions below 4°F (-16°C), an additional 250 watts above that allowed for Climate Zone 5 is permitted in each space with fenestration.
3. **Small buildings.** Buildings with less than 2,500 square feet (232 m²) of *conditioned floor area* are permitted to be heated using electric resistance appliances.
4. **Defrost.** Heat pumps are permitted to utilize electric resistance heating when a heat pump defrost cycle is required and is in operation.
5. **Air-to-air heat pumps.** Buildings are permitted to utilize (~~electric resistance~~) supplemental heating for air-to-air heat pumps that meet all of the following conditions:
 - 5.1. Internal electric resistance heaters 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.
 - 5.2. The heat pump controls are configured to use the compressor as the first stage of heating down to an outdoor air temperature of 17°F (-8°C) or lower except when in defrost.

EXCEPTIONS TO 5.2:

 1. Packaged terminal heat pumps (PTHPs) that comply with the minimum heating efficiency requirements in Table C403.3.2(4) are exempt from heating pump controls capable of operating the compressor as the first stage of heating down to an outdoor air temperature of 17°F (-8°C) or lower.
 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 are exempt from heat pump controls capable of operating the compressor as the first stage of heating down to an outdoor air temperature of 17°F (-8°C) or lower.
 - 5.3. The heat pump complies with one of the following:
 - 5.3.1. Controlled by a digital or electronic thermostat designed for heat pump use that energizes the supplemental heat only when the heat pump has insufficient capacity to maintain set point or to warm up the space at a sufficient rate.
 - 5.3.2. Controlled by a multistage space thermostat and an outdoor air thermostat wired to energize supplemental heat only on the last stage of the space thermostat and when outdoor air temperature is less than 32°F (0°C) except when in defrost.
 - 5.3.3. The minimum efficiency of the heat pump is regulated by NAECA, its rating meets the requirements shown in Table C403.3.2(2), and its rating includes all usage of internal electric resistance heating.
 - 5.4. The heat pump rated heating capacity is sized to meet the heating load at an outdoor air temperature of 32°F (0°C) or lower and has a rated heating capacity at 47°F (8°C) no less than 2 times greater than supplemental heating capacity in Climate Zone 4 and no less than the supplemental heating capacity in Climate Zone 5, or utilizes the smallest available factory-available internal electric resistance heater.
6. **Air-to-water heat pumps.** Buildings are permitted to utilize electric resistance (for Climate Zone 4 or 5) or fossil fuel-fired (for Climate Zone 5) auxiliary heating to supplement heat pump heating for hydronic heating systems that meet all of the following conditions:
 - 6.1. Controls for the auxiliary heating sources are configured to lock out the supplemental heat when the outside air temperature is above 36°F (2°C), unless the hot water supply temperature setpoint to the building heat coils cannot be maintained for 20 minutes.
 - 6.2. The heat pump controls are configured to use the compressor as the first stage of heating down to the lowest exterior design temperature for which the equipment is rated except during startup or defrost operation.
 - 6.3. The heat pump rated heating capacity at 47°F (8°C) is no less than 75 percent of the design heating load at 29°F (-2°C).
7. **Ground source heat pumps.** Buildings are permitted to utilize (~~electric resistance~~) supplemental heating for heat pump heating for hydronic heating systems with ground source heat pump equipment that meets all of the following conditions:

- 7.1. Controls for the auxiliary heating sources are configured to lock out the supplemental heat when the equipment source-side entering water temperature is above 42°F (6°C), unless the hot water supply temperature setpoint to the building heat coils cannot be maintained for 20 minutes.
- 7.2. The heat pump controls are configured to use the compressor as the first stage of heating.
- 7.3. The ground source heat exchanger shall be sized so that the heat pump annual heating output is no less than 70 percent of the total annual heating output in the final year of a 30-year simulation using IGSHPA listed simulation software.
8. **Small systems.** Buildings in which electric resistance or fossil fuel appliances, including decorative appliances, either provide less than 5 percent of the total building HVAC system heating capacity or serve less than 5 percent of the *conditioned floor area*.
9. **Specific conditions.** Portions of buildings that require fossil fuel or electric resistance space heating for specific conditions *approved* by the *code official* for research, health care, process or other specific needs that cannot practicably be served by heat pump or other space heating systems. This does not constitute a blanket exception for any occupancy type.
10. **Kitchen make-up air.** Make-up air for commercial kitchen exhaust systems required to be tempered by Section 508.1.1 of the *International Mechanical Code* is permitted to be heated by using fossil fuel in Climate Zone 5 or electric resistance in Climate Zone 4 or 5.
11. **District energy.** Steam or hot water district energy systems that utilize fossil fuels as their primary source of heat energy, that serve multiple buildings, and that were already in existence prior to the effective date of this code, including more energy-efficient upgrades to such existing systems, are permitted to serve as the primary heating energy source.
12. **Heat tape.** Heat tape is permitted where it protects water-filled equipment and piping located outside of the *building thermal envelope*, provided that it is configured and controlled to be automatically turned off when the outside air temperature is above 40°F (4°C).
13. **Temporary systems.** Temporary electric resistance heating systems are permitted where serving future tenant spaces that are unfinished and unoccupied, provided that the heating equipment is sized and controlled to achieve interior space temperatures no higher than 40°F (4°C).
14. **Pasteurization.** Electric resistance heat controls are permitted to reset the supply water temperature of hydronic heating systems that serve service water heating heat exchangers during pasteurization cycles of the service hot water storage volume. The hydronic heating system supply water temperature shall be configured to be 145°F (63°C) or lower during the pasteurization cycle.
15. **Freeze protection.** Heating systems sized for spaces with indoor design conditions of 45°F (7°C) and intended for freeze protection are permitted to use electric resistance. The building envelope of any such space shall be insulated in compliance with Section C402.1.
16. **DOAS ERV auxiliary heat.** Dedicated outdoor air systems with energy recovery ventilation are permitted to utilize fossil fuel for Climate Zone 5 or electric resistance in Climate Zone 4 or 5 for auxiliary heating to preheat outdoor air for defrost or as auxiliary supplemental heat to temper supply air to 55°F (13°C) or lower for buildings or portions of buildings that do not have hydronic heating systems.
17. **Low-carbon district energy systems.** Low-carbon district energy systems that meet the definitions of *low-carbon district energy exchange system* or *low-carbon district heating and cooling or heating only systems*.
18. **Essential facilities.** Groups I-2 and I-3 occupancies that by regulation are required to have in place redundant emergency backup systems.