WSR 26-15-003
PERMANENT RULES
OFFICE OF THE
STATE TREASURER

[Filed July 2, 2026, 9:41 a.m., effective August 2, 2026]

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

Purpose: Update outdated rules relating to public records and incorporate gender-neutral language.

Citation of Rules Affected by this Order: New WAC 474-01-075 and 474-01-085; repealing WAC 474-01-020, 474-01-040, 474-01-050, 474-01-120, 474-01-130, and 474-01-990; and amending WAC 474-01-010, 474-01-030, 474-01-060, 474-01-070, 474-01-080, 474-01-091, 474-01-100, and 474-01-110.

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

Adopted under notice filed as WSR 26-01-073 on December 12, 2025.

Changes Other than Editing from Proposed to Adopted Version: The original text of the proposed rules provided a link to the office of the state treasurer's (OST) public records index and stated the records retention schedules created by the secretary of state further served as indexes. The adopted rules removed the reference to the records retention schedules and instead specifically discussed the types of records OST would include in their index if such records exist, and how they would be organized. In addition, the adopted language specifically states the location and availability of the indexes and provides a schedule for reviews and updates of the indexes.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 2, Amended 8, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 2, Amended 8, Repealed 6.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 2, 2026.

Tammie Nuber
Assistant State Treasurer

RDS-6206.2

Chapter 474-01 WAC
((~~REGULATIONS ASSURING COMPLIANCE BY THE STATE TREASURER'S OFFICE WITH THE PROVISIONS OF CHAPTER 1, LAWS OF 1973, SUBCHAPTER IV—~~))PUBLIC RECORDS

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-010 Purpose. The purpose of this chapter ((~~shall be to ensure compliance by~~)) is to provide rules for the office of the state treasurer((~~'s office with~~)) to implement the provisions of chapter ((~~1, Laws of 1973 (Initiative 276), Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25 - 32 of that act, dealing with~~)) 42.56 RCW relating to public records.

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-030 Description of ((~~central and field organization of~~)) the office of the Washington state treasurer((~~'s office~~))—Administrative offices—General inquiries. (1) ((~~**State treasurer's office.**~~)) The office of the state treasurer((~~'s office is a state office~~)) is established by section 1, Article III of the Washington state constitution, headed by an elected official, and ((~~is~~)) empowered to perform all duties prescribed by law. The office of the state treasurer shall throughout this chapter, unless context clearly indicates otherwise, be referred to as the "office." The office also manages the administration of the state finance committee and the public deposit protection commission. More information about the office is available at https://www.tre.wa.gov.

(2) The administrative office((~~s~~)) of the state treasurer((~~'s office and its staff are located in the state treasurer's office~~)) is in the Legislative Building, Olympia, Washington. Its contact information is:

Mail: Office of the State Treasurer
416 Sid Snyder Ave. S.W., 2nd Floor, Room 230
P.O. Box 40200
Olympia, WA 98504-0200
Phone: 360-902-9000
Email: watreas@tre.wa.gov

(3) All communications with the office including, but not limited to, the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.56 RCW and these rules, or requests for copies of the office's decisions and other matters, should be sent or directed to the administrative office.

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-060 Public records officer. (1) The public records ((~~of the state treasurer's office shall be in the charge of the public records~~)) officer is designated by the ((~~agency. The person so designated shall be located in the administrative office of the agency. The public records officer shall be~~)) office pursuant to RCW 42.56.580 and is responsible for the ((~~following: The~~)) implementation of the office's rules ((~~and regulations regarding release of public records, coordinating the staff of the office in this regard, and generally insuring~~)) regarding release of public records and ensuring compliance

((~~by the staff~~)) with the public records disclosure requirements of chapter ((~~1, Laws of 1973~~)) 42.56 RCW.

(2) The public records officer may choose one or more designees to carry out the responsibilities of this chapter including, but not limited to, processing and responding to public records requests.

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-070 Office hours. The office's public records ((~~shall be~~)) are available for inspection and copying during ((~~the~~)) customary office hours ((~~of the state treasurer's office. For the purpose of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to~~)). Absent an emergency or other unforeseen, exigent circumstances, records may be available at the administrative office without an appointment from 10:00 a.m. to 2:00 p.m., or with an appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. A scheduled appointment is strongly advised to provide time for the identification and retrieval of responsive records prior to your arrival.

NEW SECTION

WAC 474-01-075 Records index. (1) The office has implemented an indexing system for the identification and location of records required to be indexed by RCW 42.56.070(5) and 34.05.220(2). The following records, if any, shall be indexed as follows:

(a) Orders, including final orders and adjudicative orders, as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(b) Interpretive or policy statements as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(c) Reports, records relating to boards, commissions, and committees, and records relating to investments will be indexed by name and then chronologically.

(2) **Location and availability.** The office maintains an index, as described in subsection (1) of this section, and other records available to the public, on its website at https://tre.wa.gov/public-records-index. The index is otherwise available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

(3) **Revising and updating the records index.** The index will be reviewed at least annually to ensure it is current and complete. In addition to the indexing system, the office maintains and continually updates its website at https://tre.wa.gov, which includes other documents not covered by the index.

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-080 Requests for public records. ((~~In accordance with requirements of chapter 1, Laws of 1973 that agencies~~)) (1) This

procedure for requesting public records ensures the office can provide the fullest assistance to requestors; prevent unreasonable invasions of privacy((~~,~~)); protect public records from damage or disorganization((~~,~~)); and prevent excessive interference with essential functions of the ((~~agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:~~

~~(1) A request shall be made in writing upon a form prescribed by the state treasurer's office which shall be available at its administrative office. The form shall be presented to the public records officer, or to any member of the office's staff, if the public records officer is not available, at the administrative office during customary office hours. The request shall include the following information:~~

~~(a) The name of the person requesting the record;~~

~~(b) The time of day and calendar date on which the request was made;~~

~~(c) The nature of the request;~~

~~(d) If the matter requested is referenced with an index maintained by the records officer, a reference to the requested record as it is described in such index;~~

~~(e) If the requested matter is not identifiable by reference to an index, an appropriate description of the record requested.~~

~~(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made, to assist the member of the public in appropriately identifying the public record requested~~)) office.

(2) **Submitting a request.**

(a) Persons seeking public records of the office are strongly encouraged to, before submitting a records request, first review the following website, where many Washington state records are free for viewing and downloading at any time. If any of the web addresses below become inoperable, record seekers may contact the office to learn any replacement addresses or about similar resources:

(i) Https://tre.wa.gov/public-records-index provides a list of records available on the office's website, including data and information related to the state's investments and debt.

(ii) Https://fiscal.wa.gov provides access to Washington state budgets, revenue, and spending data.

(iii) Https://ucp.dor.wa.gov provides a searchable database of unclaimed property held on behalf of Washington residents.

(iv) Https://data.wa.gov provides access to multiple datasets maintained by Washington agencies.

(b) Requests for records under the provisions of the Public Records Act may be submitted to the office in one of the following ways:

(i) **Online:** https://tre.wa.gov/public-records-requests. Requestors are strongly encouraged to submit requests through the office's secure online Public Records Act portal, which allows requestors to also track the status of their request and easily receive documents of any type or size.

(ii) **Email:** publicdisclosure@tre.wa.gov

(iii) **U.S. mail or delivery:**

Washington State Treasurer
Attn: Public Records Officer
416 Sid Snyder Avenue, S.W.
P.O. Box 40200

Olympia, WA 98504-0200

(iv) **In person.** A request may be submitted to staff at the administrative office during customary office hours. A printed form will be provided to requestors submitting oral requests in person. The completed form will be directed to the public records officer to be processed as described in this chapter.

(c) Each request should include the following information:

(i) Name of requestor;

(ii) Address of requestor;

(iii) Direct contact information, including telephone number and email address, to allow for communication if clarification is required, and for notification when records are available for viewing or retrieval; and

(iv) A clear description identifying the public records requested, including dates of the records or transactions, if appropriate.

(d) Communications seeking office records, but which are sent or provided to unauthorized locations, addresses, or staff may not be accepted as or processed as Public Records Act requests. The office may process such communications as constituent correspondence or general requests for information, as appropriate. Requestors are strongly encouraged to submit their request to the public records officer as directed in (b) and (c) of this subsection.

NEW SECTION

WAC 474-01-085 Processing public records requests. (1) Upon receipt of a public records request, it will be recorded in the office's public records tracking system and will be assigned a tracking number.

(2) The public records officer will evaluate the request to determine the availability and potential volume of requested records.

(3) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (2) of this section, and within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or retrieval, including:

(i) If copies are available via the internet, provide an internet address to specific records requested;

(ii) If copies will be provided without a fee or deposit for the copies, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available, in which the estimate may be revised from time to time;

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear or unduly burdensome, providing, to the greatest extent practicable, the office's interpretation of the request and a reasonable estimate of time to respond based on such interpretation:

(i) Clarification may be requested and provided by telephone and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the office cannot reasonably interpret the request to be sufficient pursuant to chapter 42.56 RCW, the office of the state treasurer need not respond to it; or

(d) Deny the request.

(4) **Providing records in installments.** The public records officer may provide copies, or access for inspection and copying, in installments. If, within 30 days, the requestor fails to inspect or take delivery of the entire set of records or any one or more installments, the request will be deemed abandoned as described in subsection (5) of this section.

(5) **Closing withdrawn or abandoned request.** When a requestor either withdraws their request or fails to amend or clarify an unclear request, take delivery of or inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer may deem the request abandoned, administratively close the request, and notify the requestor of such closure.

AMENDATORY SECTION (Amending WSR 18-10-049, filed 4/26/18, effective 5/27/18)

WAC 474-01-091 Copying fees—Payments. (1) ((~~The following copy fees and payment procedures apply to the office's copying of records on or after the effective date of this rule.~~

~~(2) Pursuant to RCW 42.56.120 (2)(b), the office is not calculating all~~)) There is no fee to inspect public records. The office may impose a charge for providing copies of public records.

(2) The office does not calculate the actual costs for copying records because ((~~to do~~)) doing so would be unduly burdensome for the following reasons:

((~~(i)~~)) (a) The office does not have the resources to conduct a study to determine all its actual copying costs;

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

((~~(iii)~~)) (c) Through the 2017 legislative process, the public and requesters have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4). ((~~Therefore, as authorized in RCW 42.56.120, the agency shall implement a fee schedule consistent with the Public Records Act, as it is more cost efficient, expeditious and in the public interest for the agency to adopt the state legislature's approved fees and costs for most of the agency's records.~~))

(3) The office ((~~will~~)) may:

(a) Charge for copies of records pursuant to ((~~the default fees in~~)) RCW 42.56.120 (2)(b) and (c);

(b) Charge for customized services pursuant to RCW 42.56.120(3) ((~~. Under RCW 42.56.130, the office may~~));

(c) Charge other copy fees authorized by statutes outside of chapter 42.56 RCW((~~. The office may~~)) pursuant to RCW 42.56.130; or

(d) Enter into an alternative fee agreement with ((~~a requester~~)) the requestor under RCW 42.56.120(4).

(4) The charges for copying methods used by the office are summarized in the fee schedule available on the office's website at ((~~www.tre.wa.gov~~)) https://tre.wa.gov.

((~~(4) Requesters are required~~)) (5) Before producing public records, the public records officer may require the requestor to pay ((~~for copies~~)):

(a) The entire cost in advance of receiving records((~~. Fee waivers are an exception and are available for some small requests under the following conditions.~~

~~(a) It is within the discretion of the public records officer to waive copying fees when: (i) All of the records responsive to an entire request are paper copies only and are fifty pages or fewer; or (ii) all of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of 100 printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requester will be charged in accordance with this rule.~~

~~(b) Fee waivers are not applicable to records provided in installments.~~

~~(5) The public records officer may require an~~));

(b) An advance deposit of ((~~ten~~)) 10 percent of the estimated fees ((~~when the copying fees for~~)); or

(c) The payment of the costs of providing an installment ((~~or an entire request, or customized service charge, exceeds twenty-five dollars~~)) before providing that installment.

(6) ((~~All required fees must be paid in advance of release of the copies or an installment of copies, or in advance of when a deposit is required. The office~~)) The public records officer will notify the ((~~requester of~~)) requestor if fees will be charged and when payment is ((~~due~~)) required.

(7) The office will deem abandoned and administratively close a request as described in WAC 474-01-085(5) when a requestor fails by the payment date to pay in the manner prescribed.

(8) Payment should be made by check or money order to the office of the state treasurer. The office prefers not to receive cash((~~. For cash payments~~)), and it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

((~~(8) The office will close a request when a requester fails by the payment date to pay in the manner prescribed for records, an installment of records, or a required deposit.~~))

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-100 Exemptions. ((~~(1) The office reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 474-01-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.~~

~~(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the office reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.~~

~~(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.~~)) (1) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the

office believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record, or a portion of the record, is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(2) **Protecting the rights of others.** If records to be produced in response to a request contain information that may affect the rights of others, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. The notice to potentially affected persons may include a copy of the request.

(3) **List of individuals.** The office is prohibited by statute from disclosing a list of individuals for commercial purposes. The office will require a commercial purpose declaration prior to disclosing a list of individuals. A copy of the commercial purpose declaration may be provided to individuals potentially affected by release of the record if such individuals are notified as described in subsection (2) of this section.

(a) For the purpose of this subsection, individuals means natural persons; provided, however, that a list that includes natural persons and entities or organizations is considered a list of individuals.

(b) For the purpose of this subsection, commercial purposes means activities of a requestor or their affiliates which are reasonably anticipated to result in the generation of revenue or be done for financial benefit.

AMENDATORY SECTION (Amending Order 2, filed 7/30/74)

WAC 474-01-110 Review of denials of public records requests.

(1) Requestors are encouraged to communicate with the public records officer regarding denials of public records requests.

(2) **Petition for internal administrative review.** Any person who objects to the denial or partial denial of a request for a public record may petition for prompt review of such decision by ((~~tendering~~)) submitting a written request for review to the public records officer at any of the methods of contact provided in this chapter. The written ((~~request shall~~)) petition must specifically ((~~refer to the~~)) include the office-assigned request number and a copy of any written statement by the public records officer or other staff member which constituted or accompanied the denial.

((~~(2)~~)) (3) **Consideration of petition for review.** Immediately after receiving a written ((~~request~~)) petition for review of a decision denying a public record, the public records officer or other staff member ((~~denying the request~~)) shall refer it to the state treasurer, or ((~~his~~)) the treasurer's designee, who shall consider the matter and either affirm or reverse such denial. In any case, the ((~~request~~)) petition shall be returned with a final decision((~~,~~)) within two business days following the ((~~original denial.~~

~~(3) Administrative remedies shall not be considered exhausted until the system has returned the petition with a decision or until the close of the second business day following denial of inspection,~~

~~whichever occurs first~~)) receipt of the petition for review, or within such other time as the office and the requestor mutually agree.

(4) **Review by the office of the attorney general.** Pursuant to RCW 42.56.530, if the office denies a requestor access to a public record because it claims the record is exempt in whole or in part from disclosure, the requestor may request the office of the attorney general to review the matter. The attorney general has adopted a protocol for such requests in WAC 44-06-160.

(5) **Judicial review.** Requestors may obtain court review of denials of their public records requests pursuant to RCW 42.56.550.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 474-01-020	Definitions.
WAC 474-01-040	Operations and procedures.
WAC 474-01-050	Public records available.
WAC 474-01-120	Mailing address.
WAC 474-01-130	Adoption of form.
WAC 474-01-990	Form——Request for public records.

WSR 26-15-004
PERMANENT RULES
OFFICE OF THE
STATE TREASURER
(State Finance Committee)
[Filed July 2, 2026, 9:42 a.m., effective August 2, 2026]

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

Purpose: Update outdated rules relating to public records under Title 210 WAC, and create rules relating to public records under Title 389 WAC. Also to incorporate gender-neutral language.

Citation of Rules Affected by this Order: New WAC 210-06-075, 210-06-085, 389-06-010, 389-06-020, 389-06-030, 389-06-040, 389-06-050, 389-06-060, 389-06-070, 389-06-080, 389-06-090, 389-06-100, and 389-06-110; repealing WAC 210-06-020, 210-06-050, 210-06-120, 210-06-130, 210-06-140, and 210-06-990; and amending WAC 210-06-010, 210-06-030, 210-06-040, 210-06-060, 210-06-070, 210-06-080, 210-06-090, 210-06-100, and 210-06-110.

Statutory Authority for Adoption: RCW 43.33.030, 43.33.040, 39.58.030, 39.58.040, 42.56.040, 42.56.070, and 42.56.100.

Adopted under notice filed as WSR 26-01-074 on December 12, 2025.

Changes Other than Editing from Proposed to Adopted Version: The original text of the proposed rules provided a link to the office of the state treasurer's public records index and stated that it was also the index for the state finance committee (SFC) and public deposit protection commission (PDPC). In addition, the rule stated the records retention schedules created by the secretary of state further served as indexes. The adopted rules removed the reference to the records retention schedules and instead specifically discussed the types of records SFC and PDPC would include in their index if such records exist, and how they would be organized. In addition, the adopted language specifically states the location and availability of the indexes and provides a schedule for reviews and updates of the indexes. The powers of SFC were also updated to better reflect its actual duties.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 13, Amended 9, Repealed 6.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 13, Amended 9, Repealed 6.

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

Date Adopted: July 2, 2026.

Tammie Nuber
Assistant State Treasurer

RDS-6204.2

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-010 Purpose. The purpose of this chapter ((~~shall be to ensure compliance by~~)) is to provide rules for the state finance committee to ensure compliance with the provisions of chapter ((~~1, Laws of 1973 (Initiative 276), Disclosure--Campaign finances--Lobbying--Records; and in particular with §§ 25-32 of that act, dealing with~~)) 42.56 RCW relating to public records.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-030 Description of ((~~central and field organization of~~)) the state finance committee. ((~~(1) State finance committee.~~)) The state finance committee is ((~~a state agency~~)) the committee established by RCW 43.17.070 and chapter 43.33 RCW empowered to perform all duties prescribed by law with respect to the ((~~investment of trust and public funds~~)) supervising, authorizing, and issuing state bonds, notes, or other evidence of indebtedness, establishing maximum aggregate principal amount for financing contracts, approving the form of all financing contracts, approving the execution of a contract with one or more firms to serve as state fiscal agent, and confirmation of the term of employment of the state investment board executive director. The ((~~administrative offices of the~~)) state finance committee ((~~and its staff are located at 314 Insurance Building, Olympia, Washington.~~)) shall throughout this chapter, unless context clearly indicates otherwise, be referred to as the "committee."

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-040 ((~~Operations and procedures.~~)) Administrative operations. ((~~The state finance committee is charged with the duty to invest certain trust and public funds, as set forth in RCW 43.33.020, 43.33.025, 43.33.030, 51.44.100, and sections 12, 14, 15 and 16, chapter 103, Laws of 1973 1st ex. sess.~~)) (1) Pursuant to RCW 43.33.030, the office of the state treasurer provides administrative and clerical assistance for the committee.

(2) The administrative office of the state treasurer is in the Legislative Building, Olympia, Washington. Its contact information is:

Mail: Office of the State Treasurer
416 Sid Snyder Ave S.W., 2nd Floor, Room 230
P.O. Box 40200
Olympia, WA 98504-0200
Phone: 360-902-9000
Email: watreas@tre.wa.gov

(3) All communications with the committee including, but not limited to, the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.56 RCW and these rules, or requests for copies of the committee's decisions and other matters, should be sent or directed to the administrative office of the state treasurer.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-060 Public records officer. (1) The ((~~state finance committee's~~)) committee designates the office of the state treasurer's public records ((~~shall be in the charge of the~~)) officer, ex officio, as the committee's public records officer ((~~designated by the agency. The person so designated shall be located in the administrative office of the agency~~)). The public records officer ((~~shall be~~)) is responsible for ((~~the following: The implementation of the state finance~~)) implementing the committee's rules ((~~and regulations~~)) regarding release of public records, coordinating ((~~the staff of~~)) with the committee in this regard, and generally ((~~insuring~~)) ensuring compliance by the staff with the public records disclosure((~~s~~)) requirements of chapter ((~~1, Laws of 1973~~)) 42.56 RCW.

(2) The public records officer may choose one or more designees to carry out the responsibilities of this chapter including, but not limited to, processing and responding to public records requests.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-070 Office hours. The committee's public records ((~~shall be~~)) are available for inspection and copying during the customary office hours of the ((~~state finance committee~~)) office of the state treasurer. ((~~For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m.~~)) Absent an emergency or other unforeseen, exigent circumstances, records may be available at the administrative office of the state treasurer without an appointment from 10:00 a.m. to 2:00 p.m., or with an appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. A scheduled appointment is strongly advised to provide time for the identification and retrieval of potentially responsive records prior to your arrival.

NEW SECTION

WAC 210-06-075 Records index. (1) The committee has implemented an indexing system for the identification and location of records required to be indexed by RCW 42.56.070(5) and 34.05.220(2). In addition to the indexing system, the office of the state treasurer maintains and continually updates the committee's website at http://tre.wa.gov/our-office/boards-and-commissions/state-finance-committee, which includes state finance committee laws, bond sale documents, and other committee documents.

(2) The following records, if any, shall be indexed as follows:

(a) Orders, including final orders and adjudicative orders, as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(b) Interpretive or policy statements as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(c) Committee meeting notices, materials, and minutes will be indexed chronologically.

(d) Resolutions issued by the committee will be indexed by issuance number.

(e) Records relating to bond sales will be indexed chronologically.

(3) **Location and availability.** The index is posted on the office of the state treasurer's website at tre.wa.gov/public-records-index. The index is otherwise available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

(4) **Revising and updating the records index.** The office of the state treasurer will review the committee's index at least annually to ensure that it is current and complete.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-080 Requests for public records. ((~~In accordance with requirements of chapter 1, Laws of 1973, that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:~~

~~(1) A request shall be made in writing upon a form prescribed by the state finance committee which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the committee's staff, if the public records officer is not available at the administrative office of the committee during customary office hours. The request shall include the following information:~~

~~(a) The name of the person requesting the record;~~

~~(b) The time of day and calendar date on which the request was made;~~

~~(c) The nature of the request;~~

~~(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;~~

~~(e) If the requested matter is not identifiable by reference to the committee's current index, an appropriate description of the record requested.~~

~~(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is made to assist the member of the public in appropriately identifying the public record requested.~~)) (1) This procedure for requesting public records ensures the office of the state treasurer can provide the fullest assistance to requestors; prevent unreasonable invasions of privacy; protect public records from damage or disorganization; and prevent excessive interference with essential functions of the committee or the office of the state treasurer.

(2) **Submitting a request.**

(a) Persons seeking public records of the committee are strongly encouraged to, before submitting a records request, first review the following websites, where many Washington state records are free for viewing and downloading at any time. If any of the web addresses below become inoperable, record seekers may contact the office of the state

treasurer to learn any replacement addresses or about similar resources:

(i) Https://tre.wa.gov/public-records-index provides a list of records available on the office of the state treasurer's website, including data and information related to the state's investments and debt.

(ii) Https://tre.wa.gov/our-office/boards-and-commissions/state-finance-committee provides access to recent committee meeting documents and resolutions.

(iii) Https://data.wa.gov provides access to multiple datasets maintained by Washington agencies.

(b) Request for committee records under the provisions of the Public Records Act may be submitted to the office of the state treasurer in one of the following ways:

(i) **Online:** https://tre.wa.gov/public-records-requests. Requestors are strongly encouraged to submit requests through the office of the state treasurer's secure online Public Records Act portal, which allows requestors to also track the status of their request and easily receive documents of any type or size.

(ii) **Email:** publicdisclosure@tre.wa.gov

(iii) **U.S. mail or delivery:**

State Finance Committee
c/o Washington State Treasurer
Attn: Public Records Officer
416 Sid Snyder Avenue, S.W.
P.O. Box 40200
Olympia, WA 98504-0200

(iv) **In person.** A request may be submitted to staff at the administrative office of the state treasurer during customary office hours. A printed form will be provided to requestors submitting oral requests in person. The completed form will be directed to the public records officer to be processed as described in this chapter.

(c) Each request should include the following information:

(i) Name of requestor;

(ii) Address of requestor;

(iii) Direct contact information, including telephone number and email address, to allow for communication if clarification is required, and for notification when records are available for viewing or retrieval; and

(iv) A clear description identifying the public records requested, including dates of the records or transactions, if appropriate.

(d) Communications seeking committee records, but which are sent or provided to unauthorized locations, addresses, or staff may not be accepted as or processed as Public Records Act requests. The office of the state treasurer may process such communications as constituent correspondence or general requests for information, as appropriate. If seeking committee records, requestors are strongly encouraged to submit their request to the public records officer as directed in (b) and (c) of this subsection.

NEW SECTION

WAC 210-06-085 Processing public records requests. (1) Upon receipt of a public records request, it will be recorded in the office

of the state treasurer's public records tracking system and will be assigned a tracking number.

(2) The public records officer will evaluate the request to determine the availability and potential volume of requested records.

(3) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (2) of this section, and within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or retrieval, including:

(i) If copies are available via the internet, provide an internet address to specific records requested;

(ii) If copies will be provided without a fee or deposit for the copies, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available, in which the estimate may be revised from time to time;

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear or unduly burdensome, providing, to the greatest extent practicable, the office of the state treasurer's interpretation of the request and a reasonable estimate of time to respond based on such interpretation;

(i) Clarification may be requested and provided by telephone and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the office of the state treasurer cannot reasonably interpret the request to be sufficient pursuant to chapter 42.56 RCW, the office of the state treasurer need not respond to it; or

(d) Deny the request.

(4) **Providing records in installments.** The public records officer may provide copies, or access for inspection and copying, in installments. If, within 30 days, the requestor fails to inspect or take delivery of the entire set of records or any one or more installments, the request will be deemed abandoned as described in subsection (5) of this section.

(5) **Closing withdrawn or abandoned request.** When a requestor either withdraws their request or fails to amend or clarify an unclear request, take delivery of or inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer may deem the request abandoned, administratively close the request, and notify the requestor of such closure.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-090 Copying fees—Payments. (1) There is no fee ((~~shall be charged for the inspection of~~)) to inspect public records. The committee ((~~shall~~)) may impose a charge ((~~a fee not to exceed 25 cents per page. This charge is the amount necessary to reimburse the committee for its actual costs incident to such copying~~)) for providing a copy of a public record.

(2) The committee does not calculate the actual costs for copying records because doing so would be unduly burdensome for the following reasons:

(a) The committee does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential committee and office of the state treasurer functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(3) The committee, through the office of the state treasurer, may:

(a) charge for copies of records pursuant to RCW 42.56.120 (2)(b) and (c);

(b) Charge for customized services pursuant to RCW 42.56.120(3);

(c) Charge other copy fees authorized by statutes outside of chapter 42.56 RCW pursuant to RCW 42.56.130; or

(d) Enter into an alternative fee agreement with the requestor under RCW 42.56.120(4).

(4) The charges for copying methods used by the committee are summarized in the fee schedule available on the office of the state treasurer's website at https://tre.wa.gov.

(5) Before producing public records, the public records officer may require the requestor to pay:

(a) The entire cost in advance of receiving records;

(b) An advance deposit of 10 percent of the estimated fees; or

(c) The payment of the costs of providing an installment before providing that installment.

(6) The public records officer will notify the requestor if fees will be charged and when payment is required.

(7) The committee will deem abandoned and administratively close a request as described in WAC 210-06-085(5) when a requestor fails by the payment date to pay in the manner prescribed.

(8) Payment should be made by check or money order to the office of the state treasurer. The office of the state treasurer prefers not to receive cash, and it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-100 Exemptions. ((~~(1) The committee reserves the right to determine that a public record requested in accordance with the procedures outlined in WAC 210-06-080 is exempt under the provisions of § 31, chapter 1, Laws of 1973.~~

~~(2) In addition, pursuant to § 26, chapter 1, Laws of 1973, the committee reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.~~

~~(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.~~)) (1) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the

office of the state treasurer believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record, or a portion of the record, is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(2) **Protecting the rights of others.** If records to be produced in response to a request contain information that may affect the rights of others, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. The notice to potentially affected persons may include a copy of the request.

(3) **List of individuals.** The committee is prohibited by statute from disclosing a list of individuals for commercial purposes. The office of the state treasurer will require a commercial purpose declaration prior to disclosing a list of individuals. A copy of the commercial purpose declaration may be provided to individuals potentially affected by release of the record if such individuals are notified as described in subsection (2) of this section.

(a) For the purpose of this subsection, individuals means natural persons; provided, however, that a list that includes natural persons and entities or organizations is considered a list of individuals.

(b) For the purpose of this subsection, commercial purposes means activities of a requestor or their affiliates which are reasonably anticipated to result in the generation of revenue or be done for financial benefit.

AMENDATORY SECTION (Amending Order XII, filed 11/28/73)

WAC 210-06-110 Review of denials of public records requests. (1) Requestors are encouraged to communicate with the public records officer regarding denials of public records requests.

(2) **Petition for internal administrative review.** Any person who objects to the denial or a partial denial of a request for a public record may petition for prompt review of such decision by ((~~tendering~~)) submitting a written request for review to the public records officer at any of the methods of contact provided in this chapter. The written ((~~request shall~~)) petition must specifically ((~~refer to the~~)) include the office-assigned request number and a copy of any written statement by the public records officer or other staff member which constituted or accompanied the denial.

((~~(2)~~)) (3) **Consideration of petition for review.** Immediately after receiving a written ((~~request~~)) petition for review of a decision denying a public record, the public records officer or other staff member ((~~denying the request~~)) shall refer it to the committee's executive secretary ((~~of the committee. The executive secretary~~)), or the secretary's designee, who shall ((~~immediately~~)) consider the matter and either affirm or reverse such denial, or call a special meeting of the ((~~state finance~~)) committee as soon as ((~~legally possible~~)) practicable to review the denial. In any case, the ((~~request~~)) petition shall be returned with a final decision((~~,~~)) within two business days following the ((~~original denial.~~

~~(3) Administrative remedies shall not be considered exhausted until the system has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first~~)) receipt of the petition for review, or within such other time as the secretary or designee and the requestor mutually agree.

(4) **Review by the office of the attorney general.** Pursuant to RCW 42.56.530, if the committee denies a requestor access to a public record because it claims the record is exempt in whole or in part from disclosure, the requestor may request the office of the attorney general to review the matter. The attorney general has adopted a protocol for such requests in WAC 44-06-160.

(5) **Judicial review.** Requestors may obtain court review of denials of their public records requests pursuant to RCW 42.56.550.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 210-06-020	Definitions.
WAC 210-06-050	Public records available.
WAC 210-06-120	Records index.
WAC 210-06-130	State finance committee address.
WAC 210-06-140	Adoption of form.
WAC 210-06-990	Appendix A——Form——Request for public records.

RDS-6205.2

Chapter 389-06 WAC
PUBLIC RECORDS

NEW SECTION

WAC 389-06-010 Purpose. The purpose of this chapter is to provide rules for the public deposit protection commission to ensure compliance with the provisions of chapter 42.56 RCW relating to public records.

NEW SECTION

WAC 389-06-020 Description of the public deposit protection commission. The public deposit protection commission is the commission

established by chapter 39.58 RCW and empowered to perform all duties prescribed by law. The public deposit protection commission shall throughout this chapter, unless context clearly indicates otherwise, be referred to as the "commission."

NEW SECTION

WAC 389-06-030 Administrative operations. (1) Pursuant to RCW 39.58.220 and WAC 389-12-120, the office of the state treasurer administers the commission.

(2) The administrative office of the state treasurer is in the Legislative Building, Olympia, Washington. Its contact information is:

Mail: Office of the State Treasurer
416 Sid Snyder Ave. S.W., 2nd floor, Room 230
P.O. Box 40200
Olympia, WA 98504-0200
Phone: 360-902-9000
Email: watreas@tre.wa.gov

(3) All communications with the commission including, but not limited to, the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 42.56 RCW and these rules, or requests for copies of the commission's decisions and other matters, should be sent or directed to the administrative office of the state treasurer.

NEW SECTION

WAC 389-06-040 Public records officer. (1) The commission designates the office of the state treasurer's public records officer, ex officio, as the commission's public records officer. The public records officer is responsible for implementing the commission's rules regarding release of public records, coordinating with the commission in this regard, and generally ensuring compliance with the public records disclosure requirements of chapter 42.56 RCW.

(2) The public records officer may choose one or more designees to carry out the responsibilities of this chapter including, but not limited to, processing and responding to public records requests.

NEW SECTION

WAC 389-06-050 Office hours. The commission's public records are available for inspection and copying during the customary office hours of the office of the state treasurer. Absent an emergency or other unforeseen, exigent circumstances, records may be available at the administrative office of the state treasurer without an appointment from 10:00 a.m. to 2:00 p.m., or with an appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. A scheduled appointment is strongly advised to provide time for the identification and retrieval of responsive records prior to your arrival.

NEW SECTION

WAC 389-06-060 Records index. (1) The commission has implemented an indexing system for the identification and location of records required to be indexed by RCW 42.56.070(5) and 34.05.220(2). In addition to the indexing system, the office of the state treasurer maintains and continually updates the commission's website at https://tre.wa.gov/our-office/boards-and-commissions/public-deposit-protection-commission, which includes public depositary protection commission laws, reports, and other commission documents.

(2) The following records, if any, shall be indexed as follows:

(a) Orders, including final orders and adjudicative orders, as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(b) Interpretive or policy statements as defined in RCW 34.05.010 will be indexed chronologically and include the issuance number and topic.

(c) Commission meeting notices, materials, and minutes will be indexed chronologically.

(d) Resolutions issued by the commission will be indexed by issuance number.

(e) Reports will be indexed chronologically.

(3) **Location and availability.** The index is posted on the office of the state treasurer's website at tre.wa.gov/public-records-index. The index is otherwise available to all persons under the same rules and on the same conditions as are applied to public records available for inspection.

(4) **Revising and updating the records index.** The office of the state treasurer will review the committee's index at least annually to ensure that it is current and complete.

NEW SECTION

WAC 389-06-070 Requests for public records. (1) This procedure for requesting public records ensures the office of the state treasurer can provide the fullest assistance to requestors; prevent unreasonable invasions of privacy; protect public records from damage or disorganization; and prevent excessive interference with essential functions of the office or the commission.

(2) **Submitting a request.**

(a) Persons seeking public records of the commission are strongly encouraged to, before submitting a records request, first review the following websites, where many Washington state records are free for viewing and downloading at any time. If any of the web addresses below become inoperable, record seekers may contact the office of the state treasurer to learn any replacement addresses or about similar resources:

(i) Https://tre.wa.gov/public-records-index provides a list of records available on the office website, including data and information related to the state's investments and debt.

(ii) Https://tre.wa.gov/our-office/boards-and-commissions/public-deposit-protection-commission provides access to recent commission meeting documents and resolutions.

(iii) Https://data.wa.gov provides access to multiple datasets maintained by Washington agencies.

(b) Requests for commission records under the provisions of the Public Records Act may be submitted to the office of the state treasurer in one of the following ways:

(i) **Online:** https://tre.wa.gov/public-records-requests. Requestors are strongly encouraged to submit requests through the office of the state treasurer's secure online Public Records Act portal, which allows requestors to also track the status of their request and easily receive documents of any type or size.

(ii) **Email:** publicdisclosure@tre.wa.gov

(iii) **U.S. mail or delivery:**

Public Deposit Protection Commission
c/o Washington State Treasurer
Attn: Public Records Officer
416 Sid Snyder Avenue, S.W.
P.O. Box 40200
Olympia, WA 98504-0200

(iv) **In person.** A request may be made to staff at the administrative office of the state treasurer during customary office hours. A printed form will be provided to requestors submitting oral requests in person. The completed form will be directed to the public records officer to be processed as described in this chapter.

(c) The request must include the following information:

(i) Name of requestor;

(ii) Address of requestor;

(iii) Direct contact information, including telephone number and email address, to allow for communication if clarification is required, and for notification when records are available for viewing or retrieval; and

(iv) A clear description identifying the public records requested, including dates of the records or transactions, if appropriate.

(d) Communications seeking commission records, but which are sent or provided to unauthorized locations, addresses, or staff may not be accepted as or processed as Public Records Act requests. The office of the state treasurer may process such communications as constituent correspondence or general requests for information, as appropriate. If seeking commission records, requestors are strongly encouraged to submit their request to the public records officer as directed in (b) and (c) of this subsection.

NEW SECTION

WAC 389-06-080 Processing public records requests. (1) Upon receipt of a public records request, it will be recorded in the office of the state treasurer's public records tracking system and will be assigned a tracking number.

(2) The public records officer will evaluate the request to determine the availability and potential volume of requested records.

(3) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (2) of this section, and within five business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or retrieval, including:

(i) If copies are available via the internet, provide an internet address to specific records requested;

(ii) If copies will be provided without a fee or deposit for the copies, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available, in which the estimate may be revised from time to time;

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear or unduly burdensome, providing, to the greatest extent practicable, the office of the state treasurer's interpretation of the request and a reasonable estimate of time to respond based on such interpretation:

(i) Clarification may be requested and provided by telephone and memorialized in writing;

(ii) If the requestor fails to respond to a request for clarification and the office of the state treasurer cannot reasonably interpret the request to be sufficient pursuant to chapter 42.56 RCW, the office of the state treasurer need not respond to it; or

(d) Deny the request.

(4) **Providing records in installments.** The public records officer may provide copies, or access for inspection and copying, in installments. If, within 30 days, the requestor fails to inspect or take delivery of the entire set of records or any one or more installments, the request will be abandoned as described in subsection (5) of this section.

(5) **Closing withdrawn or abandoned request.** When a requestor either withdraws their request or fails to amend or clarify an unclear request, take delivery of or inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer may deem the request abandoned, administratively close the request, and notify the requestor of such closure.

NEW SECTION

WAC 389-06-090 Copying fees—Payments. (1) There is no fee to inspect public records. The commission may impose a charge for providing a copy of a public record.

(2) The commission does not calculate the actual costs for copying records because doing so would be unduly burdensome for the following reasons:

(a) The commission does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential commission and office of the state treasurer functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(3) The commission, through the office of the state treasurer may:

(a) Charge for copies of records pursuant to RCW 42.56.120 (2)(b) and (c);

(b) Charge for customized services pursuant to RCW 42.56.120(3);

(c) Charge other copy fees authorized by statutes outside of chapter 42.56 RCW pursuant to RCW 42.56.130; or

(d) Enter into an alternative fee agreement with the requestor under RCW 42.56.120(4).

(4) The charges for copying methods used by the commission are summarized in the fee schedule available on the office of the state treasurer's website at https://tre.wa.gov.

(5) Before producing public records, the public records officer may require the requestor to pay:

(a) The entire cost in advance of receiving records;

(b) An advance deposit of 10 percent of the estimated fees; or

(c) The payment of the costs of providing an installment before providing that installment.

(6) The public records officer will notify the requestor if fees will be charged and when payment is required.

(7) The commission will deem abandoned and administratively close a request as described in WAC 389-06-080(5) when a requestor fails by the payment date to pay in the manner prescribed.

(8) Payment should be made by check or money order to the office of the state treasurer. The office of the state treasurer prefers not to receive cash, and it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

NEW SECTION

WAC 389-06-100 Exemptions. (1) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the office of the state treasurer believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record, or a portion of the record, is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(2) **Protecting the rights of others.** If records to be produced in response to a request contain information that may affect the rights of others, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. The notice to potentially affected persons may include a copy of the request.

(3) **List of individuals.** The commission is prohibited by statute from disclosing a list of individuals for commercial purposes. The office of the state treasurer will require a commercial purpose declaration prior to disclosing a list of individuals. A copy of the commercial purpose declaration may be provided to individuals potentially affected by release of the record if such individuals are notified as described in subsection (2) of this section.

(a) For the purpose of this subsection, individuals means natural persons; provided, however, that a list that includes natural persons and entities or organizations is considered a list of individuals.

(b) For the purpose of this subsection, commercial purposes means activities of a requestor or their affiliates which are reasonably an-

ticipated to result in the generation of revenue or be done for financial benefit.

NEW SECTION

WAC 389-06-110 Review of denials of public records requests. (1) Requestors are encouraged to communicate with the public records officer regarding denials of public records requests.

(2) **Petition for internal administrative review.** Any person who objects to the denial or a partial denial of a request for a public record may petition for prompt review of such decision by submitting a written request for review to the public records officer at any of the methods of contact provided in this chapter. The written petition must specifically include the office-assigned request number and a copy of any written statement by the public records officer or other staff member which constituted or accompanied the denial.

(3) **Consideration of petition for review.** Immediately after receiving a written petition for review of a decision denying a public record, the public records officer or other staff member shall refer it to the treasurer, or the treasurer's designee, who shall consider the matter and either affirm or reverse such denial, or call a special meeting of the commission as soon as practicable to review the denial. In any case, the petition shall be returned with a final decision, within two business days following the receipt of the petition for review, or within such other time as the treasurer or designee and the requestor mutually agree.

(4) **Review by the office of the attorney general.** Pursuant to RCW 42.56.530, if the commission denies a requestor access to a public record because it claims the record is exempt in whole or in part from disclosure, the requestor may request the office of the attorney general to review the matter. The attorney general has adopted a protocol for such requests in WAC 44-06-160.

(5) **Judicial review.** Requestors may obtain court review of denials of public records requests pursuant to RCW 42.56.550.

WSR 26-15-007
PERMANENT RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2024-07—Filed July 2, 2026, 1:19 p.m., effective August 2, 2026]

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

Purpose: The original premium change transparency rules were adopted in 2023 in chapter 284-30A WAC. These adopted rules outlined administrative regulations to achieve transparency for policyholders receiving premium increases from insurers at renewal on policies like residential property and private passenger auto. The insurance commissioner is adopting rules to create a new phase two with additional insurer requirements and to delay the implementation date of the original phase two, proposed as the new phase three, until 2029.

Citation of Rules Affected by this Order: Repealing WAC 284-30A-060; and amending WAC 284-30A-040, 284-30A-050, 284-30A-070, 284-30A-080, and 284-30A-090.

Statutory Authority for Adoption: RCW 48.30.010 and 48.02.060 to effectuate RCW 48.01.030, 48.18.180, 48.18.2901, 48.18.292, 48.18.480, 48.18.545, 48.19.020, 48.19.030, and 48.19.035.

Adopted under notice filed as WSR 26-10-079 on May 6, 2026.

A final cost-benefit analysis is available by contacting Rules Coordinator, P.O. Box 40255, Olympia, WA 98504-0255, phone 360-725-7171, fax 360-586-3109, email RulesCoordinator@oic.wa.gov.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 5, Repealed 1.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 5, Repealed 1.

Date Adopted: July 2, 2026.

Patty Kuderer
Insurance Commissioner

RDS-7005.4

AMENDATORY SECTION (Amending WSR 23-13-114, filed 6/21/23, effective 6/1/24)

WAC 284-30A-040 Premium change transparency thresholds. (1) Beginning June 1, 2024, and effective until ((~~June~~)) March 1, 2027, insurers shall provide reasonable explanations, for insurance policies as described in WAC 284-30A-020, upon written request by the policyholder, for any premium increase occurring at renewal.

(2) Beginning March 1, 2027, insurers shall provide reasonable explanations and no more than the top three primary factors, disclosing the causes of premium increases for insurance policies as described in WAC 284-30A-020, upon written request by the policyholder, for any premium increase occurring at renewal. There is no requirement for these primary factors to be associated with a dollar amount or percentage of increase.

(3) Beginning ((~~June~~)) January 1, ((~~2027~~)) 2029, insurers shall provide premium change notices, with reasonable explanations and primary factors, disclosing the causes of premium increases for insurance policies as described in WAC 284-30A-020. Insurers shall provide premium change notices automatically when a renewal will result in a 10 percent premium increase or more, or upon written request by the policyholder for any premium increase occurring at renewal.

AMENDATORY SECTION (Amending WSR 23-13-114, filed 6/21/23, effective 6/1/24)

WAC 284-30A-050 Premium change transparency administrative requirements. (1) Insurer premium change transparency disclaimer: Beginning June 1, 2024, insurers shall include a prominent disclaimer on the first page or view of renewal notices and renewal billing statements indicating, in at least 12-point type bold font, substantially similar language as the following: **"Policyholders receiving an increase to their premiums at renewal can request an explanation by contacting their insurer in writing. Please see Chapter 284-30A WAC for additional information on your right to an explanation for your rate increase."**

((~~(2)~~)) Insurers shall include their contact information in all premium change transparency to policyholders, and may include the producer's (if any)((~~,~~)) contact information.

(2) Insurer premium change transparency disclaimer: Beginning November 1, 2026, through December 31, 2028, insurers shall include this prominent disclaimer in at least 12-point font on the first page or view of renewal notices, emails relating to renewal notices, and renewal billing statements with the following:

"Did my premium go up? If your premium increases when your policy renews, **you have the right to ask your insurance company why and they must explain the reasons.** You must ask for the explanation in writing (this can be by email or another electronic message). But once asked, your company is required to explain the specific reasons for your increase. For more details about your rights, see Washington state rules (Chapter 284-30A WAC)."

Insurers shall include their contact information in all premium change transparency to policyholders, and may include the producer's (if any) contact information. The contact information must include an email and mailing address the consumer can use to provide a written request. If applicable, a website and online application link or address may be additionally provided.

(3) Consumers' written requests, and insurers' premium change transparency, are deemed to be requested and responded to at the date indicated by either postmark or electronic timestamp for delivery. In the event of duplicate requests or responses, for delivery by both mail and email, then this date will be determined as the earlier of either postmark or electronic timestamp for delivery.

(4) Insurers shall provide premium change transparency to the policyholder, and their producer (if any), according to the following:

(a) If upon written request, then no later than 20 calendar days from the receipt of the written request; and

(b) If upon renewal, due to a 10 percent premium increase or more, then automatically and no less than 20 calendar days prior to the effective date of the renewed policy.

(5) Insurers shall include a statement in all premium change transparency that the policyholder may contact their insurer to request additional information about the policyholder's premium increases.

(6) Insurers shall respond to and provide additional information for policyholder's subsequent requests for premium change transparency, no later than 20 calendar days from the receipt of any subsequent requests.

(7) Insurers shall send premium change transparency to policyholders in writing, and may send either explanations or notices via postal mail, or may deliver either in email or electronic format, if the policyholder has consented to receive notifications electronically. All electronic correspondence, notices, and deliveries must comply with chapter 48.185 RCW.

(8) Insurers may send premium change transparency to the policyholder individually or with renewal notices.

(9) Insurers may provide policyholders with access to a language translation service specific to the premium change transparency. This can include either written or telephonic translation services. If an insurer translates premium change transparency, then the translations must comply with WAC 284-20B-150.

(10) Insurers' records related to premium change transparency are subject to RCW 48.05.280. Insurers' records must be retrievable and made accessible to the commissioner during the retention period.

AMENDATORY SECTION (Amending WSR 23-13-114, filed 6/21/23, effective 6/1/24)

WAC 284-30A-070 Insurer communication standards. (1) Reasonable explanation is a communication standard that requires insurers to provide sufficient information, in terms and plain language that are understandable to an average policyholder, which enable the policyholder to figure out the basic nature of any premium increase.

(2) Primary factors is a communication standard that requires insurers to provide the actual reasons, including the specific rate and rating factors, that caused the premium increase. The primary factors are the following:

(a) Auto-related factors (car garaging location, driving record, miles driven, number of drivers, and number of vehicles), claims history, discounts, fees and surcharges, demographic factors (age, credit history, education, gender, marital status, and occupation), property related factors (age, location, and value), premium capping, and rate changes (including those subject to rate stability rules, transition rules, or premium-capping rules, as referenced in WAC 284-24-130).

(b) Insurers shall include the primary factors in the premium change notice, if applicable to the premium increase, with any premium change notices processed for renewals effective on or after ((~~June~~)) January 1, ((~~2027~~)) 2029. Factors not listed above as primary are con-

sidered as optional factors. Insurers may include additional optional factors not listed in this section, if applicable to the premium increase.

(3) Insurers may include composite rating variables in premium change transparency to inform policyholders of premium increases. However, if insurers include composite rating variables in their premium change transparency, then insurers shall explain the premium increase attributed to the composite rating variables.

(4) Insurers may include the use of estimated dollars in premium change transparency, if a reasonable explanation is provided by the insurers to the policyholders on the degree of accuracy estimated dollars achieve, as specifically applied to that policy and premium increase.

(5) Insurers may show separate impacts by the different perils or risks being covered and the type of coverage for each.

(6) This chapter does not prohibit insurers from sending premium change transparency for all premium increases beyond those required in this section.

AMENDATORY SECTION (Amending WSR 23-13-114, filed 6/21/23, effective 6/1/24)

WAC 284-30A-080 Premium change notice contents. (1) This section outlines the explanation required and minimum amount of information to include in the contents of the premium change notice. Insurers are permitted to provide additional information beyond these requirements.

(2) **Premium change notice.**

LICENSED INSURANCE COMPANY – NAME, ADDRESS, NAIC Number, & Notice Date

Policyholder Name, Policy Type, Covered Risks, Policy Number, Policy Period, and Effective Date

• We are notifying you of a premium increase to your insurance policy. Your premium for this insurance policy has increased from (Total Amount) **to** (Total Amount) (*insurers insert amounts*).

• Your premium is impacted by (*insurers insert primary factors such as auto-related factors, demographics, discounts, rates, and property related factors*)**, which will cause the price of your insurance to increase at renewal.**

• Here is an explanation for each ((~~reason of~~)) listed primary factor that contributed to your premium increase (*insurers shall communicate the reasons for the premium increases along with a corresponding explanation; beginning in January 2029 insurers' explanations must include the percentage or dollar change occurring to the policyholder's premium at renewal*)**:**

*Please note: Your future premiums may increase or decrease if you change your coverage, if there are changes in your risk characteristics that occur during this time frame, or by future rate change filings made by our company in your state.

If you have any questions, please contact your insurance company via telephone ( ), email ( ), postal mail ( ), or visit our website ( ).

AMENDATORY SECTION (Amending WSR 23-13-114, filed 6/21/23, effective 6/1/24)

WAC 284-30A-090 Penalties for noncompliance. (1) Insurers who fail to adhere to this chapter, including the provisions on content requirements, timing, notice, and retention, are considered to have committed unfair and deceptive practices, and will be subject to the

applicable remedies and penalties contained in chapters 284-30 WAC and 48.30 RCW.

(2) Insurers shall not enter into any agreement, arrangement, scheme, or understanding, or in any other manner pursue any course of conduct, designed or intended to avoid compliance with this chapter.

(3) Insurers are responsible for compliance with this chapter and cannot avoid liability by delegating premium change transparency requirements to third parties.

(4) Failure to use the premium change notice in WAC 284-30A-080 as the basis for the insurer's notice is a violation of this chapter.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 284-30A-060	Premium change transparency notice requirements.

WSR 26-15-010
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed July 2, 2026, 3:31 p.m., effective August 2, 2026]

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

Purpose: Requiring cosmetology, barber, esthetician, and hair designer students to complete training requirements for textured hair prior to licensure.

Citation of Rules Affected by this Order: Amending WAC 308-20-080 Minimum instruction requirements for cosmetology, hair design, barbering, manicuring, esthetics and master esthetics training, and 308-20-105 Minimum instruction requirements for instructor-trainees.

Statutory Authority for Adoption: RCW 18.16.030 Director—Powers and duties, and EHB 1874, passed during the 2025 legislative session.

Adopted under notice filed as WSR 26-11-063 on May 20, 2026.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 2, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 2, 2026.

Kelsey Stone
Legislative and Policy Analyst

RDS-7206.2

AMENDATORY SECTION (Amending WSR 23-16-051, filed 7/26/23, effective 8/26/23)

WAC 308-20-080 Minimum instruction requirements for cosmetology, hair design, barbering, manicuring, esthetics and master esthetics training. The minimum training requirements for a student or apprentice to be eligible for licensure in the following professions shall include:

(1) For cosmetology:

(a) Theory of the practice of cosmetology including business practices and basic human anatomy and physiology;

(b) At least 100 hours of skills in the application of manicuring and pedicuring services for all skin types;

(c) At least 100 hours of skills in the application of esthetics services for all hair and skin types;

(d) Shampooing including draping, brushing, scalp manipulations, conditioning, and rinsing for all hair and skin types;

(e) Scalp and hair analysis for all hair and skin types;

(f) Hair cutting and trimming including scissors, razor, thinning shears, and clippers for all hair and skin types;

(g) Hair styling including wet, dry, and thermal styling, braiding and styling aids for all hair and skin types;

(h) Cutting and trimming of facial hair including beard and mustache design, and eyebrow, ear, and nose hair trimming for all hair and skin types;

(i) Artificial hair for all hair and skin types;

(j) Permanent waving including sectioning, wrapping, preperm test curl, solution application, processing test curl, neutralizing, and removal of chemicals for all hair and skin types;

(k) Chemical relaxing including sectioning, strand test, relaxer application, and removal of chemicals for all hair and skin types;

(l) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application, and removal of chemicals for all hair and skin types;

(m) Cultural competency and historical education on the significance of textured hair in diverse communities;

(n) Cleaning and disinfecting of individual work stations, individual equipment and tools and proper use and storage of linens;

((~~(n)~~)) (o) Diseases and disorders of the scalp, hair, skin, and nails for all hair and skin types;

((~~(o)~~)) (p) Safety including proper use and storage of chemicals, implements and electrical appliances;

((~~(p)~~)) (q) First aid as it relates to cosmetology; and

((~~(q)~~)) (r) Not all training may be on mannequins.

(2) For hair design:

(a) Theory of the practice of hair design including business practices and basic human anatomy and physiology;

(b) Shampooing including draping, brushing, scalp manipulations, conditioning, and rinsing for all hair and skin types;

(c) Scalp and hair analysis for all hair and skin types;

(d) Hair cutting and trimming including scissors, razor, thinning shears, and clippers for all hair and skin types;

(e) Hair styling including wet, dry, and thermal styling, braiding and styling aids for all hair and skin types;

(f) Cutting and trimming of facial hair including beard and mustache design, and eyebrow, ear, and nose hair trimming for all hair and skin types;

(g) Artificial hair for all hair and skin types;

(h) Permanent waving including sectioning, wrapping, preperm test curl, solution application, processing test curl, neutralizing, and removal of chemicals for all hair and skin types;

(i) Chemical relaxing including sectioning, strand test, relaxer application, and removal of chemicals for all hair and skin types;

(j) Hair coloring and bleaching including predisposition test and strand test, and measurement, mixing, application, and removal of chemicals for all hair and skin types;

(k) Cultural competency and historical education on the significance of textured hair in diverse communities;

(l) Cleaning and disinfecting of individual work stations, individual equipment and tools, and proper use and storage of linens;

((~~(l)~~)) (m) Diseases and disorders of the scalp and hair for all hair and skin types;

((~~(m)~~)) (n) Safety including proper use and storage of chemicals, implements, and electrical appliances;

((~~(n)~~)) (o) First aid as it relates to hair design; and

((~~(o)~~)) (p) Not all training may be on mannequins.

(3) For barbering:

(a) Theory of the practice of barbering services ((~~and~~)) including business practices and basic human anatomy and physiology;

(b) Shampooing including draping, brushing, scalp manipulations, conditioning, and rinsing for all hair and skin types;

(c) Scalp and hair analysis for all hair and skin types;

(d) Hair cutting and trimming including scissors, razor, thinning shears, and clippers for all hair and skin types;

(e) Hair styling, wet, dry, and thermal styling, and styling aids for all hair and skin types;

(f) Cutting and trimming of facial hair including shaving, beard and mustache design, and eyebrow, ear, and nose hair trimming for all hair and skin types;

(g) Artificial hair for all hair and skin types;

(h) Cultural competency and historical education on the significance of textured hair in diverse communities;

(i) Cleaning and disinfecting of individual work stations, individual equipment and tools, and proper use and storage of linens;

((~~(i)~~)) (j) Diseases and disorders of the skin, scalp, and hair for all hair and skin types;

((~~(j)~~)) (k) Safety including proper use of implements and electrical appliances;

((~~(k)~~)) (l) First aid as it relates to barbering; and

((~~(l)~~)) (m) Not all training may be on mannequins.

(4) For manicuring:

(a) Theory in the practice of manicuring and pedicuring services, business practices, and basic human anatomy and physiology;

(b) Artificial nails including silk, linen, fiberglass, acrylic, gel, powder, extensions and sculpting, preparation, application, finish, and removal;

(c) Cleaning, shaping, and polishing of nails of the hands and feet and treatment of cuticles;

(d) Cleaning and disinfecting of individual work station, individual equipment and tools, and proper use and storage of linens;

(e) Diseases and disorders of the nails of the hands and feet;

(f) Safety including proper use and storage of chemicals, implements, and electrical appliances;

(g) First aid as it relates to manicuring and pedicuring; and

(h) Not all training may be on mannequins.

(5) For esthetics:

Theory in the practice of esthetics services, business practices, and basic human anatomy and physiology (750 hours):

(a) Care of the skin compresses, massage, facials, wraps, masks, exfoliation, use of electrical or mechanical appliances or chemical compounds for all hair and skin types;

(b) Temporary removal of superfluous hair of the skin by means including tweezing, waxing, tape, chemicals, lotions, creams, sugaring, threading, mechanical or electrical apparatus and appliances for all hair and skin types;

(c) Cleaning and disinfecting of individual work stations, individual equipment and tools, and proper use and storage of linens;

(d) Diseases and disorders of the skin for all hair and skin types;

(e) Cultural competency and historical education on the significance of textured hair in diverse communities;

(f) Safety including proper use and storage of chemicals, implements, and electrical appliances;

((~~(f)~~)) (g) First aid as it relates to esthetics; and

((~~(g)~~)) (h) Not all training may be on mannequins.

(6) Master esthetics (450 additional hours):

Theory in the practice of master esthetics, business practices, and basic human anatomy and physiology including all of subsection (4) of this section and the following:

(a) Laser, light frequency, radio frequency, ultrasound, and plasma practices for all hair and skin types;

(b) Medium depth chemical peels for all hair and skin types;

(c) Advanced client assessment, documentation, and indications/contraindications for all hair and skin types;

(d) Pretreatment and post-treatment procedures for all hair and skin types;

(e) Lymphatic drainage and advanced facial massage for all skin types;

(f) Advanced diseases and disorders of the skin for all skin types; ((~~and~~))

(g) Advanced theories; alternative, touch, and spa body treatments((~~.~~)) for all hair and skin types;

(h) Cultural competency and historical education on the significance of textured hair in diverse communities; and

(i) The use of medical devices during instruction of the master esthetics curriculum must comply with state law and rules, including any laws that require delegation or supervision by a licensed health professional acting within the scope of practice of that health professional. A detailed written explanation of how the course will be taught must be submitted and approved by the department.

(7) Online training curriculums must be approved by the department.

AMENDATORY SECTION (Amending WSR 23-16-051, filed 7/26/23, effective 8/26/23)

WAC 308-20-105 Minimum instruction requirements for instructor-trainees. The minimum training requirements for a student to be eligible for licensure as an instructor shall include:

(1) Preparation for classroom activities including, but not limited to:

(a) Choice of teaching methods;

(b) Classroom setup;

(c) Topic/subject matter, as outlined in WAC 308-20-080;

(d) Written lesson plans;

(e) Student assignments;

(f) Materials and supplies; and

(g) Recordkeeping.

(2) Presentation of information including, but not limited to:

(a) Lectures;

(b) Demonstrations;

(c) Questions and answers;

(d) Project methods; and

(e) Discussions.

(3) Application of practice including, but not limited to:

(a) Clinic supervision;

(b) Classroom management; and
(c) Client relations.
(4) Evaluation by the instructor-trainee of the student's understanding and performance including, but not limited to:
(a) Written/practical assessment; and
(b) Communication skills.

WSR 26-15-012
PERMANENT RULES
DEPARTMENT OF AGRICULTURE
[Filed July 6, 2026, 8:12 a.m., effective August 6, 2026]

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

Purpose: This rule-making order establishes chapter 16-175 WAC, Maple syrup inspection, which creates inspection criteria and licensing requirements tailored specifically to maple syrup processing operations, and amends chapter 16-165 WAC, Food inspection, by updating definitions related to maple syrup processors, ensuring consistency between regulatory frameworks, and clarifying when maple syrup processors are subject to the specialized requirements in chapter 16-175 WAC versus the general food processing requirements in chapter 16-165 WAC.

Citation of Rules Affected by this Order: New WAC 16-175-100, 16-175-110, 16-175-120, 16-175-130, 16-175-140, and 16-175-150; and amending WAC 16-165-120 and 16-165-130.

Statutory Authority for Adoption: RCW 69.07.020 and 69.07.070.

Adopted under notice filed as WSR 26-11-005 on May 8, 2026.

Changes other than editing from proposed to adopted version: The following changes were made to the adopted version of the rule as compared to the proposed language. These changes are nonsubstantive and either remove or relax requirements that were in the original proposed language.

WAC 16-175-130(15), ["]"Maple syrup processed at adequate temperatures" means maple syrup that is processed and bottled between 180 and 200 degrees Fahrenheit" has been changed to read, ["]"Maple syrup processed at adequate temperatures" means maple syrup is processed and then bottled at 180 degrees Fahrenheit or higher."

WAC 16-175-130 (20)(a)(i), "Toilet facilities are no closer than 50 feet and no farther than 300 feet from the maple syrup processing area" has been changed to read "Toilet facilities are no farther than a quarter mile (1,320 feet) from the maple syrup processing area."

WAC 16-175-130(21), ["]"Toilet facilities clean, in good repair, screened, and with self-closing doors" means toilet facilities are kept clean, free of trash and litter, serviced at intervals to ensure sanitary condition, in good repair, screened, and all doors are self-closing" has been changed to, ["]"Toilet facilities clean, in good repair, screened, and with the exception of domestic facilities must have self-closing doors" means toilet facilities are kept clean, free of trash and litter, serviced at intervals to ensure sanitary condition, in good repair, screened, and with the exception of domestic facilities all doors are self-closing."

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 6, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 6, Amended 2, Repealed 0.

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

Date Adopted: July 3, 2026.

Derek I. Sandison
Director

RDS-7184.2

AMENDATORY SECTION (Amending WSR 20-17-020, filed 8/6/20, effective 9/6/20)

WAC 16-165-120 Food establishments—Definitions. (1) Definitions for terms used in this chapter may be found in chapters 69.07, 69.10, and 15.130 RCW, and Title 21 C.F.R. as adopted, unless otherwise provided in this chapter.

(2) For the purposes of this chapter, the following definitions apply:

(a) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(b) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW 15.130.200 with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

(c) "Department" means the department of agriculture of the state of Washington (WSDA).

(d) "Director" means the director of agriculture.

(e) "Establishment or food establishment" means any premise, plant, building, room, area, sugar shack, or facility which processes, prepares, handles or stores food or food products for sale in intrastate commerce including food processors, food storage warehouses, custom slaughter operations, refrigerated lockers, maple syrup processors, and dairy manufacturing plants.

(f) "Grade standards" means the standards prescribed in Section 52.5962 of the United States Standards for Grades of Maple Syrup (March 2, 2015).

(g) "Labeling" and "finished product labeling" means labeling to follow the U.S. Food and Drug Administration (FDA) labeling requirements for packaged food in 21 C.F.R. Part 101, 21 U.S.C. 321, and Section 52.5962 of the United States Standards for Grades of Maple Syrup.

(h) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a food processor's license under chapter 69.07 RCW.

((~~(g)~~)) (i) "Maple sap" means the sap or sweet water obtained by tapping a maple tree.

(j) "Maple syrup" means the liquid food derived by concentrating and heat-treating sap from the maple tree (Acer) as defined in the U.S. Food and Drug Administration (FDA) Standards of Identity for Maple Sirup (21 C.F.R. 168.140) issued under the federal Food, Drug, and Cosmetic Act. The solids content of the finished maple syrup shall not be less 66 percent by weight (Brix).

(k) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing

numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

((~~(h)~~)) (l) "Maple syrup processing establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles, or stores maple syrup for sale in intrastate commerce.

(m) "Maple syrup processing operation" means a person or business that produces maple syrup for sale, and includes the collection of maple tree sap, the processing of maple sap into maple syrup, and all related facilities, equipment, and employees.

(n) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-165-140(2).

(o) "Sugar shack" means a structure used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup. A sugar shack does not include a domestic residence. A sugar shack need not be a permanent structure, but the permittee must be able to ensure sanitary conditions in the processing area.

AMENDATORY SECTION (Amending WSR 20-17-020, filed 8/6/20, effective 9/6/20)

WAC 16-165-130 Food establishments—Inspection criteria definitions—Interpretations. WSDA will use the definitions and interpretations in this section to determine if a food establishment inspection complies with the inspection criteria.

(1) **"Clean and adequate protective clothing and hair restraints"** means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift; and

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging, or food contact surfaces becomes imminent; and

(c) Suitable to the specific food processing operation for protection against the contamination of food, food packaging, and food contact surfaces.

Clean and effective hair restraints, such as hairnets, or beard nets if appropriate, are worn for the protection of food from contamination. Hats, caps, scarves or other head cover are acceptable if the hair is properly contained to protect food from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

(2) **"Adequate washing and sanitizing of hands as necessary"** means washing and sanitizing hands thoroughly to protect against contamination of food from undesirable microorganisms in an adequate handwash facility by:

(a) Using proper handwashing methods which consist of:

(i) Applying soap to hands;

(ii) Using warm water;

(iii) Scrubbing hands thoroughly;

(iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the work station, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper handwashing methods.

(3) **"Garments and personal belongings stored appropriately; not a source of contamination"** means personal belongings and garments, either personal or plant supplied, are stored or kept separately from food processing, handling and storage operations such as in an area, locker, cupboard, or other closeable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to food, food packaging, or food contact surfaces; and

No food, packaging materials, utensils, or equipment used in the food processing operation are kept, stored, or commingled with personal belongings or garments.

(4) **"Processes separated as required"** means there is a separation of processes for the purpose of reducing potential contamination in food processing operations where contamination is likely to occur. One or more of the following means may accomplish this:

(a) Location;

(b) Time;

(c) Partition;

(d) Air flow;

(e) Enclosed systems; or

(f) Other effective method.

(5) **"Adequate light"** means a minimum of 25 foot candles at the working surfaces of food processing areas and a minimum of 10 foot candles at the floor level in all other food processing areas.

(6) **"Detergents, sanitizers, and toxic materials properly identified"** means:

(a) Labeling any container containing detergent, sanitizer, or toxic material with the:

(i) Product name;

(ii) Chemical description;

(iii) Directions for use;

(iv) Any required precautionary and warning statements;

(v) First-aid instructions;

(vi) Name and address of the manufacturer or distributor; and

(vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or

(b) Small transport or use containers for detergents, sanitizers, or toxic materials are used only under the following conditions:

(i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;

(ii) No food container is used as a container for detergents, sanitizers, or toxic materials;

(iii) No container used for detergents, sanitizers, or toxic materials((~~,~~)) is used as a food container.

(7) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned, and sanitized prior to each use or as essential"** means:

(a) Product contact surfaces of equipment, utensils, containers, and other articles used in the processing of food, when its continued use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW 15.130.200; and

(b) Food residues are removed from food product contact surfaces frequently enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and

(c) The food product contact surfaces are sanitized prior to use and after cleaning.

(8) **"Product contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation"** means it is a critical violation if a food product contact surface comes into contact with potentially hazardous food and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated, but are cleaned and sanitized prior to use are not considered a critical violation.

(9) **"Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition"** means nonproduct contact surfaces of equipment used in the processing of food are kept reasonably free from dirt, old food residues, foreign material, dust, mold, mildew, slime, and other accumulations that occur because of day-to-day food processing operations.

(10) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses"** means the utensils used in the processing of foods, such as knives, scrapers, scoops, shovels, cutters, and other hand tools and equipment, are placed or stored in a manner to prevent food contact surfaces from being contaminated with filth. Filth includes, but is not limited to, microorganisms, unsuitable toxic chemicals, and microscopic physical contaminants.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

(a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;

(b) In contact with containers of nonpotable water (other than sterilizing solutions); and

(c) In contact with other contaminants.

(11) **"In-use food contact equipment and utensils appropriately stored: Protected from contamination between uses: Critical violation"** means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(12) **"Maple syrup processed at adequate temperatures"** means maple syrup is processed and bottled between 180 and 200 degrees Fahrenheit.

(13) **"USDA grade included on product labeling"** must meet the requirements of that standard as prescribed in Section 52.5962 of the United States Standards for Grades of Maple Syrup.

(14) **"Water supply((—")) - Safe and of sanitary quality"** means the water supply used in the processing of food is potable from an approved source and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

(a) Food processors who produce bottled water meet the requirements of 21 C.F.R., Part 129 and comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(b) Food processors who produce ice comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(c) Food processors with ((~~twenty-five~~)) 25 or more employees and operating ((~~sixty~~)) 60 days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(d) Processors with less than ((~~twenty-five~~)) 25 employees or operating less than ((~~sixty~~)) 60 days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC).

(e) Processors that operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC) with respect to monitoring for bacteriological, chemical, and physical properties. Processors that do not use water as an ingredient or incorporate water into their product need only meet the bacteriological testing requirements.

(f) Water used for certain purposes within the food processing operation (such as circulated water used in the washing of soil from raw agricultural commodities or fluming) is acceptable if:

(i) The water does not impart harmful or deleterious substances or additives to food products; and

(ii) The food products in contact with the water undergo a final potable water wash/rinse; and

(iii) The water meets the requirements of the good manufacturing practices under 21 C.F.R., Part 117.

((~~(13)~~)) (15) **"Current satisfactory water test"** means analysis verifying the bacteriological, physical and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules or, in the case of bottled water operations, according to the requirements of Title 21 C.F.R., Part 129 and that reports of such analysis are on file at the processing facility and available for review by WSDA during routine facility inspection.

((~~(14)~~)) (16) **"Ice from an approved source"** means:

(a) Ice is manufactured on the premises of a food establishment with water that is safe and of sanitary quality; or

(b) Ice is supplied by an establishment that is under license and inspection of a federal, state, or local government agency, and proof of the water's potability is on file with the food processing plant using the ice.

((~~(15)~~)) (17) **"Ice properly handled"** means ice is processed, handled and held according to sanitary practices provided in 21 C.F.R., Part 117, and ice used in the processing of food is protected from contamination by taking the necessary precautions during its manufacture, storage, transport and use. Necessary precautions include, but are not limited to:

(a) Storage bins and containers of water are covered;

(b) All storage and packaging containers, including ice house or storage room contact surfaces, are sanitary, readily cleanable, and do not impart deleterious materials to the ice. Wooden totes are not to be used for the transporting or holding of ice;

(c) Scoops, shovels, and other utensils used in the handling of ice are in a sanitary condition, properly stored, readily cleanable, and do not impart deleterious materials to the ice;

(d) The ice does not come into contact with floor areas where foot traffic is possible; and

(e) Equipment used to manufacture ice is in a sanitary condition, readily cleanable, and does not impart any deleterious or other foreign substances to the ice.

((~~(16)~~)) (18) **"No cross connections, no back siphonage"** means there is no backflow from or cross connection between piping systems that discharge waste water sewage and piping systems that carry water for food manufacturing. This includes any cross connection between a potable water system and:

(a) A system in which the water contains boiler additives; or

(b) A CIP (clean in place) system; or

(c) A recirculating system used to wash or flume food products, such as raw fruits or vegetables.

((~~(17)~~)) (19) **"Adequate floor drains and plumbing to convey wastes and sewage from the plant, into approved sewage disposal system"** means:

(a) Plumbing is designed, sized, installed, and maintained in accordance with applicable state and local plumbing codes so that sewage and liquid disposable waste is readily conveyed from the plant;

(b) Floor drainage is sufficient to prevent excessive pooling of water or other disposable waste;

(c) Plumbing and drains do not provide a source of contamination to food, potable water, food contact surfaces, or food packaging material or create any insanitary condition; and

(d) Sewage is disposed into a municipal sewer system or other system approved by a federal, state or local agency having jurisdiction.

((~~(18)~~)) (20) **"Adequate, readily accessible toilet facilities"** means:

(a) A food establishment provides its employees with toilet facilities that are located within a reasonable distance to the work area, and the toilet facilities are maintained in accordance with 21 C.F.R., Part 117, and:

(i) Toilet facilities are located on the premises of a licensed food establishment; or

(ii) If the food establishment shares space in a multiple building complex, toilet facilities are located within the complex and within a reasonable distance from the work area; or

(iii) A domestic toilet facility is sufficient if the food processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 C.F.R., Part 117.

(b) Outhouses, chemical toilets, or other nonflush toilets may not be used in a food establishment.

((~~(19)~~)) (21) **"Toilets clean, in good repair, not opening directly into process areas, self-closing doors"** means toilet rooms are kept clean, free of trash and litter, in good repair, and all toilet room doors are self-closing and do not open directly into a food processing area.

((~~(20)~~)) (22) **"Handwash facilities adequate and convenient, with hot and cold or tempered water"** means food handlers in a food establishment have access to one or more handwashing facilities with hot, cold, or tempered running water, and:

(a) There is at least one handwash facility located in the food processing area in a location convenient to each food handling area when hands come into contact with or manipulate unwrapped or unpack-

aged ready to eat food. (Hand sanitizing stations may be required if appropriate); or

(b) Handwash facilities are located in rest rooms or other areas in operations where food is not manipulated by hand and hands do not contact the food; or

(c) Handwash facilities are located in rest rooms or other areas and hand sanitizing stations are located in food processing areas in operations where food would normally undergo further preparation (for example washing, cleaning, cooking or other processing) either in the plant or by the consumer that would adequately eliminate physical, chemical, and microbiological contaminants introduced by handling.

((~~(21)~~)) (23) **"Hand dips provided as necessary"** means hand sanitizing stations are provided, and properly positioned and maintained in all food operations as provided in subsection ((~~(20)~~)) (22)(c) of this section.

(a) For the purposes of this subsection, "properly positioned" means:

(i) Food handlers have ready access to hand sanitizing stations when returning from the toilet, handwash stations, lunch and breaks and whenever necessary while working; and

(ii) At least one hand sanitizing station is inside the process room entryways on each side of the processing table, lines and equipment where food is manipulated by hand, and at least one hand sanitizing station for every ((~~ten~~)) 10 food handlers at processing tables, lines, and equipment.

(b) For the purposes of this subsection, "properly maintained" means sanitizing solutions are checked and recharged to a strength equal to 10 PPM chlorine or 25 PPM iodine, and changed every four hours while in use.

(c) Hand sanitizing stations are recommended for all food operations provided for in subsection ((~~(20)~~)) (22)(c) of this section.

((~~(22)~~)) (24) **"Food protected from contamination in storage"** means food is stored under conditions that protect food against physical, chemical and microbial contamination, as well as against deterioration of the food and the container.

((~~(23)~~)) (25) **"Food protected from contamination in storage: Critical violation"** means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished food products, particularly ready to eat food. For example, the storage of raw fish and seafood, meat, poultry, and other food which inherently contains pathogenic and spoilage microorganisms, as well as soil and other foreign material, is in direct contact with other food in the same container or in any other cross-contaminating circumstance with finished food products; or

(b) Raw materials or food products from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses. Raw products include, but are not limited to:

(i) Unpasteurized milk and dairy products;

(ii) Unpasteurized eggs used in products which are not heated to pasteurization temperatures during processing;

(iii) Home canned low-acid foods;

(iv) Raw uncertified shellfish; and

(v) Uninspected meat products.

((~~(24)~~)) (26) **"Adequate records maintained as required"** means all records are maintained as provided under Title 21 C.F.R., Part 113

Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring recordkeeping, EXCEPT that water tests under Part 129 are covered under subsection ((~~(13)~~)) (15) of this section, "Current satisfactory water test."

((~~(25)~~)) (27) **"Adequate records maintained as required: Critical violation"** means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection ((~~(24)~~)) (26) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

((~~(26)~~)) (28) **"Products coded as required"** means all products are coded as provided under Title 21 C.F.R., Part 113, Thermally Processed Low-Acid Foods Packaged in Hermetically Sealed Containers; Part 114, Acidified Foods; Part 129, Processing and Bottling of Bottled Drinking Water; and any other law or rule requiring that products be coded.

((~~(27)~~)) (29) **"Products coded as required: Critical violation"** means it is a critical violation when a product is not coded as required in subsection ((~~(26)~~)) (28) of this section, or so inadequately coded with respect to the food product, the plant where manufactured, the date manufactured, time or batch manufactured, cannot be readily identified.

((~~(28)~~)) (30) **"Packaging material properly handled and stored"** means:

A food contact surface of food packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

(a) Boxes, liners, and other primary containers are stored off floors or other insanitary surfaces;

(b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;

(c) All single service containers, caps, roll stock, liner jars, bottles, jugs, and other preformed containers are stored in closed sanitary tubes, wrappings, boxes, or cartons prior to use;

(d) The forming, make-up, or other package assembly is conducted in a manner that precludes contamination; and

(e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material, or other contaminants.

((~~(29)~~)) (31) **"Potentially hazardous food"** means any food, whole or in part, capable of supporting the germination, growth, and/or toxin production by infectious or toxic microorganisms is at temperatures between 38°F and 145°F, and/or food is otherwise harmful to health.

RDS-7146.5

Chapter 16-175 WAC
MAPLE SYRUP INSPECTION

NEW SECTION

WAC 16-175-100 Purpose of chapter. The purpose of this chapter is to:

(1) Establish an inspection criteria and a rating system that will be used to determine whether maple syrup processing establishments, which process or handle maple syrup in intrastate commerce, are in compliance with chapters 69.07 and 15.130 RCW, and regulations adopted thereunder.

(2) Identify steps leading to enforcement actions by the department.

(3) Establish criteria for licensing maple syrup establishments under chapter 69.07 RCW.

NEW SECTION

WAC 16-175-110 Maple syrup food processor licensing—New application—Inspection criteria. To qualify for a new food processing plant license for maple syrup processors issued under chapter 69.07 RCW, the Washington Food Processing Act, a **maple syrup** processing establishment must first submit an application to the department. The license is only applicable to the processing of maple syrup. The processing of all other food products falls under the food inspection regulations specified under chapter 16-165 WAC. After the department receives a complete application, the department will inspect the facility. The facility must be in compliance with the following requirements prior to issuance of a license:

The maple syrup processing establishment must achieve a score of 90 points or higher on the licensing inspection and be in compliance with licensing criteria. For the purposes of licensing, a maple syrup processing establishment must not incur any licensing specific debits. Refer to WAC 16-175-140 for licensing criteria and licensing specific debits.

NEW SECTION

WAC 16-175-120 Maple syrup establishments—Definitions. The definitions in this section apply throughout this chapter:

(1) "Adequate" means that which is needed to accomplish the intended purpose in keeping with good public health practice.

(2) "Critical violation" means a violation of the inspection criteria that is a direct violation of RCW 15.130.200 with respect to adulterated food or a violation that results in food adulteration that could cause injury or illness in consumers, or that has the potential to contribute to conditions resulting in such adulteration.

(3) "Establishment" and "facility" mean a sugar shack, premise, plant, building, room, or area which processes, prepares, handles, or stores maple syrup for sale in intrastate commerce.

(4) "Filth" means microorganisms, unsuitable toxic chemicals, dirt, debris, microscopic physical contaminants, and other adulterants.

(5) "Grade standards" means the standards prescribed in Section 52.5962 of the United States Standards for Grades of Maple Syrup (March 2, 2015).

(6) "Labeling" and "finished product labeling" means labeling to follow the United States Food and Drug Administration labeling requirements for packaged food in 21 C.F.R. Part 101, 21 U.S.C. 321, and in Section 52.5962 of the United States Standards for Grades of Maple Syrup.

(7) "Licensing criteria violation" means any violation of the inspection criteria required to be in compliance prior to the issuance of a maple syrup food processor's license under chapter 69.07 RCW.

(8) "Maple sap" means the sap or sweet water obtained by tapping a maple tree.

(9) "Maple syrup" means the liquid food derived by concentrating and heat-treating sap from the maple tree (Acer) as defined in the U.S. Food and Drug Administration (FDA) Standards of Identity for Maple Sirup (21 C.F.R. 168.140) issued under the Federal Food, Drug, and Cosmetic Act. The solids content of the finished maple syrup shall not be less 66 percent by weight (Brix).

(10) "Maple syrup processing establishment" means any premise, plant, building, room, area, or facility which processes, prepares, handles, or stores maple syrup for sale in intrastate commerce.

(11) "Maple syrup processing operation" means a person or business that produces maple syrup for sale, and includes the collection of maple tree sap, the processing of maple sap into maple syrup, and all related facilities, equipment, and employees.

(12) "Product" means maple syrup.

(13) "Sanitize" means to adequately treat food contact surfaces by a process that is effective in destroying vegetative cells of microorganisms of public health significance, and in substantially reducing numbers of other undesirable microorganisms, but without adversely affecting the product or its safety for the consumer.

(14) "Significant violation" means any violation of the inspection criteria not deemed to be a critical violation as defined in WAC 16-175-140(2).

(15) "Sugar shack" means a structure used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup. A sugar shack does not include a domestic residence. A sugar shack need not be a permanent structure, but the permittee must be able to ensure sanitary conditions in the processing area.

NEW SECTION

WAC 16-175-130 Maple syrup processing establishment—Inspection criteria definitions—Interpretations. WSDA will use the definitions and interpretations in this section to determine if a maple syrup processing establishment inspection complies with the inspection criteria.

(1) **"Clean and adequate protective clothing"** means the clothing or the outside layer of clothing, which can occasionally or incidentally contact food, either directly or indirectly, is:

(a) Clean at the start of the work shift;

(b) Changed when the clothing becomes so soiled during the course of the work shift that contamination of food, food packaging, or food contact surfaces becomes imminent; and

(c) Suitable to maple syrup processing facilities for protection against the contamination of food, food packaging, and food contact surfaces.

(2) **"Clean and effective hair restraints"** means hats, caps, scarves, or other head cover are worn for the protection of the maple syrup from contamination. Hair spray and/or tying back the hair in ponytails, etc., are not considered effective hair restraints.

(3) **"Adequate washing of hands as necessary"** means washing hands thoroughly to protect against contamination of maple syrup from undesirable microorganisms in an adequate handwash facility by:

(a) Using proper handwashing methods which consist of:

(i) Applying soap to hands;

(ii) Using potable water;

(iii) Scrubbing hands thoroughly; and

(iv) Rinsing and drying hands using methods that prevent food contamination;

(b) Washing hands before beginning work, after each absence from the workstation, and any time hands become soiled or contaminated; and

(c) Sanitizing hands when appropriate in addition to, but not in place of, the proper handwashing methods.

(4) **"Garments and personal belongings stored appropriately; not a source of contamination"** means personal belongings and garments, either personal or facility supplied, are stored or kept separately from maple syrup processing, handling, and storage operations such as in an area, locker, cupboard, or other closable unit that is dedicated to the storing or hanging of personal belongings and clothing so not to become a source of contamination to maple syrup, maple syrup packaging, or maple syrup contact surfaces.

No maple syrup, packaging materials, utensils, or equipment used in the maple processing operation are kept, stored, or commingled with personal belongings or garments.

(5) **"Grounds maintained"** means the grounds outside the maple syrup establishment are clean and free of clutter that may constitute a breeding and harborage site for rodents.

(6) **"Adequate light"** means a minimum of 25-foot candles at the working surfaces of maple syrup processing areas and a minimum of 10-foot candles at the floor level in all other maple syrup processing areas.

(7) **"Detergents, sanitizers, and toxic materials properly identified"** means:

(a) Labeling any container containing detergent, sanitizer, or toxic material with the:

(i) Product name;

(ii) Chemical description;

(iii) Directions for use;

(iv) Any required precautionary and warning statements;

(v) First-aid instructions;

(vi) Name and address of the manufacturer or distributor; and

(vii) Any other additional information required by the federal Environmental Protection Agency or other laws or rules; or

(b) Small transport or use containers for detergents, sanitizers, or toxic materials are used only under the following conditions:

(i) The contents are properly identified on the container. Labeling the container with the common name is acceptable if the original storage container is on hand and properly identified;

(ii) No maple syrup container is used as a container for detergents, sanitizers, or toxic materials; and

(iii) No container used for detergents, sanitizers, or toxic materials is used as a maple syrup container.

(8) **"Suitable size, location, and construction of the facility"** means:

(a) Floors, ceilings, walls, counters, shelving, and other fixtures, are smooth, easily cleanable, and in good repair.

(b) The bottling area must be enclosed.

(9) **"Food grade materials and product packaging"** means:

(a) Pipeline tubing and any vessels used to transport or store water, maple sap, or maple syrup are made of food-grade materials;

(b) Evaporator pans, buckets, tanks, and other maple syrup processing equipment may not be made with solder containing lead in any quantity or other materials that are not suitable or appropriate for use as food contact surfaces; and

(c) Use only new single-use containers and lids to bottle the finished product.

(10) **"Maple syrup contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as required"** means:

(a) Contact surfaces of equipment, utensils, containers, and other articles used in the processing of maple syrup, when its continued use is apparent, are not soiled with any residue or contaminant that could adulterate food products as defined in RCW 15.130.200;

(b) Maple syrup residue is removed from product contact surfaces frequently enough to prevent residues from becoming unwholesome or unfit for food, decomposed, filthy, putrid, or injurious to health; and

(c) Maple syrup contact surfaces are sanitized prior to use and after cleaning.

(11) **"Maple syrup contact surfaces clean and maintained in a sanitary condition, cleaned and sanitized prior to each use or as essential: Critical violation"** means it is a critical violation if a maple syrup product contact surface comes into contact with potentially hazardous contaminants and the surface is not sanitized after cleaning or prior to use.

Product contact surfaces that become contaminated but are cleaned and sanitized prior to use are not considered a critical violation.

(12) **"Nonproduct contact surfaces of equipment cleaned and maintained in a sanitary condition"** means nonproduct contact surfaces of equipment used in the processing of maple syrup are kept reasonably free from dirt, residues, foreign material, dust, mold, mildew, slime, and other accumulations that occur because of day-to-day maple syrup processing operations.

(13) **"In-use maple syrup contact equipment and utensils appropriately stored: Protected from contamination between uses"** means the equipment and utensils used in the processing of maple syrup, such as buckets, tubing, spoons, knives, scrapers, scoops, shovels, cutters, pans, and other hand tools and equipment, are food safe and placed or stored in a manner to prevent being contaminated with filth.

Storage and placement of utensils or equipment in the following manner is considered inappropriate storage:

(a) In contact with the floor, dirty equipment frames, other insanitary nonfood contact surfaces;

(b) In contact with containers of nonpotable water (other than sterilizing solutions); and

(c) In contact with other contaminants.

(14) **"In-use maple syrup contact equipment and utensils appropriately stored: Protected from contamination between uses: Critical violation"** means that it is a critical violation when a utensil or piece of equipment is or has been stored in such a manner that it becomes obviously contaminated with filth and its continued use is apparent.

Utensils and equipment that become contaminated are not considered a critical violation if the utensils and equipment are cleaned and sanitized prior to the next use.

(15) **"Maple syrup processed at adequate temperatures"** means maple syrup is processed and then bottled at 180 degrees Fahrenheit or higher.

(16) **"USDA Grade included on product labeling"** must meet the requirements of that standard as prescribed in Section 52.5962 of the United States Standards for Grades of Maple Syrup.

(17) **"Water supply—Safe and of sanitary quality"** means the water supply used in the processing of maple syrup is potable, from an approved source, and is monitored in accordance with applicable laws and rules. Water from an approved source and monitored in accordance with applicable laws and rules means:

(a) Food processors with 25 or more employees and operating 60 days or more annually comply with the state department of health, division of drinking water requirements for a group A water system (chapter 246-290 WAC).

(b) Processors with less than 25 employees or operating less than 60 days annually, except single-family residences employing only household members, comply with the state department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC).

(c) Processors who operate from single-family residences on private water supplies meet the department of health, division of drinking water requirements for a group B water system (chapter 246-291 WAC) with respect to monitoring for bacteriological, chemical, and physical properties. Processors who do not use water as an ingredient or incorporate water into their product need only meet the bacteriological testing requirements.

(18) **"Current satisfactory water test"** means analysis verifying the bacteriological, physical, and chemical safety of the water has been conducted according to appropriate group A or B water system monitoring schedules and that reports of such analysis are on file at the maple syrup processing establishment and available for review by WSDA during routine facility inspection.

(19) **"Approved sewage disposal system"** means:

(a) Sewage and other waste do not provide a source of contamination to maple syrup, potable water, maple syrup contact surfaces, or maple syrup packaging material, or create any insanitary condition; and

(b) Sewage disposal meets the requirements of federal, state, or local agencies having jurisdiction.

(20) **"Adequate, readily accessible toilet facilities"** means:

(a) A maple syrup establishment provides its employees with toilet facilities that are maintained in accordance with 21 C.F.R., Part 117, and:

(i) Nonwater carriage toilet facilities are no farther than a quarter of a mile (1,320 feet) from the maple syrup processing area;

(ii) Toilet facilities mean:

(A) Nonwater carriage toilets such as a chemical toilet or an incinerator toilet, and includes a handwash station directly adjacent to the toilet facility; or

(B) Toilet facilities may also mean a standard toilet facility if properly plumbed for disposal into a municipal/city approved sewage disposal system or a local health jurisdiction approved on-site wastewater disposal system.

(b) A domestic toilet facility is sufficient if the maple syrup processing operation is a family operation where only family members are employed and if the domestic toilet facility meets applicable requirements provided in 21 C.F.R., Part 117.

(21) **"Toilet facilities clean, in good repair, screened, and with the exception of domestic facilities must have self-closing doors"** means toilet facilities are kept clean, free of trash and litter, serviced at intervals to ensure sanitary condition, in good repair, screened, and with the exception of domestic facilities all doors are self-closing.

(22) **"Handwash facilities adequate and convenient"** means food handlers in a maple syrup establishment have access to an adequate handwash facility:

(a) Adequate handwash facility means:

(i) At a minimum, a 20-gallon container of potable water with a free-flow spigot;

(ii) Container must be stored off the ground at a minimum of a standard table height of 30 inches or greater; and

(iii) Liquid or foaming soap and single use disposable towels must be located at the handwash container; and

(b) Handwashing stations must have hot, cold, or tempered running water; and

(c) One or more handwash facilities must be located in the maple syrup processing area, and one hand wash facility must be adjacent to the toilet facility; or

(d) Handwash facilities may also mean a standard handwash sink if properly plumbed for disposal into a municipal/city approved sewage disposal system or a local health jurisdiction approved on-site wastewater disposal system.

(23) **"Maple syrup protected from contamination in storage"** means maple syrup is stored under conditions that protect food against physical, chemical, and microbial contamination, as well as against deterioration of the maple syrup and the container.

(24) **"Maple syrup protected from contamination in storage: Critical violation"** means it is a critical violation when:

(a) A storage situation allows potential contamination of products. This includes, but is not limited to, the storing of raw materials in such a fashion that they cross-contaminate finished maple syrup products, particularly ready to eat maple syrup products; or

(b) Raw materials from unapproved or uncertified sources are used that are inherently associated with food-borne illnesses.

(25) **"Adequate records maintained as required"** means all records are maintained as provided under Title 21 C.F.R., Part 117 and any other law or rule requiring recordkeeping, except that water tests are covered under subsection (18) of this section, "Current satisfactory water test."

(26) **"Adequate records maintained as required: Critical violation"** means it is a critical violation when a record is not maintained on any food process and/or controls as provided for in subsection (25) of this section, or so poorly maintained that the information intended to be conveyed by the record is lacking or cannot be determined.

(27) **"Packaging material properly handled and stored"** means a food contact surface of maple syrup packaging material is protected from potential sources of contamination during handling and storage. This includes, but is not limited to:

(a) Boxes, liners, and other primary containers are stored off floors or other insanitary surfaces;

(b) Top containers in a nested stack of lined or primary containers are inverted or otherwise protected;

(c) All single service containers, caps, roll stock, liner jars, bottles, jugs, and other preformed containers are stored in closed sanitary tubes, wrappings, boxes, or cartons prior to use;

(d) The forming, make-up, or other package assembly is conducted in a manner that precludes contamination; and

(e) The handling of packaging material and containers prior to filling or wrapping is conducted so not to expose them to contamination by dust, foreign material, or other contaminants.

NEW SECTION

WAC 16-175-140 Maple syrup establishment—Inspection criteria. The maple syrup inspection criteria shall be in accordance with the following table for determining:

(1) If a maple syrup establishment is in compliance with chapters 69.07 and 15.130 RCW, and 21 C.F.R. Part 101, and rules adopted thereunder;

(2) The debit value for each significant violation; and

(3) Whether a violation is critical, or a licensing requirement:

INSPECTION CRITERIA
Critical Inspection Criteria

Criteria Item—Critical*		Licensing Requirement?
1.	Maple syrup products free from adulteration.	Yes
2.	Persons with apparent infections or communicable diseases properly restricted.	Yes
3.	Adequate washing and sanitizing of hands as necessary, gloves used in food handling sanitary conditions.	Yes
4.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	Yes
5.	In use maple syrup contact equipment and utensils appropriately stored; protected from contamination between uses.	No

Criteria Item—Critical*		Licensing Requirement?
6.	Water used safe and of adequate sanitary quality; from approved source.	Yes
7.	Adequate, readily accessible toilet facilities provided not within 50 feet or further than 300 feet of the processing area.	Yes
8.	Handwash facility directly adjacent to toilet facility.	Yes
9.	No evidence of human defecation or urination about the premises.	Yes
10.	Handwash station with 20-gallon container of potable water with free-flow spigot adequate and convenient to the processing area.	Yes
11.	Maple syrup protected from contamination in storage.	No
12.	Adequate records maintained as required.	No
13.	Sewage disposal meets the requirements of federal, state, or local agencies having jurisdiction.	Yes
14.	Maple syrup products misbranded, product has undeclared allergens or human sensitivity causing ingredients including subcomponents.	No
15.	Producing, holding, or packaging products other than maple syrup as defined by this rule.	No

* Any critical violation results in an establishment not being in substantial compliance.

INSPECTION CRITERIA
Significant Inspection Criteria

Criteria Item—Significant		Debit Value	Licensing Requirement?
1.	Jewelry, watches, and other personal items not a source of contamination.	1	No
2.	Clean and adequate protective clothing and hair restraints.	1-2	No
3.	Use of tobacco, eating and drinking of food and beverages, and gum chewing restricted to appropriate areas.	1	No
4.	Garments and personal belongings stored appropriately, not a source of potential contamination.	2	No
5.	Employee work procedures preclude contamination.	1-2	No
6.	Grounds within fifteen feet of processing area: Free from pest attractions, breeding places, harborage, excessive dust, and other contaminants.	1-2	No

Criteria Item—Significant		Debit Value	Licensing Requirement?
7.	Suitable size and location, construction including floors, ceilings, walls, counters, shelving, other fixtures, smooth, readily cleanable and in good repair if present.	1-5	Yes
8.	The bottling area must be enclosed, the cleanest area of the establishment.	1-5	Yes
9.	No operations in domestic living or sleeping quarters (including domestic kitchens).	0	Yes
10.	Adequate light.	1-2	Yes
11.	Lights, glass over food protected, breakproof.	1	No
12.	Drip or condensate not a potential source of contamination.	1-3	No
13.	Screened or protected to exclude pests.	1-2	No
14.	Building, fixtures, facilities clean; including transport vehicles.	1-5	Yes
15.	Detergents, sanitizers, toxic materials safely used and stored.	1-3	No
16.	Detergents, sanitizers, and toxic materials properly identified.	1-2	No
17.	Product contact surfaces clean and maintained in a sanitary condition; cleaned and sanitized prior to each use or as essential.	1-2	No
18.	Equipment, utensils, and product packaging made of food-grade materials.	1-5	Yes
19.	Nonproduct contact surfaces of equipment clean and maintained in a sanitary condition.	1-2	No
20.	In use maple syrup contact equipment and utensils appropriately stored; protected from contamination between uses.	1-2	No
21.	No harborage/breeding areas within or directly adjacent to processing areas.	1-2	No
22.	Pesticides safely used and stored.	1-3	No
23.	No evidence of rodents, insects, birds or other animals.	1-5	Yes
24.	Current satisfactory water supply test.	5	Yes
25.	Water supply sufficient in quantity for intended operations.	2	Yes
26.	Toilet facilities clean and in good repair, not within 50 feet of processing area and not farther than 300 feet from processing area, screened, self-closing door, adjacent handwash.	1-2	Yes
27.	Soap and single service towels or suitable drying devices provided at handwash stations. Adequate refuse receptacles provided.	1-2	No
28.	Design, material and workmanship durable, readily cleanable, and in good repair. Contact surfaces nontoxic and corrosion resistant.	1-3	Yes
29.	Design and use preclude contamination with lubricants, fuel, contaminated water, paint, rust, compressed air/gas and other contaminants.	1-3	No
30.	New single-use containers and lids used to bottle finished product.	1-5	No
31.	Incoming raw materials and ingredients from an approved source, in an obvious sanitary condition. Items inspected on receipt, suitable for intended use, segregated as necessary, and properly stored (clean storage containers, facilities, products properly covered); ingredients properly identified.	1-5	No
32.	Adequate records maintained as required - Noncritical.	1	No
33.	No contaminating material used, stored, or transported with supplies, ingredients or processed foods.	1-2	No
34.	Packing material properly handled and stored.	1	No
35.	Cleaning operations - conducted to minimize contamination.	1-3	No
36.	Maple syrup products misbranded. Labels do not have producer name, address, and other required label components.	1-5	Yes

NEW SECTION

WAC 16-175-150 Maple syrup processing establishment inspection rating system—Inspection score. (1) A maple syrup processing establishment is rated as follows at the completion of an inspection conducted by the department:

(a) A maple syrup processing establishment will be debited the point value assigned to the inspection item listed in WAC 16-175-140 for each violation found during an inspection.

(b) The sum of the points debited for an inspection are subtracted from the maximum point value of 100. The remaining sum is the establishment's score for that inspection.

(c) When the department identifies a critical violation during an inspection, the establishment is considered to not be in substantial compliance and automatically fails the inspection regardless of points debited due to any other violations, unless the critical violation is satisfactorily corrected during the inspection.

(2) An establishment is considered in substantial compliance with the inspection criteria if:

(a) No critical violations are found, or if critical violations are found and corrected prior to completion of the inspection; and

(b) The establishment's inspection score is 90 points or above.

WSR 26-15-017
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed July 7, 2026, 8:15 a.m., effective August 7, 2026]

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

Purpose: The department of licensing is updating language to be more inclusive in response to a rule-making petition, in addition to fixing grammar issues and correcting citations.

Citation of Rules Affected by this Order: Amending WAC 308-100-005 Definitions, 308-100-110 Renewal online, 308-100-150 Third-party examiner—Qualifications, 308-105-020 Application for enhanced driver's license or identicard, and 308-105-030 Enhanced driver's license or identicard denial—Hearing.

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority, 46.20.202 Enhanced drivers' licenses and identicards for Canadian border crossing—Border-crossing initiative—Fee amount, distribution, and 46.25.140 Rules.

Adopted under notice filed as WSR 26-10-085 on May 6, 2026.

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

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 5, Repealed 0.

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 5, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 7, 2026.

Kelsey Stone
Legislative and Policy Analyst

RDS-7159.1

AMENDATORY SECTION (Amending WSR 25-01-054, filed 12/11/24, effective 1/11/25)

WAC 308-100-005 Definitions. The definitions of this section apply throughout this chapter unless the context clearly requires otherwise:

(1) "Behind-the-wheel (BTW) range training" means training provided by a BTW instructor when a student has actual control of the power unit during a driving lesson conducted for backing, street driving, and proficiency development. BTW range training does not include time a student spends observing the operation of a CMV when ((~~he or she is~~)) they are not in control of the vehicle.

(2) "Behind-the-wheel (BTW) instructor" means an individual who provides BTW training involving the actual operation of a CMV by a

student on a range or a public road and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same or higher class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exception applicable to (a) and (b) of this definition:** A BTW instructor who provides training solely on a range which is not a public road is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, as long as the instructor previously held a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in BTW instruction for two years following the date ((~~his or her~~)) their CDL is reinstated.

(3) "Certified test route" means:

(a) Test route that is approved and assigned by the department.

(b) The areas for completing the pretrip inspection, basic controls and road test as approved by the department for the administration of a commercial driver license skills test.

(4) "Classroom" means a space dedicated to and used exclusively by an instructor for the instruction of students. With prior department approval, a classroom may be located within alternative facilities, such as a public or private library, school, community college, college or university, public agency, or a business training facility. "Classroom," may also include a virtual classroom environment when video conferencing technology is capable of two-way communication between the instructor and all students.

(5) "Classroom/theory instruction" means knowledge instruction on the operation of a CMV and related matters provided by a theory instructor through lectures, demonstrations, audiovisual presentations, computer-based instruction, driving simulation devices, or similar means. Instruction occurring outside a classroom is included if it does not involve actual operation of a commercial motor vehicle and its components by the student.

(6) "Commercial driver license (CDL) third-party examiner" means a person or entity that is authorized by the state to administer commercial driver's license (CDL) skills tests.

(7) "Course cost" means the price charged for a course offering before any taxes, subsidies, discounts, or other price reductions or additional fees.

(8) "Demonstration of proficiency" means driver-trainee must demonstrate proficiency in required skills over time. Demonstration of proficiency of state and federal entry level driver training standards

is not met by the completion of minimum hours of training. Nor is it limited to a single standardized assessment result.

(9) "Department" means the department of licensing.

(10) "Employee" means any operator of a commercial motor vehicle, including full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operator contractors, while in the course of operating a commercial motor vehicle, who are either directly employed by or under lease to an employer.

(11) "Employer" means a person or entity that hires one or more individuals to operate a commercial motor vehicle on a regular basis during their normal course of employment and whose primary purpose is not to train operators of commercial motor vehicles.

(12) "English proficiency" means applicants for a commercial motor vehicle skills test must be able to understand and respond to verbal commands and instructions in English by a skills test examiner per 49 C.F.R. 383.133(5).

(13) "Entry-level driver training schools for commercial driver licenses (CDL)" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1)(a)(ii).

(14) "Hour," as used in connection with training requirements, means no less than 50 minutes of training or instruction.

(15) "Instructor-led" means person-to-person learning where students can ask questions, receive feedback in real-time, and interaction and discussion are enabled. Some classroom instruction may include self-paced, online components as authorized and certified by the department of licensing. Completely self-paced, online training courses are not authorized.

(16) "Lab" means a teaching environment involving a nonmoving vehicle for hands on instruction supported by classroom material.

(17) "License or endorsement test" means a skills test that is required to obtain a commercial learner's permit, commercial driver license, or endorsement.

(18) "Observation" means the careful watching, as a passenger in a commercial motor vehicle, of street driving during the hours of course instruction, recording lessons learned and applying classroom material.

(19) "Proficiency development" means driving exercises that will allow more time to develop the skills needed to demonstrate proficiency, competence, and confidence in the street driving and backing maneuvers portions of a course.

(20) "Proficiency-based learning" means:

(a) Learning outcomes emphasize competencies that include application and creation of knowledge along with the development of skills and abilities;

(b) Competency criteria and standards are explicit, measurable, transferable learning objectives that equip driver-trainees with necessary knowledge, skills, and abilities;

(c) Assessments are meaningful and directly related to driver-trainees' accomplishment of objectives;

(d) Driver-trainees receive rapid, differentiated support based on their individual learning needs; and

(e) Driver-trainees are given specific and actionable feedback that allows them to advance upon demonstrated proficiency of content in all required areas of the curriculum.

(21) "Range" means an area closed from the public where driving activities are practiced, free of obstructions, enables the driver to

maneuver safely and free from interference from other vehicles and hazards, and has adequate sight lines.

(22) "Street driving" means driving a commercial motor vehicle on a public road, where the traffic laws are enforced, consisting of city street, country road, and freeway driving.

(23) "Theory instructor" means an individual who provides knowledge instruction on the operation of a CMV and meets one of these qualifications:

(a) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience driving a CMV requiring a CDL of the same (or higher) class and/or the same endorsement and meets all applicable state qualification requirements for CMV instructors; or

(b) Holds a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided and has at least two years of experience as a BTW CMV instructor and meets all applicable state qualification requirements for CMV instructors.

(c) **Exceptions applicable to (a) and (b) of this definition:** An instructor is not required to hold a CDL of the same (or higher) class and with all endorsements necessary to operate the CMV for which training is to be provided, if the instructor previously held a CDL of the same (or higher) class and complies with the other requirements set forth in (a) or (b) of this definition.

(d) If an instructor's CDL has been canceled, suspended, or revoked due to any of the disqualifying offenses identified in C.F.R. 383.51, the instructor is prohibited from engaging in theory instruction for two years following the date ((~~his or her~~)) their CDL is reinstated.

(24) "Training institute/provider" means an entity that is approved by the department, to provide training as required by RCW 46.25.060 (1)(a)(ii):

(a) An institution of higher learning accredited by the Northwest Association of Schools and Colleges or by an accrediting association recognized by the higher education board;

(b) A licensed private vocational school as that term is defined by RCW 28C.10.020(7);

(c) An entity in another state that the department has determined provides training or instruction equivalent to that required under WAC 308-100-033 or 308-100-035; or

(d) An entity that the state has determined provides on-site contracted training or instruction equivalent to that required under WAC 308-100-033.

(25) "Without a CDL" means any period of cancellation, expiration, revocation, surrender, or suspension.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-110 Renewal online. Except as otherwise provided by this section, any person who is outside the state at the time ((~~his or her~~)) their commercial driver's license expires may request a renewal by mail or online as permitted by RCW 46.20.120(3). The department shall not renew an endorsement to a commercial driver's license for

the operation of a vehicle transporting hazardous materials by mail or online.

AMENDATORY SECTION (Amending WSR 19-01-078, filed 12/17/18, effective 1/17/19)

WAC 308-100-150 Third-party examiner—Qualifications. A person applying to be a third-party examiner must meet the following requirements:

(1) Hold an active CDL;

(2) Have two years or more experience operating commercial motor vehicles representative of the class of vehicle for which ((~~he or she~~)) they would conduct testing;

(3) Have five years of total driving experience;

(4) A check of the person's driving record shows: The person has not been convicted or found to have committed any of the following offenses within the three year period preceding the date of application:

(a) Driving a motor vehicle while under the influence of alcohol or any drug;

(b) Driving a commercial motor vehicle while the alcohol concentration in the person's system is 0.04 or more as determined by any testing methods approved by law in this state or any other state or jurisdiction;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of a felony;

(e) Refusing to submit to a test to determine the driver's alcohol concentration while driving a motor vehicle; and

(f) Convicted of and found to have committed any of the following felony offenses or any crime involving fraud, moral turpitude, dishonesty, or corruption.

(5) The applicant has not been convicted of no more than one conviction or finding that the person committed two or more serious traffic violations, as defined in WAC 308-100-130, within three years preceding the date of application;

(6) The applicant has not been convicted of four or more moving traffic violations, as defined in WAC 308-104-160, within three years preceding the date of application;

(7) The applicant has not been convicted of two or more moving traffic violations, as defined in WAC 308-104-160, within one year preceding the date of application;

(8) No driver's license suspension, cancellation, revocation, disqualification, or denial within three years preceding the date of application;

(9) Maintain or be employed by a business or agency in which driver testing records would be maintained and available to the state or federal representatives for announced or unannounced inspections and audits;

(10) Be or be employed by a licensed business or government agency within the state of Washington or within ((~~fifty~~)) 50 miles of state boundaries;

(11) Submit to announced or unannounced audits;

(12) Attend all training required by the department of licensing;

(13) Must test a minimum of ((~~ten~~)) 10 different applicants per calendar year or at the discretion of the department, complete recertification requirements; and

(14) Failure to maintain the above qualifications will result in the termination of a third-party examiner.

RDS-7160.1

AMENDATORY SECTION (Amending WSR 19-07-070, filed 3/19/19, effective 4/19/19)

WAC 308-105-020 Application for enhanced driver's license or identicard. (1) An applicant for an enhanced driver's license must be eligible for a standard driver's license under chapter 46.20 RCW, provide the information required by RCW 46.20.091 and WAC 308-104-014, and establish ((~~his or her~~)) their identity as provided by RCW 46.20.035 and WAC 308-104-040.

(2) An applicant for an enhanced identicard must be eligible for a standard identicard under chapter 46.20 RCW, provide the information required by RCW 46.20.117 and WAC 308-104-014, and establish ((~~his or her~~)) their identity as provided by RCW 46.20.035 and WAC 308-104-040.

(3) An applicant for an enhanced driver's license or identicard must sign a declaration acknowledging that ((~~he or she has~~)) they have been notified that the enhanced driver's license or identicard contains a radio frequency identification chip, that ((~~he or she has~~)) they have been given written information on the type of information the chip contains and how it may be used, and that tampering with or deactivating the chip will invalidate the enhanced driver's license or identicard for purposes of border crossing.

(4) An applicant for an enhanced driver's license or identicard must provide the department with satisfactory proof of United States citizenship. United States citizenship may be established by providing at least one of the following pieces of documentation:

(a) A United States passport that is valid;

(b) Certified state birth certificate;

(c) Certificate of naturalization;

(d) Certificate of citizenship; or

(e) Department of state consular report of birth abroad.

(5) An applicant for an enhanced driver's license or identicard must provide the department with satisfactory proof of residency in the state of Washington.

(6) An enhanced driver's license or identicard will not be issued to an applicant who is unable to provide the department with satisfactory proof required under this section.

AMENDATORY SECTION (Amending WSR 07-22-031, filed 10/29/07, effective 11/29/07)

WAC 308-105-030 Enhanced driver's license or identicard denial—Hearing. (1) Within ((~~twenty~~)) 20 days of the date of notification by

the department that an application for an enhanced driver's license or identicard has been denied under WAC 308-105-020((~~(7)~~)) (6), the aggrieved person may submit a written request for a formal hearing to contest the department's decision.

(2) Within ((~~twenty~~)) 20 days of receipt of a request for a formal hearing, the department shall notify the requester in writing of the time and location of the hearing.

(3) The hearing shall be conducted by a hearing officer appointed by the director. The director may delegate the authority to render final decisions to the hearing officer.

(4) The scope of the hearing shall be limited to the following issues:

(a) Has the applicant provided the necessary documentation and information;

(b) Has the applicant established ((~~his or her~~)) their identity;

(c) Has the applicant established that ((~~he or she is~~)) they are a United States citizen; and

(d) Has the applicant established that ((~~he or she maintains~~)) they maintain permanent residency in the state of Washington?

(5) The person shall have the burden of providing that ((~~he or she has~~)) they have established the requirements listed in subsection (4) of this section.

(6) Upon conclusion of the hearing, the hearing officer shall make written findings on the matter under consideration and shall sustain, modify, or reverse the department's denial of the application for an enhanced driver's license or identicard. The department shall notify the person of the hearing officer's decision and of the person's right to request an appeal in the superior court in the county of ((~~his or her~~)) their residence in writing either by personal service or by first class mail set to the last address of record.

(7) A person denied an enhanced driver's license or identicard under subsection (6) of this section shall have the right within ((~~thirty~~)) 30 days after receiving notice of the decision following a formal hearing to file a notice of appeal in the superior court in the county of ((~~his~~)) their residence. The hearing on the appeal hereunder shall be de novo.

(8) If the person does not request a formal hearing within the time specified in subsection (1) of this section, or fails to appear for the hearing, said person shall have waived ((~~his or her~~)) their right to any further administrative remedies, including the right to appeal, and the case shall be remanded to the department and the department's previous decision denying the enhanced driver's license or identicard shall be affirmed.

WSR 26-15-019
PERMANENT RULES
BOARD OF TAX APPEALS
[Filed July 7, 2026, 9:54 a.m., effective August 7, 2026]

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

Purpose: Update rule to reflect changes to RCW 82.03.140.

Citation of Rules Affected by this Order: Amending WAC 456-10-010.

Statutory Authority for Adoption: RCW 82.03.170.

Adopted under notice filed as WSR 26-07-080 on March 18, 2026.

A final cost-benefit analysis is available by contacting Keri Lamb, P.O. Box 40915, Olympia, WA 98504, phone 360-753-5446, fax 360-586-9020, email bta@bta.wa.gov, website bta.wa.gov.

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

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

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

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

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

Date Adopted: July 7, 2026.

Matthew Randazzo
Chair

RDS-7075.1

AMENDATORY SECTION (Amending WSR 22-13-111, filed 6/15/22, effective 7/16/22)

WAC 456-10-010 Difference between formal and informal proceedings. (1) A party making an appeal may choose either a formal or informal hearing in its written notice of appeal. Informal hearings are conducted according to the rules of practice and procedure outlined in this chapter. Formal hearings are conducted according to the Administrative Procedure Act, chapter 34.05 RCW, and the rules of practice and procedure of chapter 456-09 WAC. Failure to choose a type of hearing will result in the proceeding being conducted as informal.

(a) Decisions entered in an informal appeal are not subject to judicial review under the Administrative Procedure Act, chapter 34.05 RCW like formal decisions. Proposed and initial decisions in informal cases, however, can be internally appealed to the board by filing an exception as outlined in WAC 456-10-730.

(b) The informal appeal process is not designed for parties who intend to engage in more than a limited exchange of documents and information between the parties. This exchange process is known as discovery. In cases where a party anticipates discovery, a formal pro-

ceeding may be better suited as discovery is conducted according to the Washington state superior court civil rules.

(c) The parties may have additional avenues to challenge allowed by law, but which the board does not have legal authority to grant, and therefore, are not discussed in this chapter.

(2) An appeal may be converted from an informal to a formal proceeding as provided below:

(a) A respondent in an appeal from a decision by a board of equalization pursuant to RCW 84.08.130 may submit a request that the hearing be formal, if made within 20 calendar days of the date the notice of appeal is served.

(b) The department of revenue, in appeals under RCW 82.03.130 (1)(a), may submit a notice of its intention that the hearing be formal, if made within 30 calendar days of the date the notice of appeal is served.

(c) The department of revenue, in appeals under RCW 82.03.130 (1) (c), (d), (e), (h), (i), or (j), may submit a notice of its intention that a hearing be formal, if made within 10 calendar days from the date the notice of appeal is served.

WSR 26-15-032
PERMANENT RULES
DEPARTMENT OF
SERVICES FOR THE BLIND
[Filed July 7, 2026, 1:50 p.m., effective August 7, 2026]

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

Purpose: Clarifying existing WAC 67-25-183 and 67-25-193, which detail the process of creating a waitlist for services when necessary. Updating the definitions in WAC 67-25-009 and categorization of priority during order of selection to match the federal statute. Updating the maximum age listed for students to receive preemployment transition services in WAC 67-25-009 and 67-25-290 to match state law.

Citation of Rules Affected by this Order: Amending WAC 67-25-009, 67-25-183, 67-25-193, and 67-25-290.

Statutory Authority for Adoption: WAC 67-25-009, 67-25-183, and 67-25-193: 34 C.F.R. Part 361; and WAC 67-25-009 and 67-25-290: 34 C.F.R. 361.5(51) and SSB 5253.

Adopted under notice filed as WSR 26-10-024 on April 29, 2026.

Changes Other than Editing from Proposed to Adopted Version: Added one sentence to cross-reference WAC 67-25-183 to the relevant definitions.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 3, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

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

Date Adopted: July 7, 2026.

Yvonne Verbraak
Executive Assistant

RDS-7144.3

AMENDATORY SECTION (Amending WSR 18-14-101, filed 7/3/18, effective 8/3/18)

WAC 67-25-009 Definitions. (1) "Act" or "the law," except when context indicates otherwise, means the Rehabilitation Act of 1973 (29 U.S.C. Section 701 et seq.), as amended by Title IV of the Workforce Innovation and Opportunity Act (WIOA) of 2014.

(2) "Administrative costs" under the vocational rehabilitation services portion of the unified or combined state plan means expenditures incurred in the performance of administrative functions under the vocational rehabilitation program, including expenses related to

program planning, development, monitoring, and evaluation including, but not limited to, expenses for:

(a) Quality assurance;

(b) Budgeting, accounting, financial management, information systems, and related data processing;

(c) Providing information about the program to the public;

(d) Technical assistance and support services to other state agencies, private nonprofit organizations, and businesses and industries, except for technical assistance and support services described in C.F.R. Sec. 361.49 (a)(4);

(e) The state rehabilitation council and other advisory committees;

(f) Professional organization membership dues for designated state unit employees;

(g) The removal of architectural barriers in state vocational rehabilitation agency offices and state-operated rehabilitation facilities;

(h) Operating and maintaining designated state unit facilities, equipment, and grounds, as well as the infrastructure of the one-stop system;

(i) Supplies;

(j) Administration of the comprehensive system of personnel development personnel administration, administration of affirmative action plans, and training and staff development;

(k) Administrative salaries, including clerical and other support staff salaries, in support of these administrative functions;

(l) Travel costs related to carrying out the program, other than travel costs related to the provision of services;

(m) Costs incurred in conducting reviews of determinations made by personnel of the designated state unit, including costs associated with mediation and impartial due process hearings; and

(n) Legal expenses required in the administration of the program.

(3) "Applicant" means an individual who has submitted to the department an application or letter requesting vocational rehabilitation services in accordance with WAC 67-25-093.

(4) "Appropriate modes of communication" means specialized aids and supports that enable an individual with a disability to comprehend and respond to information that is being communicated. Appropriate modes of communication include, but are not limited to, the use of interpreters, open and closed captioned videos, specialized telecommunications services and audio recordings, Brailled and large print materials, materials in electronic formats, augmentative communication devices, graphic presentations, and simple language materials.

(5) "Assessment" means a review of existing or additional data for one or more of the following (as appropriate in each case):

(a) An assessment to determine eligibility of an individual with a disability for vocational rehabilitation services in accordance with WAC 67-25-130;

(b) A comprehensive assessment to determine with the individual the employment outcome to be achieved and a detailed plan of services needed to obtain the employment outcome, in accordance with WAC 67-25-205;

(c) An assessment for assignment for an order of selection if the department is unable to serve all eligible individuals, in accordance with WAC 67-25-193;

(d) An assessment through a trial work experience or work skills assessment, if there is a question about the applicant's ability to

benefit in terms of an employment outcome from vocational rehabilitation services due to the significance of his or her disability, in accordance with WAC 67-25-140 and 67-25-220.

(6) "Assistive technology" is defined in section 3 of the Assistive Technology Act of 1998 (29 U.S.C. 3002) as an assistive technology device or assistive technology service:

(a) An assistive technology device is any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities;

(b) An assistive technology service is any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device, including:

(i) The evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(ii) A service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(iii) A service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

(iv) Coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(v) Training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

(vi) Training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

(vii) A service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

(7) "Clear and convincing evidence" means that the department has a high degree of certainty before it can conclude that an individual is incapable of benefiting from services in terms of an employment outcome. The clear and convincing standard constitutes the highest standard used in our civil system of law and is to be individually applied on a case-by-case basis. The term "clear" means "unequivocal."

(8) "Client assistance program (CAP)" means a program, authorized under the act, which assists individuals with disabilities to receive those services for which they are eligible under the act by providing information and advocacy.

(9) "Community rehabilitation program (CRP)" means an agency, organization or institution (or unit thereof) that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities as one of its major functions to enable those individuals to maximize their opportunities for employment, including career advancement. These services may include:

(a) Medical, psychiatric, psychological, social, and vocational services that are provided under one management;

(b) Testing, fitting, or training in the use of prosthetic and orthotic devices;

(c) Recreational therapy;

(d) Physical and occupational therapy;

(e) Speech, language, and hearing therapy;

(f) Psychiatric, psychological, and social services, including positive behavior management;

(g) Assessment for determining eligibility and vocational rehabilitation needs;

(h) Rehabilitation technology;

(i) Job development, placement, and retention services;

(j) Evaluation or control of specific disabilities;

(k) Orientation and mobility services for individuals who are blind;

(l) Extended employment;

(m) Psychosocial rehabilitation services;

(n) Supported employment services and extended services;

(o) Customized employment;

(p) Services to family members if necessary to enable the applicant or eligible individual to achieve an employment outcome;

(q) Personal assistance services; and

(r) Services similar to the services described in (a) through (q) of this subsection.

(10) "Comparable benefits" means services and benefits, including accommodations and auxiliary aids and services, that are:

(a) Provided or paid for, in whole or in part, by other federal, state, or local public agencies, by health insurance, or by employee benefits;

(b) Available to the individual at the time needed to ensure the progress of the individual toward achieving the employment outcome in the individual's individualized plan for employment in accordance with WAC 67-25-230; and

(c) Commensurate to the services that the individual would otherwise receive from the designated state vocational rehabilitation agency.

For the purposes of this definition, comparable services and benefits do not include awards and scholarships based on merit.

(11) "Competitive and integrated employment" means work that:

(a) Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that:

(i) Is not less than the rate required under the applicable federal, state or local minimum wage law for the place of employment;

(ii) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and

(iii) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(iv) Is eligible for the level of benefits provided to other employees; and

(b) Is at a location:

(i) Typically found in the community; and

(ii) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire worksite; and

(iii) As appropriate to the work performed, the individual interacts with other persons such as participants and vendors who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and

(c) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

(12) "Customized employment" means competitive integrated employment, for an individual with a significant disability, that is:

(a) Based on an individualized determination of the unique strengths, needs, and interests of the individual with a significant disability;

(b) Designed to meet the specific abilities of the individual with a significant disability and the business needs of the employer; and

(c) Carried out through flexible strategies, such as:

(i) Job exploration by the individual; and

(ii) Working with an employer to facilitate placement, including:

(A) Customizing a job description based on current employer needs or on previously unidentified and unmet employer needs;

(B) Developing a set of job duties, a work schedule and job arrangement, and specifics of supervision (including performance evaluation and review), and determining a job location;

(C) Using a professional representative chosen by the individual, or if elected self-representation, to work with an employer to facilitate placement; and

(D) Providing services and supports at the job location.

(d) Customized employment may be provided as part of a job placement service in accordance with WAC 67-25-440.

(13) "Department" means the Washington state department of services for the blind.

(14) "Designated state agency (DSA)" and "designated state unit (DSU)" mean the sole state agency (DSA) and division (DSU), designated to administer or supervise the local administration of the vocational rehabilitation services portion of the combined state plan. In Washington state, both the DSA and DSU entities for vocational rehabilitation services for individuals who are blind refer to the department of services for the blind.

(15) "Director," except when the context indicates otherwise, means the executive director of the department of services for the blind.

(16) "Eligible individual" means an applicant for vocational rehabilitation services who meets eligibility requirements in accordance with WAC 67-25-125.

(17) "Employment outcome" means, with respect to an individual, entering, advancing in or retaining full-time or, if appropriate, part-time competitive integrated employment (including customized employment, self-employment, telecommuting, or business ownership), or supported employment (in accordance with WAC 67-25-430), that is con-

sistent with the individual's unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.

(18) "Extended employment" means work in a nonintegrated or sheltered setting for a public or private agency or organization that provides compensation in accordance with the Fair Labor Standards Act. The department does not provide supports for extended employment goals or outcomes.

(19) "Extended services" means ongoing support services and other appropriate services that are:

(a) Needed to support and maintain an individual with a most significant disability including a youth with a most significant disability, in competitive and integrated employment with long-term supports;

(b) Organized or made available, singly or in combination, in such a way as to assist an eligible individual in maintaining supported employment in a competitive and integrated workplace;

(c) Based on the needs of an eligible individual, as specified in an individualized plan for employment; and

(d) Provided by a state agency, a private nonprofit organization, employer, or any other appropriate resource, after an individual has made the transition from support from the department.

The department may not provide extended services to an individual who is not a youth with a most significant disability;

Limits for the department providing extended services to youth are described in WAC 67-25-565.

(20) "Extreme medical risk" means a probability of substantially increasing functional impairment or death if medical services, including mental health services, are not provided expeditiously.

(21) "Fair hearing board" means a committee, body, or group of persons established by a state prior to January 1, 1985, that:

(a) Is authorized under state law to review determinations made by personnel of the department that affect the provision of vocational rehabilitation services; and

(b) Carries out the responsibilities of the impartial hearing officer (see subsection (23) of this section).

(22) "Family member" for purposes of receiving vocational rehabilitation services in accordance with WAC 67-25-230 and 67-25-485 means an individual:

(a) Who either is a relative or guardian of an applicant or eligible individual; or lives in the same household as an applicant or eligible individual;

(b) Who has a substantial interest in the well-being of that individual; and

(c) Whose receipt of vocational rehabilitation services is necessary to enable the applicant or eligible individual to achieve an employment outcome.

(23) "Impartial hearing officer" means an individual who:

(a) Is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

(b) Is not a member of the state rehabilitation council for the department;

(c) Has not been involved previously in the vocational rehabilitation of the applicant or recipient of services;

(d) Has knowledge of the delivery of vocational rehabilitation services, the vocational rehabilitation services portion of the combined state plan, and the federal and state regulations governing the provision of services;

(e) Has received training with respect to the performance of official duties; and

(f) Has no personal, professional, or financial interest that could affect the objectivity of the individual.

An individual is not considered to be an employee of a public agency for the purposes of this definition solely because the individual is paid by the agency to serve as a hearing officer.

(24) "Individual who is blind" means a person who:

(a) Has no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight;

(b) Has an eye condition of a progressive nature which may lead to blindness; or

(c) Is blind for purposes of the business enterprise program in accordance with RCW 74.18.200.

(25) "Individual with a disability" for purposes of this chapter means an individual who:

(a) Has a physical or mental impairment which results in a substantial impediment to employment; and

(b) Can benefit in terms of an employment outcome from vocational rehabilitation services.

(26) "Individual with a most significant disability" means an individual who ((~~meets the department's criteria for an individual with a most significant disability:~~

~~(a) Has a severe physical or mental impairment that seriously limits three or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome~~)) experiences significant functional limitations in three or more life areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) due to the disability or disabilities.

(a) Which significantly impedes their ability to get or maintain employment or promote in their career; and

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

(27) "Individual with a significant disability" means an individual who ((~~meets the department's criteria for an individual with a significant disability:~~

~~(a) Has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome~~)) experiences functional limitations in two life areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) due to the disability or disabilities.

(a) Which impedes their ability to get or maintain employment or promote in their career; and

(b) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.

(28) "Individual's representative" means any representative chosen by an applicant or eligible individual, as appropriate, including a parent, guardian, other family member, or advocate, unless a representative has been appointed by a court to represent the individual, in

which case the court-appointed representative is the individual's representative.

(29) "Informed choice" means the process by which an individual receiving vocational rehabilitation services from the department makes decisions about rehabilitation goals and the services and service providers necessary to reach those goals. Informed choice places primary responsibility for action and decision making with the individual, with support of a vocational rehabilitation counselor. Individuals have a right to make informed choices relating to:

(a) Assessment services in accordance with WAC 67-25-130, 67-25-205, and 67-25-220;

(b) Options for developing the individualized plan for employment in accordance with WAC 67-25-230;

(c) Vocational rehabilitation services and service providers in accordance with WAC 67-25-265; and

(d) Employment outcome and work setting in accordance with WAC 67-25-553.

(30) "Integrated setting" means:

(a) With respect to the provision of services, a setting typically found in the community in which applicants or eligible individuals interact with nondisabled individuals other than nondisabled individuals who are providing services to those applicants or eligible individuals; and

(b) With respect to an employment outcome, means a setting:

(i) Typically found in the community; and

(ii) Where the employee with a disability interacts, for the purpose of performing the duties of the position, with other employees within the particular work unit and the entire worksite; and

(iii) As appropriate to the work performed, the individual interacts with other persons such as participants and vendors who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons.

(31) "Maintenance" means monetary support provided to an individual for expenses, such as food, shelter, and clothing, that are in excess of the normal expenses of the individual and that are necessitated by the individual's participation in an assessment for determining eligibility and vocational rehabilitation needs or the individual's receipt of vocational rehabilitation services under an individualized plan for employment.

(32) "Native American; American Indian tribe; American Indian; reservation."

(a) "Native American" and "American Indian" refer to an individual who is a member of an Indian tribe, a native or a descendant of a native, as such terms are defined in subsections (b) and (r) of section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(b) "American Indian tribe" is any federal or state American Indian tribe, band, rancheria, pueblo, colony, or community, including any Alaska native village or regional village corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act) and a tribal organization (as defined in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 (b)(l));

(c) "Reservation" is a federal or state Indian reservation, a public domain Indian allotment, a former Indian reservation in Oklahoma, and land held by incorporated native groups, regional corpora-

tions, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or a defined area of land recognized by a state or the federal government where there is a concentration of tribal members and on which the tribal government is providing structured activities and services.

(33) "One-stop delivery system" or "workforce development system" is the system that brings together workforce development, educational, and other human resource services in a seamless customer-focused service delivery network that enhances access to the programs' services and improves long-term employment outcomes for individuals receiving assistance. One-stop partners administer separately funded programs as a set of integrated streamlined services to customers.

(34) "Participant" means any individual with a disability:

(a) Who has been found eligible for vocational rehabilitation services from the department; and

(b) For whom services have not been denied or terminated by the department; or

(c) Is potentially eligible and actively engaged in the department's preemployment transition services.

(35) "Physical or mental impairment" means:

(a) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculo-skeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine; or

(b) Any mental or psychological disorder such as intellectual disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(36) "Rehabilitation engineering" means the systematic application of engineering sciences to design, develop, adapt, test, evaluate, apply, and distribute technological solutions to problems confronted by individuals with disabilities in functional areas, such as mobility, communications, hearing, vision, and cognition, and in activities associated with employment, independent living, education, and integration into the community.

(37) "Rehabilitation technology" means the systematic application of technologies, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, individuals with disabilities in areas that include education, rehabilitation, employment, transportation, independent living, and recreation. The term "rehabilitation technology" is broadly inclusive of the terms "rehabilitation engineering," "assistive technology devices," and "assistive technology services."

(38) "Special wage certificate" means a certificate issued to an employer under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)) and 29 C.F.R. Part 525 that authorizes payment of subminimum wages, wages less than the statutory minimum wage.

Special wage certificate entity means an employer, or a contractor or subcontractor of that employer, that holds a special wage certificate

(39) "Statewide workforce development system" means a workforce development system, as defined in section 3 of the Workforce Innovation and Opportunity Act (29 U.S.C. 3102). The department is designated as a Title IV core partner within the workforce development system, and has shared responsibilities in combined state planning, common performance measures, and leveraging resources and services through the American job centers.

(40) "Student with a disability" means, for the vocational rehabilitation program, an individual with a disability in a secondary, postsecondary, or other recognized education program who:

(a) Is not older than ((~~twenty-one~~)) 22 years old; and

(b) Is eligible for, and receiving, special education or related services under Part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.); or is an individual with a disability for purposes of section 504 of The Rehabilitation Act of 1973.

(41) "Substantial impediment to employment" means that a physical or mental impairment (in light of attendant medical, psychological, vocational, educational, communication and other related factors) hinders an individual from preparing for, entering into, engaging in, advancing in, or retaining employment consistent with the individual's abilities and capabilities.

(42) "Supported employment" means competitive integrated employment, including customized employment, or employment in an integrated work setting in which an individual with a most significant disability, including a youth with a most significant disability, is working on a short-term basis toward competitive integrated employment that is individualized, and customized, consistent with the unique strengths, abilities, interests, and informed choice of the individual, including with ongoing support services for individuals with the most significant disabilities:

(a) For whom competitive integrated employment has not historically occurred, or for whom competitive integrated employment has been interrupted or intermittent as a result of a significant disability; and

(b) Who, because of the nature and severity of their disabilities, need intensive supported employment services and extended services after the transition from support provided by the designated state unit, in order to perform this work.

(43) "Transportation" means travel and related expenses that are necessary to enable an applicant or eligible individual to participate in a vocational rehabilitation service, including expenses for training in the use of public transportation vehicles and systems.

(44) "Vocational rehabilitation (VR) counselor" means a qualified employee of the department who has direct responsibility for providing or supervising the provision of all rehabilitation services to participants.

(45) "Vocational rehabilitation services" means any goods or services necessary for a participant to achieve an employment outcome provided in accordance with WAC 67-25-265.

(46) "Youth with a disability," for purposes of the vocational rehabilitation program, means an individual with a disability who is not older than ((~~twenty-four~~)) 24 years of age.

AMENDATORY SECTION (Amending WSR 25-16-007, filed 7/24/25, effective 8/24/25)

WAC 67-25-183 Eligibility—Criteria for categorization of ((~~significance of disability~~)) priority for an order of selection. (1) An individual ((~~with a most significant disability is an individual who~~)) is considered to be category priority one for an order of selection when they:

(a) Have a disability or disabilities; and

(b) Experience((~~s~~)) significant functional limitations in three or more ((~~significant functional limitations~~)) life areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) ((~~in terms of a career outcome~~)) due to the disability or disabilities.

(i) Which significantly impedes their ability to get or maintain employment or promote in their career; and

((~~(b)~~)) (ii) Whose vocational rehabilitation can be expected to require multiple ((~~and substantial~~)) vocational rehabilitation services over an extended period of time.

(2) An individual ((~~with a significant disability is an individual who~~)) is considered to be category priority two for an order of selection when they:

(a) ((~~Experiences two or more significant functional limitations~~)) Have a disability or disabilities; and

(b) Experience functional limitations in two life areas (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) ((~~in terms of a career outcome~~)) due to the disability or disabilities.

(i) Which impedes their ability to get or maintain employment or promote in their career; and

((~~(b)~~)) (ii) Whose vocational rehabilitation can be expected to require multiple ((~~and substantial~~)) vocational rehabilitation services over an extended period of time.

(3) An individual ((~~with a least significant disability is an individual who~~)) is considered to be category priority three for an order of selection when they:

(a) Have a disability or disabilities; and

(b) Experience((~~s at least one significant functional limitation~~)) a functional limitation in one life area (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) ((~~in terms of a career outcome~~)) due to the disability or disabilities.

(i) Which impedes their ability to get or maintain employment or promote in their career; and

((~~(b)~~)) (ii) Whose vocational rehabilitation can be expected to require at least one vocational rehabilitation service but not necessarily over an extended period of time.

(4) These priority categories align with the definitions listed in WAC 67-25-009 (26) and (27).

AMENDATORY SECTION (Amending WSR 25-16-007, filed 7/24/25, effective 8/24/25)

WAC 67-25-193 Eligibility—Order of selection. (1) The purpose of an order of selection is to establish an equitable and organized system which, when resources are not sufficient to meet the full demand for services, gives priority to those individuals who are eligible for vocational rehabilitation services and who have the most substantial functional limitations or obstacles to achieve their career goal.

(2) When the order of selection is in effect, eligible individuals will be assigned to one of three priority categories:

(a) ((~~First priority:~~)) New applicants who meet eligibility criteria of ((~~most significant disability~~)) category priority one, per WAC 67-25-183.

(b) ((~~Second priority:~~)) New applicants who meet eligibility criteria of ((~~significant disability~~)) category priority two, per WAC 67-25-183.

(c) ((~~Third priority:~~)) New applicants who meet eligibility criteria of ((~~least significant disability~~)) category priority three, per WAC 67-25-183.

(3) The department's executive director shall decide when to implement an order of selection and will determine which priority categories will be open or closed for the development of new individualized plans for employment. In the event sufficient funds or other resources become available to serve all eligible individuals, the order of selection will be suspended by the director.

(4) When an order of selection waitlist is enacted, the priority criteria below will be considered before an eligible individual can develop and carry out an individualized plan for employment in collaboration with their vocational rehabilitation counselor.

(a) The category priority ((~~of the category~~)) to which they are assigned;

(b) Whether or not that category is open for development of new plans; and

(c) The order in which they applied for vocational rehabilitation services as indicated by the date of application.

(5) Eligible individuals will be placed in the highest priority category for which they are qualified. The date of application will be used whenever it is determined that a waitlist is required for a category.

(6) Exceptions to the order of selection waitlist ((~~may~~)) include((~~:~~

~~(a) Students with a disability who are qualified for preemployment transition services as described in WAC 67-25-290.~~

~~(b) Eligible individuals who require immediate services or tools to retain a current job.~~

~~(i) Only the comprehensive services or tools required to retain the current job can be provided under this exception.~~

~~(ii) If any further services are needed once the job is stable or keeping the current job is no longer the goal, then the individual's case requires being placed on the waitlist and served in the priority and order for the significance of disability category that the individual qualifies for~~)) eligible individuals who require immediate services or tools to retain a current job.

(7) Eligible individuals will be notified in writing of their category status at the same time as they are notified of their eligibility, as well as of the conditions pertaining to that category:

(a) Whether the category is currently open or closed; and

(b) The current status of the existing waitlist within that category.

(8) Eligible individuals will be notified of the right to appeal the category decision, in accordance with WAC 67-25-600, and of their responsibility to notify the department if their situation changes in a way that may affect their priority category placement.

(9) Information and referral services are the only services available to individuals whose case is placed on the waitlist in a closed priority category.

(a) While the case continues on the waitlist, individuals will not be able to receive services such as: Counseling and guidance, assessment and training, job placement, or other vocational rehabilitation services.

Students with a disability can qualify for preemployment transition services as described in WAC 67-25-290(3) while their case is on the waitlist.

(b) When an individual is notified that their case has come off the waitlist, the customer will collaborate with their vocational rehabilitation counselor to complete an individualized plan for employment before initiating services.

(10) Customers who are receiving services under an individualized plan for employment at the time an order of selection is implemented will continue to receive services as planned. They are not subject to the order of selection waitlist.

(11) The order of selection will not affect the provision of services needed to determine eligibility for vocational rehabilitation services, in accordance with WAC 67-25-125.

AMENDATORY SECTION (Amending WSR 18-14-101, filed 7/3/18, effective 8/3/18)

WAC 67-25-290 Vocational rehabilitation services—Preemployment transition for students. (1) The department, in collaboration with the local educational agencies involved, must provide, or arrange for the provision of, preemployment transition services for all students with visual disabilities not older than ((~~twenty-one~~)) 22 years of age who are in need of such services, without regard to the type of visual disability. Reserved and available funds may be used for the required, authorized, and preemployment transition coordination activities.

(2) Preemployment transition services must be made available statewide to all students with visual disabilities, regardless of whether the student has applied or been determined eligible for vocational rehabilitation services.

(3) The department must provide the following required preemployment transition service activities:

(a) Job exploration counseling;

(b) Work-based learning experiences, which may include in-school or after school opportunities, or experience outside the traditional school setting (including internships), that is provided in an integrated environment in the community to the maximum extent possible;

(c) Counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education;

(d) Workplace readiness training to develop social skills and independent living; and

(e) Instruction in self-advocacy (including instruction in person-centered planning), which may include peer mentoring (including peer mentoring from individuals with disabilities working in competitive integrated employment).

(4) Each local office of the department must carry out preemployment transition coordination responsibilities consisting of:

(a) Attending individualized education program meetings for students with disabilities, when invited;

(b) Working with the local workforce development boards, one-stop centers, and employers to develop work opportunities for students with disabilities, including internships, summer employment and other employment opportunities available throughout the school year, and apprenticeships;

(c) Working with schools, including those carrying out activities under section 614(d) of the IDEA, to coordinate and ensure the provision of preemployment transition services under this section;

(d) When invited, attending person-centered planning meetings for individuals receiving services under Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(5) Funds available and remaining after the provision of the required activities described above may be used to improve the transition of students with visual disabilities from school to postsecondary education or an employment outcome by the following authorized activities:

(a) Implementing effective strategies to increase the likelihood of independent living and inclusion in communities and competitive integrated workplaces;

(b) Developing and improving strategies for individuals with intellectual disabilities and individuals with significant disabilities to live independently; participate in postsecondary education experiences; and obtain, advance in and retain competitive integrated employment;

(c) Providing instruction to vocational rehabilitation counselors, school transition personnel, and other persons supporting students with disabilities;

(d) Disseminating information about innovative, effective, and efficient approaches to achieve the goals of this section;

(e) Coordinating activities with transition services provided by local educational agencies under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(f) Applying evidence-based findings to improve policy, procedure, practice, and the preparation of personnel, in order to better achieve the goals of this section;

(g) Developing model transition demonstration projects;

(h) Establishing or supporting multistate or regional partnerships involving states, local educational agencies, designated state units, developmental disability agencies, private businesses, or other participants to achieve the goals of this section; and

(i) Disseminating information and strategies to improve the transition to postsecondary activities of individuals who are members of traditionally unserved and underserved populations.

WSR 26-15-037
PERMANENT RULES
DEPARTMENT OF LICENSING
[Filed July 7, 2026, 6:02 p.m., effective August 7, 2026]

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

Purpose: Recommend rule updates on behalf of the home inspector advisory licensing board.

Citation of Rules Affected by this Order: Amending chapter 308-408 WAC, Home inspector—Definitions; and chapter 308-408C WAC, Home inspector—Standards of practice.

Statutory Authority for Adoption: RCW 18.280.050 Director's authority, and 18.280.060 Board's authority.

Adopted under notice filed as WSR 26-11-064 on May 20, 2026.

A final cost-benefit analysis is available by contacting Kelsey Stone, 1125 Washington Street S.E., Olympia, WA 98504, phone 360-902-0131, email Kelsey.stone@dol.wa.gov, website dol.wa.gov/about/rulemaking.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 18, Repealed 0.

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 18, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: July 7, 2026.

Kelsey Stone
Legislative and Policy Analyst

RDS-7196.1

AMENDATORY SECTION (Amending WSR 09-13-001, filed 6/3/09, effective 7/4/09)

WAC 308-408-010 Words and terms. Words and terms used in these rules shall have the same meaning as each has under chapter 18.280 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(1) "Classroom" means training that takes place in a setting where individuals receiving training are assembled together and learn through lectures, study papers, class discussion, textbook study, or other means of organized formal education techniques, such as video, closed circuit, or other forms of electronic means.

(2) "Comment" means the act of stating one's observations clearly ((~~in the~~)) within the home inspection report.

(3) "Cosmetic" describes the appearance or condition that does not impact the functionality.

(4) "Describe" means the act of stating one's observations clearly in the report through means of written and multimedia.

((~~(4)~~)) (5) "Distance education" means a delivery method in which instruction takes place in a setting other than a live classroom setting, the instructor and the student are in physically separate locations, and interactive instructional methods such as video-based instruction, computer conferencing, video conferencing, interactive audio, interactive computer software, correspondence or internet-based instruction are used.

((~~(5)~~)) (6) "Enter" means to physically go into an attic, crawlspace, or other area. Simply sticking one's head and shoulders into these areas is not entering.

((~~(6)~~)) (7) "Field training" is in addition to the ((~~one hundred twenty~~)) 120 hours of classroom instruction and shall be done on actual inspection sites. Field training must include ((~~forty~~)) 40 hours of instruction with a minimum of five actual complete home inspections done to the standards of practice under the supervision of an ((~~experienced~~)) inspector with four years licensure. The applicant will be required to complete written reports for each inspection, and the supervisor will review the reports and certify that they are in full compliance with the standards of practice. The ((~~forty~~)) 40 hours of supervised instruction will not include travel time to and from inspection, meals, and report writing time.

((~~(7)~~)) (8) "Interactive" means the course structure and technologies promote active student involvement with the course content, including the ability to:

(a) Access or bypass optional content, if applicable;

(b) Submit questions or answer test items, and receive direct feedback; and

(c) Communicate with the instructor and/or other students on an immediate or reasonably delayed basis.

Interactive instruction specifically excludes courses that only provide passive delivery of instructional content.

((~~(8)~~)) (9) "Passive" means there is no required or actual interaction or feedback between the student and instructor.

((~~(9)~~)) (10) "Preinspection agreement" is a written contract provided by the home inspector and signed by the client ((~~that outlines the standards~~)) and home inspector outlining the scope of work to be performed by the licensed home inspector following the standards of practice.

((~~(10)~~)) (11) "Preoffer consultation" is a verbal report that is limited in scope performed by a licensed home inspector. A preinspection agreement must be signed by the client and describe the limited scope of the consultation. This preoffer consultation is conducted only prior to mutual acceptance. "Mutual acceptance" takes place when a seller and a buyer come to a written agreement for the purchase of property.

((~~(11)~~)) (12) "Readily accessible" means available for visual inspection without requiring moving personal property, dismantling, destructive measures, or any action that likely will involve risk to persons or property.

((~~(12)~~)) (13) "Record" means the act of stating one's observations clearly in the report.

((~~(13)~~)) (14) "Report" means the act of stating one's observations clearly in the report.

((~~(14)~~)) (15) "Standard home inspection" is a prelisting or presale written report that contains all or most of the components listed in the standards of practice. The components must be listed in the preinspection agreement. This standard home inspection report cannot be delivered verbally and must be in writing.

((~~(15)~~)) (16) "Technically exhaustive" is an investigation that involves dismantling, the extensive use of advanced techniques, measurements, instruments, testing, calculations or other means.

((~~(16)~~)) (17) "Traverse" means the act of physically moving through a crawlspace or attic or over the surface of a roof during an inspection when it is safe to do so.

RDS-7197.2

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-010 Standards of practice (SOP)—Purpose and scope. Violations of the following SOP and ethics are subject to disciplinary action under RCW 18.235.130.

The purpose of a home inspection is to assess the condition of the residence at the time of the inspection using visual observations, simple tools and normal homeowner operational controls; and to report ((~~deficiencies~~)) conditions of specific systems and components. A home inspector is a generalist that identifies existing conditions in the home that may need to be referred to a specialist. Inspectors must perform all inspections in compliance with the SOP as set forth by the Washington state department of licensing.

A home inspection is not technically exhaustive and does not identify concealed conditions or latent defects. This SOP is applicable to buildings with four or fewer dwelling units and their attached garages or carports.

AMENDATORY SECTION (Amending WSR 18-12-109, filed 6/6/18, effective 7/7/18)

WAC 308-408C-020 Ethics—Statement of purpose. In order to ensure the integrity and high standard of skill and practice in the home inspection profession, the following rules of conduct and ethics shall be binding upon the licensed home inspector.

The home inspector must:

(1) Provide home inspection services that conform to the Washington state home inspectors' SOP.

(2) Provide a full written disclosure report, to the home inspector's client, of any business, familial, or financial relationships or other conflicts of interest between the home inspector and any other party to the transaction. Written disclosure is required prior to the client's signing of the preinspection agreement. Disclosure is required to ensure the consumer's right to freely pick a home inspector of the buyer's or seller's choice and prevent collusion between the

home inspector and the parties to the transaction. Parties may include, but are not limited to, buyers, sellers, appraisers, real estate licensees, mortgage representatives, title companies, vendors and service contractors.

(3) Act as an unbiased party and discharge ((~~his or her~~)) their duties with integrity and fidelity to the client.

(4) Perform services and express opinions based on genuine conviction and only within the inspector's area of education, training, or expertise.

(5) Not conduct a home inspection or prepare a home inspection report that knowingly minimizes, maximizes, compromises, or attempts to balance information about defects for the purpose of garnering future referrals.

(6) Not provide services that constitute the unauthorized practice of any profession that requires a special license when the inspector does not hold that license.

(7) A home inspection report is a unique and nontransferable document to each inspection and client, and an inspector shall not accept compensation for a home inspection from more than one party without written disclosure to the inspector's client(s).

(8) Not for one year after completion of the inspection repair, replace, or upgrade for compensation components or systems on any building inspected - This section applies to the inspector's firm and other employees or principals of that firm or affiliated firms.

(9) Not offer an inducement to any individual or entity by providing compensation or reward in exchange for performing an inspection.

(10) Not disclose information contained in the inspection report without client approval or as required by law. However, at their discretion inspectors may disclose when practical observed potential safety or health hazards to occupants or others that are exposed to such hazards.

(11) Not advertise previous experience in an associated trade as experience in the home inspection profession. An inspector's advertised inspection experience will reflect only the individual inspector's experience as a home inspector and inspectors shall not advertise, market or promote their home inspection services or qualifications in a fraudulent, false, deceptive or misleading manner.

(12) Not accept a home inspection referral or perform a home inspection when assignment of the inspection is contingent upon the inspector reporting predetermined conditions.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-030 Exclusions and limitations. Inspectors are not required to:

(1) Determine the condition of any system or component that is not readily accessible; the remaining service life of any system or component; the strength, adequacy, effectiveness or efficiency of any system or component; causes of any condition or deficiency; methods, materials, or estimated cost of ((~~corrections~~)) repairs; future conditions including, but not limited to, failure of systems and components.

(2) Comment on the suitability of the structure or property for any specialized use, compliance with codes, regulations, laws or ordinances.

(3) Report the presence of potentially hazardous plants or animals including, but not limited to, wood destroying insects or diseases harmful to humans; the presence of any environmental hazards including, but not limited to mold, toxins, carcinogens, noise, and contaminants in soil, water or air; the effectiveness of any system installed or methods utilized to control or remove suspected hazardous substances.

(4) Determine the operating costs of any systems or components.

(5) Determine the acoustical properties of any systems or components.

(6) Operate any system or component that is shut down, not connected or is otherwise inoperable.

(7) Operate any system or component that does not respond to normal user controls.

(8) Operate any circuit breakers, water, gas or oil shutoff valves.

(9) Offer or perform any act or service contrary to law.

(10) Offer or perform engineering services or work in any trade or professional service other than home inspection.

(11) Offer, advertise, or provide warranties or guarantees ((~~of any kind~~)) specific to the quantity or quality of the inspection report unless clearly explained and agreed to by both parties in a preinspection agreement.

(12) Determine the existence of or inspect any underground items including, but not limited to, underground storage tanks or sprinkler systems.

(13) Inspect decorative items, or systems or components that are in areas not entered in accordance with the SOP.

(14) Inspect detached structures, common elements and areas of multiunit housing such as condominium properties or cooperative housing.

(15) Perform any procedure or operation that will, in the opinion of the inspector, likely be dangerous to the inspector or others or damage the property, its systems or components.

(16) Move suspended ceiling tiles, personal property, furniture, equipment, plants, soil, snow, ice or debris.

(17) Dismantle any system or component, except as explicitly required by the SOP.

(18) Enter flooded crawlspaces, attics that are not readily accessible, or any area that will, in the opinion of the inspector, likely be dangerous to the inspector or other persons or damage the property, its systems or components.

(19) Inspect or comment on the condition ((~~or serviceability~~)) of elevators or related equipment.

(20) Inspect or comment on the condition ((~~or serviceability~~)) of swimming pools, hot tubs, saunas, sports courts or other similar equipment or related equipment.

Inspectors are not limited from examining other systems and components or including other inspection services. Likewise, if the inspector is qualified and willing to do so, an inspector may specify the type of repairs to be made.

An inspector may exclude those systems or components that a client specifically requests not to be included in the scope of the inspection or those areas that, in the opinion of the inspector, are in-

accessible due to obstructions or conditions dangerous to the inspector. When systems or components designated for inspection under this SOP are excluded, the reason the item was excluded ((~~will be reported~~)) must be stated within the home inspection report.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-040 Recordkeeping. The inspector is required to maintain the following records for a period of three years:

(1) Preinspection agreements signed by the client and the home inspector, including any material correspondence pertaining to the subject property, for all home inspections performed.

(2) Home inspection reports, multimedia, and/or drawings.

(3) Timesheets or similar documentation used to establish proof of field training, when supervising a home inspector applicant/candidate.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-050 Contracts. A preinspection agreement is mandatory and as a minimum must contain or state:

(1) Address of property.

(2) Home inspector compensation.

(3) Home inspector's contact information.

(4) Home inspector's license number.

(5) General description of what the home inspector will and will not inspect. That description will include all items that the Washington state SOP requires to be inspected.

((~~(4)~~)) (6) A statement that the inspection does not include investigation of mold, asbestos, lead paint, water, soil, air quality or other environmental issues unless agreed to in writing in the preinspection agreement.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-060 Procedures. A home inspector must:

(1) Provide a copy of the preinspection agreement to the client or their representative prior to the inspection unless prevented by circumstances from doing so.

(2) Provide the client with a copy of the home inspection report according to the terms of the preinspection agreement.

(3) Return client's money related to a home inspection report when ordered to do so by a court.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-070 Structure. An inspection of the structure will include the visible foundation; floor framing; roof framing and decking; other support and substructure/superstructure components; stairs; ventilation (when applicable); and exposed concrete slabs in inspected garages, basements, crawl spaces, and habitable areas.

(1) **The inspector will:**

• **Describe** the type of building materials comprising the major structural components.

• **Enter** and **traverse** attics and subfloor crawlspaces where readily and safely accessible.

• **Inspect**

(a) The condition ((~~and serviceability~~)) of visible, exposed foundations and grade slabs, walls, posts, piers, beams, joists, trusses, subfloors, chimney foundations, stairs and the visible roof structure and attic components ((~~where readily and safely accessible~~)).

(b) Subfloor crawlspaces and basements for indications of flooding and moisture penetration.

• **Probe** ((~~a representative number of~~)) structural components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing will damage any finished surface or where no deterioration is suspected.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

• **Report** all wood rot and pest-conducive conditions discovered. Inspectors are prohibited from identifying specific wood destroying insects (carpenter ants, termites, wood boring beetles, etc.) unless they are a currently licensed WA-SPI. When reporting a wood destroying insect infestation or pest-conducive condition, describe it in general terms such as "insect pests," "pest conditions," "wood destroying insects," etc.

• **Refer** all issues that are suspected to be insect related to a licensed structural pest inspector (SPI) or pest control operator (PCO) for follow up.

(2) **The inspector is not required to:**

• **Enter**

(a) Subfloor crawlspaces that require excavation or have an access opening less than ((~~eighteen~~)) 18 inches by ((~~twenty-four~~)) 24 inches or headroom less than ((~~eighteen~~)) 18 inches beneath floor joists and ((~~twelve~~)) 12 inches beneath girders (beams).

(b) Any areas that are not readily accessible due to obstructions, ((~~inadequate~~)) do not meet generally acceptable standards for clearances or have conditions which, in the inspector's opinion, are hazardous to the health and safety of the inspector or will cause damage to components of the home, including insulation.

• **Move** stored items or debris or perform excavation to gain access.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-080 Exterior. An inspection of the exterior includes the visible wall coverings, trim, protective coatings and sealants, windows and doors, attached porches, decks, steps, balconies, handrails, guardrails, carports, eaves, soffits, fascias and visible exterior portions of chimneys.

(1) **The inspector will:**

• **Verify** that steps, handrails, guardrails, stairways, and landings are installed wherever necessary and report when they are missing or in need of repair and report when guard spacing exceeds four inches or 4-3/8 inches on stairs.

• **Describe** the exterior components visible from ground level.

• **Inspect** visible wall coverings, trim, protective coatings and sealants, windows and doors, attached porches, decks, steps, balconies, handrails, guardrails, carports, eaves, soffits, fascias and visible exterior portions of chimneys.

• **Probe** exterior components where deterioration is suspected or where clear indications of possible deterioration exist. Probing is not required when probing will damage any finished surface or where no deterioration is suspected.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Inspect**

(a) Buildings, decks, patios, fences, retaining walls, and other structures detached from the dwelling.

(b) ((~~Safety type glass or~~)) The integrity of thermal window seals.

(c) Flues or verify the presence of flue liners beyond what can be safely and readily seen from the roof or the firebox of a stove or fireplace.

• **Test** or **evaluate** the operation of security locks, devices or systems.

• **Enter** areas beneath decks with less than five feet of clearance from the underside of joists to grade.

• **Evaluate** the function or condition of shutters, awnings, storm doors, storm windows, screens, and similar accessories.

• **Identify** the specific brand name or manufacturer of exterior siding or recalled items.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-090 Roofs. An inspection of the roof includes the roof covering materials; gutters and downspout systems; visible flashings; roof vents; skylights, and any other roof penetrations; and the portions of the chimneys and flues visible from the exterior.

(1) **The inspector will:**

• **Traverse** the roof to inspect it, or at the discretion of the home inspector, use alternate methods to inspect and report on condition.

• **Inspect** the gutters and downspout systems, visible flashings, soffits and fascias, skylights, and other roof penetrations.

• **Report** the manner in which the roof is ventilated.

• **Describe** the type and general condition of roof coverings.

• **Report** multiple layers of roofing when visible or readily apparent.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Traverse** a roof where, in the opinion of the inspector, doing so can damage roofing materials or be unsafe. If the roof is not traversed, the alternate method used to inspect the roof must be reported.

• **Remove** snow, ice, debris or other material that obscures the roof surface or prevents access to the roof.

• **Inspect** gutter and downspout systems concealed within the structure; related underground drainage piping; and/or antennas, lightning arresters, or similar attachments.

• **Operate** powered roof ventilators.

• **Predict** remaining life expectancy of roof coverings.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-100 Plumbing system. An inspection of the plumbing system includes visible water supply lines; visible waste/soil and vent lines; fixtures and faucets; domestic hot water system and fuel source.

(1) **The inspector will:**

(a) **Describe** the visible water supply and distribution piping materials; drain, waste and vent materials((~~,~~)), and water-heating equipment.

(b) **Report**

(i) The presence and functionality of sump pumps/waste ejector pumps when visible or confirm the float switch activates the pump when the sump is dry.

(ii) The presence and location of a main water shutoff valve and/or fuel shutoff valve(s), or report that they were not found.

(iii) The ((~~presence~~)) absence of the temperature and pressure relief (TPR) valve and associated piping.

(iv) ((~~Whether or not~~)) Measure and record the hot water temperature ((~~was tested and state that the generally accepted safe water temperature is one hundred twenty~~)) in degrees Fahrenheit at a representative number of locations in the home and location when taken.

(c) **Inspect** the condition of accessible and visible water supply pipes, drain/waste plumbing and the domestic hot water system when possible.

(d) **Operate** fixtures in order to observe functional flow.

(e) **Check** for functional drainage from fixtures.

(f) **Report** the absence of seismic restraints on hot water tanks.

(g) **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components in the inspection report that may need to be referred to a specialist.

(2) **The inspector is not required to:**

(a) **Operate** any valves, including faucets of freestanding or built-in appliances or fixtures, if the outlet end of the valve or faucet is connected or intended to be connected to an appliance.

(b) **Inspect**

(i) Any system that is shut down or winterized.

(ii) Any plumbing components not readily accessible.

(iii) Floor drains and exterior drain systems((~~,~~)) including, but not limited to, exterior stairwell drains and driveway drains.

(iv) Fire sprinkler systems.

(v) Water-conditioning equipment, including softeners ((~~and~~)), filter systems, and instant hot water dispensers.

(vi) Private water supply systems.

(vii) Gas supply systems.

(viii) Interior components of exterior pumps or sealed sanitary waste lift systems.

(ix) Ancillary systems or components such as, but not limited to, those related to solar water heating and hot water circulation.

(c) **Test**

(i) Pressure or temperature/pressure relief valve.

(ii) Shower pans for leaks or use special equipment to test/scan shower or tub surrounds for moisture in surrounding substrate materials.

(iii) Overflows on all plumbing fixtures.

(d) **Determine**

(i) The potability of any water supply whether public or private.

(ii) The condition and operation of water wells and related pressure tanks and pumps.

(iii) The quantity of water from on-site water supplies.

(iv) The quality or the condition and operation of on-site sewage disposal systems such as waste ejector pumps, cesspools, septic tanks, drain fields, related underground piping, conduit, cisterns, and related equipment.

(e) **Ignite** pilot lights.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-110 Electrical system. The inspection of the electrical system includes the service drop through the ((~~main panel~~)) service equipment; subpanels including feeders; branch circuits, connected devices, and lighting fixtures, as well as grounding and bonding of electrical components where visible/accessible.

(1) **The inspector will:**

(a) **Describe** in the report the type and rating of primary service, whether overhead or underground, voltage, amperage, over-current protection devices (fuses or breakers) and the type(s) of branch wiring used.

(b) **Report**

(i) The existence of a connected service-grounding conductor and service-grounding electrode when same can be determined.

(ii) When no connection to a service grounding electrode can be confirmed.

(c) **Inspect** the main and branch circuit conductors for proper over-current protection and condition by visual observation after removal of the readily accessible ((~~main and subelectric~~)) service equipment and panel cover(s).

(d) **Report,** ((~~if present, solid conductor aluminum branch circuits. Include a statement in the report that solid conductor aluminum wiring may be hazardous and a licensed electrician should inspect the~~

~~system to ensure it's safe~~)) the presence of electrical conductors known to be potentially hazardous and that a licensed electrical contractor should further evaluate the types and methods of branch wiring used.

(e) **Verify**

(i) The operation of a representative number of accessible switches, receptacles and light fixtures in every room.

(ii) The grounding and polarity of a representative number of receptacles in every room; particularly in close proximity to plumbing fixtures or at the exterior.

((~~(iii) Ground fault circuit interrupter (GFCI) protection and arc-fault circuit interrupter (AFCI) protection where required.~~))

(f) **Report** the location of any inoperative, absent, or missing GFCI and/or AFCI devices when they are recommended and/or required by current industry standards. It is not a requirement to test GFCI and AFCI devices in occupied homes where doing so could adversely affect the occupant's possessions such as computers or freezers.

(g) **Advise** clients that homes without ground fault or arc fault protection should have GFCI and AFCI devices installed where recommended and/or required by current industry standards.

(h) **Report** on any ((~~circuit breaker~~)) service panel or subpanel, and fuse boxes known ((~~within the home inspection profession to have safety concerns~~)) to have inherent safety risks based on either design or age.

(i) **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

(a) **Insert** any tool, probe or testing device into the main or subpanels.

(b) **Activate** electrical systems or branch circuits that are not energized.

(c) **Operate** circuit breakers, service disconnects or remove fuses. It is not a requirement to test GFCI or AFCI devices in occupied homes where doing so could adversely affect the occupant's possessions such as computers or freezers.

(d) **Inspect** ancillary systems((~~,~~)) including, but not limited to:

(i) Timers.

(ii) Security systems.

(iii) Low voltage relays.

(iv) Smoke/heat/carbon monoxide detectors.

(v) Antennas.

(vi) Intercoms.

(vii) Electrical deicing tapes.

(viii) Lawn sprinkler wiring.

(ix) Swimming pool or spa wiring.

(x) Central vacuum systems.

(xi) Electrical equipment that's not readily accessible.

(e) **Dismantle** any electrical device or control, except for the removal of the deadfront covers from the main service panel and subpanels.

(f) **Move** any objects, furniture, or appliances to gain access to any electrical component.

(g) ((~~**Test** every switch, receptacle, and fixture.~~

~~(h)~~)) **Remove** switch and receptacle cover plates.

((~~(i)~~)) (h) **Verify** the continuity of connected service ground(s).

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-120 Heating system. The inspection of the heating system includes the fuel source; heating equipment; heating distribution; operating controls; flue pipes, chimneys and venting; auxiliary heating units.

(1) **The inspector will:**

(a) **Describe** the type of fuel, heating equipment, and heating distribution systems.

(b) **Operate** the system using normal readily accessible control devices. Heat pump systems can be tested in either heat pump or A/C mode and should include emergency heat mode testing when readily accessible from thermostat controls.

(c) **Open** readily accessible access panels or covers provided by the manufacturer or installer, if readily detachable.

(d) **Inspect**

(i) The condition of normally operated controls and components of systems.

(ii) The condition and operation of furnaces, boilers, heat pumps, electrical central heating units and distribution systems.

(iii) Visible ((~~flue~~)) vent connector and vent pipes and related components to ensure functional operation and proper clearance from combustibles.

(iv) Each habitable space in the home to determine whether or not there is a functioning heat source present.

(v) Spaces where fossil fuel burning heating devices are located to ensure there is air for combustion.

(vi) Electric baseboard and in-wall heaters to ensure they are functional.

(e) **Report** any evidence that indicates the possible presence of an underground storage tank.

(f) **Report** any open flame combustion appliances/devices present in sleeping rooms.

(g) **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

(a) **Ignite** pilot lights.

(b) **Operate:**

(i) Heating devices or systems that do not respond to normal controls or have been shut down.

(ii) Any heating system when circumstances are not conducive to safe operation or when doing so will damage the equipment.

(c) **Inspect** or **evaluate**

(i) Heat exchangers concealed inside furnaces and boilers.

(ii) Any heating equipment that is not readily accessible.

(iii) The interior of chimneys and flues.

(iv) Installed heating system accessories, such as humidifiers, air purifiers, motorized dampers, heat reclaimers; solar heating systems; or concealed distribution systems.

(d) **Remove** covers or panels that are not readily accessible or removable.

(e) **Dismantle** any equipment, controls, or gauges except readily identifiable access covers designed to be removed by users.

(f) **Evaluate** whether the type of material used to insulate pipes, ducts, jackets and boilers is a health hazard.

(g) **Determine:**

(i) The capacity, adequacy, or efficiency of a heating system.

(ii) Determine adequacy of combustion air.

(h) **Evaluate** thermostats or controls other than to confirm that they actually turn a system on or off.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-130 Air conditioning systems/heat pumps. The inspection of the air conditioning system includes the cooling equipment; cooling distribution equipment and the operating controls.

(1) **The inspector will:**

(a) **Describe** the central air conditioning system and energy sources.

(b) **Operate** the system using normal control devices and ((~~measure and record temperature differential~~)) document temperature changes. Heat pump systems can be tested in either heat pump or A/C mode and should include emergency heat mode testing when readily accessible from thermostat controls.

(c) **Open** readily accessible access panels or covers provided by the manufacturer or installer.

(d) **Inspect** the condition of controls and operative components of the complete system; conditions permitting.

(e) **Report** missing or damaged appliance disconnects.

(f) **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components in the inspection report that may need to be referred to a specialist.

(2) **The inspector is not required to:**

(a) **Activate** cooling systems that have been shut down.

(b) **Inspect**

(i) Gas-fired refrigeration systems.

(ii) Evaporative coolers.

(iii) Wall or window-mounted air-conditioning units.

(iv) The system for refrigerant leaks.

(c) **Check** the coolant pressure/charge.

(d) **Determine** the efficiency, or adequacy of the system.

(e) **Operate** cooling system components if the exterior temperature is below sixty degrees Fahrenheit or when other circumstances are not conducive to safe operation or when doing so might damage the equipment.

(f) **Remove** covers or panels that are not readily accessible.

(g) **Dismantle** any equipment, controls, or gauges except readily identifiable access covers designed to be removed by users.

(h) **Determine** how much current the unit is drawing.

(i) **Evaluate** digital-type thermostats or controls.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-140 Interiors. The inspection of the interior includes the walls, ceilings, floors, windows, and doors; steps, stairways, balconies and railings.

(1) **The inspector will:**

(a) **Verify**

That steps, handrails, guardrails, stairways and landings are installed wherever necessary and **report** when they are missing or in need of repair and **report** when ((~~baluster spacing exceeds four inches~~)) guard spacing exceeds four inches or 4-3/8 inches on stairs.

(b) **((~~Inspect~~)) Report**

(i) The overall general condition of cabinets and countertops.

(ii) Caulking and grout at kitchen and bathroom counters.

(iii) The interior walls, ceilings, and floors for indicators of concealed structural deficiencies, water infiltration or major damage.

(iv) The condition and operation of ((~~a representative number of~~)) all readily accessible windows and doors.

(v) On the absence of smoke detectors and carbon monoxide detectors.

(vi) On the absence of any emergency escape egress or the inability to access to test.

(vii) On the absence of any safety glass where potential hazards may exist.

(c) ((~~**Comment** on the presence or absence of smoke detectors.~~ ~~(d)~~)) **Describe** any noncosmetic deficiencies of these systems or components.

(2) **The inspector is not required to:**

(a) **Report** on cosmetic conditions related to the condition of interior components.

(b) **Verify** whether all walls, floors, ceilings, doorways, cabinets and window openings are square, straight, level or plumb.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-150 Insulation and ventilation. The inspection of the insulation and ventilation includes the type and condition of the insulation and ventilation in viewable unfinished attics and subgrade areas as well as the installed mechanical ventilation systems.

(1) **The inspector will:**

• **Inspect** the insulation, ventilation and installed mechanical systems in viewable and accessible attics and unfinished subfloor areas.

• **Describe** the type of insulation in viewable and accessible unconditioned spaces.

• **Report** missing or inadequate vapor barriers in subfloor crawlspaces with earth floors.

• **Report** the absence of insulation at the interface between conditioned and unconditioned spaces where visible.

• **Report** the absence of insulation on heating system ductwork and supply plumbing in unconditioned spaces.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Determine** the presence, extent, and type of insulation and vapor barriers concealed in the exterior walls.

• **Determine** the thickness or R-value of insulation above the ceiling, in the walls or below the floors.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-160 Fireplaces and stoves. Includes solid fuel and gas fireplaces, stoves, dampers, fireboxes and hearths.

(1) **The inspector will:**

• **Describe** fireplaces and stoves.

• **Inspect** accessible dampers, fireboxes, and hearths.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Inspect** flues and verify the presence of flue liners beyond what can be safely and readily seen from the roof or the firebox of a stove or fireplace.

• **Ignite** fires in a fireplace or stove.

• **Determine** the adequacy of draft.

• **Perform** a chimney smoke test.

• **Inspect** any solid fuel device being operated at the time of the inspection.

• **Evaluate** the installation or adequacy of fireplace inserts.

• **Evaluate** modifications to a fireplace, stove, or chimney.

• **Dismantle** fireplaces or stoves to inspect fireboxes or remove rain caps to inspect chimney flues.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-170 Site. The inspection of the site includes the building perimeter, land grade, and water drainage directly adjacent to the foundation; trees and vegetation that adversely affect the structure; walks, grade steps, driveways, patios, and retaining walls contiguous with the structure.

(1) **The inspector will:**

(a) **Describe** the material used for driveways, walkways, patios and other flatwork around the home.

(b) **Inspect**

(i) ((~~For serviceability~~)) The condition of the driveways, steps, walkways, patios, flatwork, and retaining walls contiguous with the structure.

(ii) For proper grading and drainage slope.

(iii) Vegetation in close proximity to the home.

(c) **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Inspect** fences, recreation/play structures, privacy walls, or retaining walls that are not contiguous with the structure.

• **Report** the condition of soil, trees, shrubs, or vegetation unless they adversely affect the structure.

• **Evaluate** hydrological or geological conditions.

• **Determine** the adequacy of bulkheads, seawalls, breakwalls, and docks.

AMENDATORY SECTION (Amending WSR 09-08-014, filed 3/20/09, effective 4/20/09)

WAC 308-408C-180 Attached garages or carports. The inspection of attached garages and carports includes their framing, siding, roof, doors, windows, and installed electrical/mechanical systems pertaining to the operation of the home.

(1) **The inspector will:**

• **Inspect** the condition and function of the overhead garage doors and associated hardware.

• **Test** the function of the garage door openers, their auto-reverse systems and secondary entrapment devices (photoelectric and edge sensors) when present.

• **Inspect** the condition and installation of any pedestrian doors.

• **Inspect** fire separation between the house and garage when applicable.

• **Report** on the absence of a bollard or other means of appliance protection in garage.

• **Report** as a fire hazard the presence of any ignition source (gas and electric water heaters, electrical receptacles, electronic air cleaners, motors of installed appliances, etc.) that is within eighteen inches of the garage floor.

• **Describe and identify** any ((~~deficiencies~~)) condition of these systems or components that may need to be referred to a specialist.

(2) **The inspector is not required to:**

• **Determine** whether or not a solid core pedestrian door that is not labeled is fire rated.

• **Verify** the functionality of garage door opener remote controls.

• **Move** vehicles or personal property.

• **Operate** any equipment unless otherwise addressed in the SOP.

WSR 26-15-039
PERMANENT RULES
HEALTH CARE AUTHORITY
[Filed July 8, 2026, 8:59 a.m., effective August 8, 2026]

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

Purpose: This amendment allows licensed midwives to be paid for providing routine newborn services under apple health for the first two weeks of life.

Citation of Rules Affected by this Order: Amending WAC 182-533-0600.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Adopted under notice filed as WSR 26-12-027 on May 26, 2026.

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

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

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

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

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

Date Adopted: July 8, 2026.

Wendy Barcus
Rules Coordinator

RDS-7178.1

AMENDATORY SECTION (Amending WSR 26-07-031, filed 3/11/26, effective 4/11/26)

WAC 182-533-0600 Planned home births and births in birthing centers. (1) **Client eligibility.** The medicaid agency covers planned home births and births in birthing centers for clients who choose to give birth at home or in an agency-approved birthing center and:

(a) Are eligible for the alternative benefit package under WAC 182-501-0060, categorically needy or medically needy scope of care under WAC 182-533-0400(2);

(b) Have an agency-approved medical provider who has accepted responsibility for the planned home birth or birth in birthing center under this section;

(c) Are expected to deliver the child vaginally and without complication (i.e., with a low risk of adverse birth outcome); and

(d) Pass the agency's risk screening criteria. The agency provides these risk-screening criteria to qualified medical services providers.

(2) **Qualified providers.** Only the following provider types may be reimbursed for planned home births and births in birthing centers:

(a) Physicians licensed under chapters 18.57 or 18.71 RCW;

(b) Nurse midwives licensed under chapter 18.79 RCW; and

(c) Midwives licensed under chapter 18.50 RCW.

(3) **Birthing center requirements.**

(a) Each participating birthing center must:

(i) Be licensed as a childbirth center by the department of health (DOH) under chapter 246-329 WAC;

(ii) Be specifically approved by the agency to provide birthing center services;

(iii) Have a valid core provider agreement with the agency; and

(iv) Maintain standards of care required by DOH for licensure.

(b) The agency suspends or terminates the core provider agreement of a birthing center if it fails to maintain DOH standards cited in (a) of this subsection.

(4) **Home birth or birthing center providers.** Home birth or birthing center providers must:

(a) Obtain from the client a signed consent form in advance of the birth;

(b) Follow the agency's risk screening criteria and consult with, or refer the client or newborn to, a physician or hospital when medically appropriate;

(c) Have current, written, and appropriate plans for consultation, emergency transfer and transport of a client or newborn to a hospital;

(d) Make appropriate referral of the newborn for pediatric care and medically necessary follow-up care;

(e) Inform parents of required prophylactic eye ointment and newborn screening tests for heritable or metabolic disorders, and congenital heart defects, and send the newborn's blood sample to the DOH for testing. Parents may refuse these services for religious reasons under RCW 70.83.020. The provider must obtain the signature from the parent(s) on:

(i) The reverse side of the screening card to document refusal of screenings for heritable or metabolic disorders; and

(ii) A waiver form to document refusal of prophylactic eye ointment or a screening for congenital heart defects;

(f) Inform parents of the benefits and risks of Vitamin K injections for newborns; and

(g) Have evidence of current cardiopulmonary resuscitation (CPR) training for:

(i) Adult CPR; and

(ii) Neonatal resuscitation.

(5) **Planned home birth providers.** Planned home birth providers must:

(a) Provide medically necessary equipment, supplies, and medications for each client;

(b) Have arrangements for 24 hour per day coverage;

(c) Have documentation of contact with local area emergency medical services to determine the level of response capability in the area; and

(d) Participate in a formal, state-sanctioned, quality assurance improvement program or professional liability review process.

(6) **Newborn services.** The agency pays for routine newborn services up to two weeks of age when the services are:

(a) Furnished by a qualified provider, as identified in subsection (2) of this section; and

(b) Within the provider's scope of practice.

(7) **Limitations.** The agency does not cover planned home births or births in birthing centers for ((~~women~~)) pregnant people identified with any of the following conditions:

(a) Previous cesarean section;
(b) Current alcohol or drug addiction or abuse;
(c) Significant hematological disorders or coagulopathies;
(d) History of deep venous thrombosis or pulmonary embolism;
(e) Cardiovascular disease causing functional impairment;
(f) Chronic hypertension;
(g) Significant endocrine disorders including preexisting diabetes (type I or type II);
(h) Hepatic disorders including uncontrolled intrahepatic cholestasis of pregnancy or abnormal liver function tests;
(i) Isoimmunization, including evidence of Rh sensitization or platelet sensitization;
(j) Neurologic disorders or active seizure disorders;
(k) Pulmonary disease;
(l) Renal disease;
(m) Collagen-vascular diseases;
(n) Current severe psychiatric illness;
(o) Cancer affecting the female reproductive system;
(p) Multiple gestation;
(q) Breech presentation in labor with delivery not imminent; or
(r) Other significant deviations from normal as assessed by the provider.

((~~(7)~~)) (8) **Clients age 20 and younger.** For clients age 20 and younger, see the early periodic screening, diagnosis, and treatment (EPSDT) program described in chapter 182-534 WAC.

WSR 26-15-040
PERMANENT RULES
HEALTH CARE AUTHORITY
[Filed July 8, 2026, 10:29 a.m., effective August 8, 2026]

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

Purpose: The health care authority (HCA) is creating a new behavioral health rule to implement the requirements of RCW 71.05.110(2) and 71.05.620(2), regarding appointed counsel and access to closed Involuntary Treatment Act court files and records. Newly enacted legislation (ESSB [E2SSB] 5745, 2025) amended RCW 71.05.110 to provide that, under certain circumstances, HCA may contract with the office of public defense (OPD) to provide legal counsel for persons involuntarily detained at state-operated behavioral health facilities. OPD also provides appellate counsel in these cases. OPD needs express legal authority granted by HCA rule to timely access court files and records, enter an appearance before the court, and provide legal representation to the detained person.

Citation of Rules Affected by this Order: New WAC 182-155-0050, 182-155-0100, 182-155-0200, and 182-155-0300.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, and 71.05.620(2).

Adopted under notice filed as WSR 26-12-021 on May 26, 2026.

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

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

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

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

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

Date Adopted: July 8, 2026.

Wendy Barcus
Rules Coordinator

RDS-7105.4

Chapter 182-155 WAC
INVOLUNTARY TREATMENT—LEGAL REPRESENTATION PROVIDED BY THE OFFICE OF PUBLIC DEFENSE

NEW SECTION

WAC 182-155-0050 Authority and purpose. This chapter implements the requirements of RCW 71.05.110 and 71.05.620 regarding appointed

counsel and access to court records related to long-term and short-term civil commitment proceedings governed by chapters 71.05 and 71.34 RCW, and RCW 2.70.020.

NEW SECTION

WAC 182-155-0100 Definitions. **"Authority"** - See RCW 41.05.011.

"Attorney of the person" - The defense attorney assigned to represent a person subject to a petition under chapters 71.05 and 71.34 RCW as well as the office of public defense when it exercises its authority to assign the defense attorney who represents the person.

"Director" - The director of the authority.

"Office of public defense" or **"OPD"** - See RCW 2.70.005.

"State facility" - See RCW 71.05.020.

NEW SECTION

WAC 182-155-0200 Appointing the office of public defense as trial counsel. (1) The county where the individual is detained administers appointed counsel under RCW 71.05.110. When a county governing body decides to request the office of public defense (OPD) contract with the authority to provide representation for an individual detained at a state facility, it must send written notice to the director.

(2) The director, or designee, will notify OPD of the opportunity to contract for representation services.

(3) OPD will inform the authority in writing whether it will agree to contract with the authority to provide representation services in the county requested.

(4) The director, or designee, will respond to the county's request within 30 days of receiving a response from OPD.

(5) As of January 1, 2026, OPD provides representation services under RCW 71.05.110 in the following counties for individuals detained at a state facility: King County.

(6) When OPD provides representation under this section, OPD is considered an attorney of the person under RCW 71.05.620.

NEW SECTION

WAC 182-155-0300 Role of the office of public defense as legal appellate counsel. (1) Individuals detained under chapter 71.05 or 71.34 RCW have the right to appointed counsel at every stage of civil commitment proceedings. The right to counsel extends to appeals of trial court decisions per *In re Grove*, 127 Wn.2d 221 (1995).

(2) The office of public defense (OPD) administers appointed appellate counsel statewide for indigent persons under RCW 2.70.020. OPD provides appellate representation through contracted counsel under RCW 2.70.023.

(3) When OPD provides representation under this section, OPD is considered an attorney of the person under RCW 71.05.620.

WSR 26-15-042
PERMANENT RULES
DEPARTMENT OF HEALTH
(Dental Quality Assurance Commission)
[Filed July 8, 2026, 12:38 p.m., effective August 8, 2026]

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

Purpose: Dental licensure requirements; the dental quality assurance commission (commission) is adopting amendments to WAC 246-817-135 Dental licensure without examination—Eligibility and application requirements, to remove requirements pertaining to federal or state tax numbers.

Citation of Rules Affected by this Order: Amending WAC 246-817-135.

Statutory Authority for Adoption: RCW 18.32.0365.

Other Authority: RCW 18.32.215.

Adopted under notice filed as WSR 26-03-002 on January 7, 2026.

Changes Other than Editing from Proposed to Adopted Version: At the April 24, 2026, business meeting, the commission voted to remove WAC 246-817-160 Graduates of nonaccredited schools, from this rule package and authorized separate rule making for WAC 246-817-160.

A final cost-benefit analysis is available by contacting Debbie Gardner, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4893, TTY 711, email dental@doh.wa.gov.

WAC 246-817-135 is exempt under RCW 34.05.328 (5)(c)(i) because it repeals the requirement to provide federal or state tax numbers as part of the application process. The analysis of the proposed amendments to WAC 246-817-160 that appeared in the preliminary cost-benefit analysis have been removed because those amendments were not adopted.

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

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

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

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

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

Date Adopted: July 8, 2026.

Bryan Swanson, DDS, Chair
Dental Quality Assurance Commission

RDS-6362.7

AMENDATORY SECTION (Amending WSR 21-01-215, filed 12/23/20, effective 1/23/21)

WAC 246-817-135 Dental licensure without examination—Eligibility and application requirements. For individuals holding a dentist

credential in another U.S. state or territory, to be eligible for Washington state dental license without examination, the applicant must provide:

(1) A completed application on forms provided by the secretary;

(2) Applicable fees under WAC 246-817-990;

(3) A verification by a U.S. state or territory board of dentistry (or equivalent authority) of an active credential to practice dentistry, without restrictions, and whether the applicant has been the subject of final or pending disciplinary action;

(4) Proof of graduation from an approved dental school under WAC 246-817-110 (2)(a):

(a) The only acceptable proof is an official, posted transcript sent directly from such school;

(b) Graduates of nonapproved dental schools must meet the requirements under RCW 18.32.215 (1)(b).

(5) Proof that the applicant is currently engaged in the practice of dentistry:

(a) Dentists serving in the United States federal services as described in RCW 18.32.030(2) must provide documentation from their commanding officer regarding length of service, duties and responsibilities, and any adverse actions or restrictions;

(b) Dentists employed by a dental school approved under WAC 246-817-110 (2)(a) must provide documentation from the dean or appropriate administrator of the institution regarding the length and terms of employment, duties and responsibilities, and any adverse actions or restrictions;

(c) Dentists in a dental residency program must provide documentation from the director or appropriate administrator of the residency program regarding length of residency, duties and responsibilities, and any adverse actions or restrictions; or

(d) Dentists practicing dentistry for a minimum of ((~~twenty~~)) 20 hours per week for the four consecutive years preceding application, in another U.S. state or territory must provide:

(i) Address of practice location(s);

(ii) Length of time at the location(s);

(iii) A letter from all malpractice insurance carrier(s) defining years when insured and any claims history; and

(iv) ((~~Federal or state tax numbers; and~~

~~(v)~~)) DEA numbers if any.

(6) Proof of successful completion of a commission approved written jurisprudence examination;

(7) A recent 2" x 2" photograph, signed, dated, and attached to the application; and

(8) Authorization for background inquiries to other sources may include, but are not limited to, the national practitioner data bank and drug enforcement agency.

WSR 26-15-046
PERMANENT RULES
DEPARTMENT OF HEALTH
(Dental Quality Assurance Commission)
[Filed July 9, 2026, 7:19 a.m., effective August 9, 2026]

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

Purpose: The dental quality assurance commission is adopting amendments to WAC 246-817-120 to update approved testing agency names for practical examinations for dental licensure.

Citation of Rules Affected by this Order: Amending WAC 246-817-120.

Statutory Authority for Adoption: RCW 18.32.0357 and 18.32.0365.

Adopted under notice filed as WSR 26-08-057 on March 27, 2026.

Changes Other than Editing from Proposed to Adopted Version: In subsection (2)(a)(vi), the word "formally" has been changed to "formerly."

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

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

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

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

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

Date Adopted: July 9, 2026.

Bryan Swanson, DDS, Chair
Dental Quality Assurance Commission

RDS-7027.2

AMENDATORY SECTION (Amending WSR 21-09-011, filed 4/8/21, effective 5/9/21)

WAC 246-817-120 Examination content. (1) An applicant seeking dentist licensure in Washington by examination((~~,~~)) must successfully pass a written and practical examination approved by the Dental Quality Assurance Commission (commission).

The examination will consist of:

(a) A written examination. The Integrated National Board Dental Examination, Parts I and II of the National Board Dental Examination, or the Canadian National Dental Examining Board examination will be accepted, except as provided in subsection (4) of this section.

(b) A practical examination containing at least the following sections:

(i) Restorative;

(ii) Endodontic;

(iii) Periodontal;

(iv) Prosthodontic; and

(v) Comprehensive treatment planning or diagnostic skills.

(2)(a) The commission accepts the following practical examinations provided the testing agency offers at least the sections listed in subsection (1)(b) of this section:

(i) The Western Regional Examining Board((~~'s~~)) (WREB) clinical examination;

(ii) The Central Regional Dental Testing Services (CRDTS) clinical examination;

(iii) The Commission on Dental Competency Assessments (CDCA) ((~~formally known as Northeast Regional Board (NERB)~~)) clinical examination;

(iv) The Southern Regional Testing Agency (SRTA) clinical examination;

(v) The Council of Interstate Testing ((~~Agency's~~)) Agencies (CITA) clinical examination;

(vi) The American Board of Dental Examiners (ADEX), formerly known as CDCA-WREB-CITA, clinical examination;

(vii) U.S. state or territory with an individual state board clinical examination;

((~~(vii)~~)) (viii) The Joint Commission on National Dental Examinations dental licensure objective structured clinical examination (DLOSCE); or

(b) The commission will accept the complete National Dental Examining Board (NDEB) of Canada clinical examination as meeting its standards if the applicant is a graduate of an approved dental school defined in WAC 246-817-110 (2)(a).

(3) The applicant must pass all practical examination sections listed in subsection (1)(b) of this section with the following:

(a) The same testing agency; or

(b) A maximum of two testing agencies listed in subsection (2)(a) of this section administering all the practical examination sections in coordination with each other.

(4) The commission will only accept results of approved practical examinations taken within the preceding five years from the date of an application for licensure.

(5) The commission may, at its discretion, give or require an examination in any other subject under subsection (1)(a) and (b) of this section, whether in written or practical form or both written and practical.

WSR 26-15-062
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 25-22—Filed July 14, 2026, 9:13 a.m., effective August 15, 2026]

Effective Date of Rule: August 15, 2026.

Purpose: The purpose of this rule making is to implement HB 1275, which ensures decertified self-insurers remain liable for their self-insured claims and reimburse the department of labor and industries (L&I) for all payments made. HB 1275 also directs L&I to adopt rules regarding continuing obligations of decertified self-insured employers and methods of how the self-insured employer shall meet financial obligations.

Citation of Rules Affected by this Order: New WAC 296-15-184; and amending WAC 296-15-121, 296-15-123, and 296-15-151.

Statutory Authority for Adoption: RCW 51.44.145 and 51.44.150 (chapter 57, Laws of 2025).

Adopted under notice filed as WSR 26-09-075 on April 14, 2026.

A final cost-benefit analysis is available by contacting Starla Treznoski, L&I, Insurance Services, Self-Insurance, P.O. Box 44890, Olympia, WA 98504-4890, phone 360-902-5668, fax 360-902-6900, email Starla.Treznoski@Lni.wa.gov, website https://www.lni.wa.gov/rulemaking-activity/?query=296-15&cardNo=AO25-22.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 3, Repealed 0.

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

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

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

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

Date Adopted: July 14, 2026.

Joel Sacks
Director

RDS-7097.1

AMENDATORY SECTION (Amending WSR 24-11-121, filed 5/21/24, effective 7/1/24)

WAC 296-15-121 Surety for a self-insurance program. (1) **What is surety?** Surety is the legal financial guarantee each self-insurer must provide to the department for its self-insured workers' compensation program. Failure to provide surety in the amount required by the department will result in the withdrawal of the self-insurer's certification. If a self-insurer defaults, the department will use its surety to cover these costs.

(a) Surety for all entities must be provided on the department's form. The original will be kept by the department. Surety must cover all self-insurance claims liabilities associated with the claims occurring during the time an employer functions as a self-insurer. ((~~Excluding public entities and groups.~~)) Surety amounts for public entities and groups are covered by WAC 296-15-151 and 296-15-161 respectively.

(b) Surety may not be used by a self-insurer to:

(i) Pay its workers' compensation benefits; or

(ii) Serve as collateral for any other banking transactions.

(c) Surety is not an asset of the self-insurer and will not be released by the department if the self-insurer files a petition for dissolution or relief under bankruptcy laws.

(d) The department will determine the amount of surety each self-insurer must provide annually. Surety can also be determined by an independent qualified actuary (associate or fellow of the casualty actuarial society). The surety estimate is subject to the approval of the department's actuary.

(e) Surety may be increased by a maximum of 25 percent of the estimated claim liabilities. These increases will be based on the self-insurer's credit rating or the director's discretion.

(f) Surety for privately held entities are required to submit audited financial reports prepared by a certified public accountant annually. Failure to provide timely updates will result in increased surety requirements. If the latest financial reports are older than 12 months past their fiscal year, surety will be increased by 10 percent over the required surety calculated by the department. If the latest financial reports are older than 24 months, surety will be increased by 25 percent over the required surety calculated by the department and the department will proceed to decertify the employer from self-insurance.

(2) **What types of self-insurance surety will the department accept?** The department will accept the following types of surety:

(a) Cash, corporate, or governmental securities deposited with a department approved escrow agent and administered by a written agreement L&I form F207-039-000 between the department, self-insurer and escrow agent. Use L&I form F207-137-000 for any rider/amendment to the escrow account.

An escrow account may not be used by the self-insurer to satisfy any other obligation to the bank which maintains the escrow account.

(b) A bond on L&I form F207-068-000 written by a company approved to transact surety business in Washington. Use L&I form F207-134-000 for any rider/amendment to the bond.

(c) An irrevocable standby letter of credit (LOC) on L&I form F207-112-000 if the self-insurer has a net worth of at least $500,000,000. Use L&I form F207-111-000 for any rider/amendment. LOCs are subject to acceptance by the department. Acceptance includes, but is not limited to, approval of the financial condition of the issuing or confirming bank.

(i) The issuing or confirming bank must have a location in Washington. The bank must provide the department with an audited financial statement or call report made to the banking regulatory agencies for the most recent fiscal year. An audited statement/call report is due at LOC issuance and annually while the LOC is in effect.

(ii) The self-insurer must provide the department a memorandum of understanding on L&I form F207-113-000 showing the self-insurer's agreement with the following conditions:

(A) The department will automatically extend an LOC for an additional year unless notified otherwise by registered mail at least 60 days prior to expiration.

(B) If the department is notified an LOC will not be replaced, and the self-insurer fails to provide acceptable replacement surety within 30 days of notice:

(I) The department will draw the full value of the LOC. All proceeds of the LOC will be deposited with the department;

(II) Accrued interest in excess of the surety requirement will be returned semiannually to the self-insurer; and

(III) If acceptable replacement surety is later provided, the proceeds of the LOC and accrued interest will be returned to the self-insurer.

(C) If the self-insurer defaults on the payment of workers' compensation benefits and has failed to provide acceptable replacement surety for an expired LOC:

(I) The title to the proceeds will be transferred to the department; and

(II) The proceeds and accrued interest will be used to pay the self-insurer's workers' compensation benefits.

(D) If the self-insurer defaults on the payment of workers' compensation benefits and has an LOC in force:

(I) The department will draw the full value of the LOC. All proceeds of the LOC will be deposited with the department; and

(II) The proceeds and accrued interest will be used to pay the self-insurer's workers' compensation benefits.

(iii) If the self-insurer provides another acceptable type of surety in the amount required by the department, the department's interest in the LOC will be released.

(iv) All legal proceedings regarding a self-insurer's LOC will be subject to Washington laws and courts.

(3) **When could a self-insurer's surety level change?**

(a) Surety will be maintained at the current level unless the department's estimate or an independent qualified actuary's estimate of the self-insurer's outstanding claim liabilities changes by more than $100,000.

(b) Surety changes are due by July 1st of each year.

(4) **How does the department determine the required surety level?** The department analyzes each self-insurer's loss history using incurred development, paid development or other department approved actuarial methods of loss development.

(5) **What is considered reinsurance?** For the purposes of Title 51 RCW, excess insurance and reinsurance mean the same thing.

(6) **May a self-insurer reinsure part of its liability?**

(a) A self-insurer may reinsure up to 80 percent of its liability under Title 51 RCW.

(b) The reinsuring company and its personnel are prohibited from participating in the administration of the responsibilities of the self-insurer.

(c) Reinsurance policies issued after July 1, 1975, must include endorsements which state (a) and (b) of this subsection.

(d) The self-insurer must:

(i) Notify the department of the name of the insurance carrier, the extent and coverage period of the policy; and

(ii) Submit copies of all reinsurance policies in force including all modifications and renewal provisions.

(e) The department may accept a certificate of insurance on L&I form F207-095-000 in place of the policy if the certificate certifies all coverage conditions and exceptions and that the reinsurance company and its personnel do not participate in the administration of the responsibilities of the self-insurer under Title 51 RCW.

(7) **What if a self-insurer ends its self-insured workers' compensation program?** If a self-insurer voluntarily surrenders certification or has its certificate involuntarily withdrawn by the department, the former self-insurer must continue to do all of the following:

(a) Manage and pay benefits on claims incurred during its period of self-insurance. Claim reopenings and new claims filed for occupational diseases incurred during the period of self-insurance remain the obligation of the former self-insurer.

(b) File quarterly and annual reports as long as quarterly reporting is required; and submit audited financial reports prepared by a certified public accountant annually. A former self-insurer may ask the department to release it from quarterly reporting after it has had no claim activity with the exception of pension or death benefits for a full year.

(c) Provide surety at the department required level. The department may require an increase in surety based on annual reports as they continue to be filed. Surety will not be reduced from the last required level (while self-insured) any sooner than three full calendar years after the certificate was terminated. A bond may be canceled for future obligations, but it continues to provide surety for claims occurring prior to its cancellation.

(d) Pay insolvency trust assessments for three years after surrender or withdrawal of certificate.

(e) Pay all expenses for a final audit of its self-insurance program.

(8) **When could the department consider releasing surety to a former self-insurer or its successor?**

(a) The department may consider releasing surety to a former self-insurer or its successor when all of the following have occurred:

(i) All claims against the self-insurer are closed; and

(ii) The self-insurer has been released from quarterly reporting for at least 10 years.

(b) If the department releases surety, the former self-insurer remains responsible for claim reopenings and new claims filed for occupational disease incurred during the period of self-insurance.

AMENDATORY SECTION (Amending WSR 21-13-136, filed 6/22/21, effective 7/23/21)

WAC 296-15-123 Monitoring certification. (1) To maintain certification, a self-insured employer must remain in good standing with department reporting requirements and payment of assessments, and continue to demonstrate they have the ability to promptly provide benefits to its injured workers based on an analysis of the audited financial statements and related information for that employer.

(2) Credit rating evaluation for financial monitoring.

(a) Credit rating equal to or below B+/B1: Self-insurer must increase their surety by ((~~ten~~)) 10 percent of ((~~estimated claim~~)) total outstanding liabilities.

(b) Credit rating equal to or below CCC+/Caa1: Self-insurer must increase their surety by ((~~twenty-five~~)) 25 percent of ((~~estimated claim~~)) total outstanding liabilities.

(c) Credit rating equal to or below CCC-/Caa3: Self-insurer will be placed on corrective action for one year. If no improvement in credit rating, then certification may be withdrawn.

(d) To assess an employer's ability to promptly provide any and all required benefits to its injured workers, the department will utilize these and other financial information. The department may also utilize industry standards and other relevant information in its analysis.

(e) In addition to the actions and other relevant information utilized in (a) through (d) of this subsection, the department, with the director's discretion, may consider general economic conditions to evaluate whether a self-insurer's certification may be maintained or withdrawn.

AMENDATORY SECTION (Amending WSR 21-13-136, filed 6/22/21, effective 7/23/21)

WAC 296-15-151 Surety for a public entity's self-insurance program. (1) Surety for public entities must be secured either through a bond or escrow account consistent with WAC 296-15-121, or placed in a designated reserve fund and provided on a department developed form ((~~consistent with WAC 296-15-121(2)~~)). The original will be kept by the department. Required surety must cover at a minimum ((~~one hundred twenty-five~~)) 125 percent of the expected workers' compensation claim costs occurring in the next calendar year or ((~~five hundred thousand dollars~~)) $500,000, whichever is higher. The surety required may be increased up to the total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer based on either the employer's compliance with Title 51 RCW or its credit rating ((~~of the employer~~)) as follows:

(a) Credit rating equal to or below CCC+/Caa1: Self-insurer must increase their surety to 50 percent of total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer.

(b) Credit rating equal to or below CCC-/Caa3: Self-insurer must increase their surety to 100 percent of total outstanding liabilities associated with claims occurring during the time an employer functions as a self-insurer.

(2) Public entities must provide a public entity surety certification which will provide an estimate of the next calendar year's expected claim costs and the current estimate of the outstanding claim liabilities.

(3) Credit rating evaluation for financial monitoring.

(a) For entities with acceptable credit ratings above B+/B1, the surety requirement will be ((~~one hundred twenty-five~~)) 125 percent of the next calendar year's expected claim costs or ((~~five hundred thousand dollars~~)) $500,000, whichever is higher.

(b) For entities with credit ratings at or below B+/B1, the surety requirement will be the highest of the above amount, but not less than ((~~fifty~~)) 50 percent of the current estimate of outstanding claim liabilities.

(c) For entities with credit ratings at or below CCC+/Caa1, the surety requirement will be the highest of the above amount, but not less than ((~~one hundred~~)) 100 percent of the current estimate of outstanding claim liabilities.

(d) In addition to the actions and other relevant information utilized in (a) through (c) of this subsection, the department, with the director's discretion, may consider general economic conditions to evaluate whether a self-insurer's certification may be maintained or withdrawn.

NEW SECTION

WAC 296-15-184 Liability for reimbursement following decertification of self-insured public entities and groups. (1) A self-insured public entity, or group authorized under RCW 51.14.150, that has its self-insured status terminated by the director pursuant to RCW 51.14.080, shall have its obligations under this title fulfilled by the department including paying compensation. This does not apply to employers who are found to be in default under WAC 295-15-125.

(2) The department will fulfill the decertified self-insured employer's obligations under Title 51 RCW from the decertified self-insured employer's deposit or from other funds provided under Title 51 RCW for the satisfaction of claims against the decertified self-insured employer. The decertified self-insured employer's obligations may be met from the following options:

(a) If the decertified self-insured employer has provided security through a bond or escrow account consistent with WAC 296-15-151, the department makes demand upon the security provided by that decertified employer for the full amount. The recovered security will be deposited with the department and accrue interest that will be retained to provide benefits to injured workers of the decertified employer.

(b) The decertified employer shall pay to the department an initial deposit equal to six-months of claim payments and any additional costs as determined by the department within 30 days of notice of decertification.

(i) The six-month deposit will be recalculated every two years beginning March 31st following decertification.

(ii) The department shall be reimbursed for all such payments from the decertified employer through periodic charges every 90 days.

(iii) The department shall transfer the balance of any decertified employer's deposit back to the employer when the following have occurred:

(A) All claims against the decertified employer are closed;

(B) There has been at least 10 years since the decertified employer has received any billing for at least four consecutive quarters; and

(C) If the department releases the deposit, the decertified employer remains liable to the department for claim reopenings and new claims filed for occupational disease incurred during the period of self-insurance.

(3) If a self-insured public entity, or group authorized under RCW 51.14.150 is in default or the director has withdrawn the certification, and a permanent total disability (pension) or fatality claim is granted, the claim will be administered under WAC 296-15-171.

(4) An order by the department awarding benefits shall become effective and benefits due on the date issued. Any appeal or request for stay of benefits is subject to RCW 51.52.050.

WSR 26-15-063
PERMANENT RULES
DEPARTMENT OF HEALTH
[Filed July 14, 2026, 11:30 a.m., effective August 14, 2026]

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

Purpose: Lead and copper rule improvements for Group A public water systems. The department of health (department) is adopting the federal requirements by text and reference for lead and copper rule revisions, and making minor editorial changes and updates to ensure consistency of terms and internal references in chapter 246-290 WAC between federal and state rules.

This adoption also makes editorial amendments and aligns the rule with the code reviser's 2025 Bill Drafting Guide.

Citation of Rules Affected by this Order: Amending WAC 246-290-025, 246-290-310, 246-290-72230, 246-290-72300, 246-290-72310, and 246-290-72400.

Statutory Authority for Adoption: RCW 43.20.250, 70A.125.080, and 70A.130.010.

Adopted under notice filed as WSR 26-11-039 on May 18, 2026.

Changes Other than Editing from Proposed to Adopted Version: A typographical error was corrected by changing the exclusion reference in WAC 246-290-025 from (j) to (i) for 141.82, Description of corrosion control treatment requirements.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 6, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 6, Repealed 0.

Date Adopted: July 14, 2026.

Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

RDS-7111.4

AMENDATORY SECTION (Amending WSR 26-08-023, filed 3/23/26, effective 4/23/26)

WAC 246-290-025 Adoption by reference. The following sections and subsections of Title 40 Code of Federal Regulations (C.F.R.) Part 141 National Primary Drinking Water Regulations and Part 143 National Secondary Drinking Water Regulations revised as of ((~~June 25~~)) October 30, 2024, are adopted by reference:

141.2	Definitions. Only those definitions listed as follows:
	Action level;
	Aerator;
	Child care facility;
	Connector;
	Corrosion inhibitor;
	Distribution system and site assessment;
	Effective corrosion inhibitor residual;
	Elementary school;
	Enhanced coagulation;
	Enhanced softening;
	First ((~~draw~~)) liter sample;
	Galvanized requiring replacement service line;
	Galvanized service line;
	Haloacetic acids (five) (HAA5);
	Large water system;
	Lead service line;
	Lead status unknown service line;
	Maximum residual disinfectant level (MRDL);
	Maximum residual disinfectant level goal (MRDLG);
	Medium((~~-size~~)) water system;
	Method detection limit (MDL);
	Newly regulated public water system;
	Optimal corrosion control treatment (OCCT);
	Partial service line replacement;
	Pitcher filter;
	Point-of-use treatment device or point-of-use device (POU);
	Practical quantitation limit (PQL);
	Prestagnation flushing;
	School;
	Secondary school;
	Service line;
	Single family structure;
	Small water system;
	Specific ultraviolet absorption (SUVA); ((~~and~~))
	System without corrosion control treatment;
	Tap monitoring period;
	Tap sampling period;
	Tap sampling protocol;
	Total Organic Carbon (TOC); and
	Wide-mouth bottles.
141.13	Maximum contaminant levels for turbidity.
141.22	Turbidity sampling and analytical requirements.
141.23 (a) through (j) and (m) through (o), excluding (i)(2), (k), and (l)	Inorganic chemical sampling and compliance.
141.24 (f)(1) through (15), (18), (19), (21), and (22)	Volatile organic monitoring and compliance.

141.24(h), excluding (13), (18), and (19)	Synthetic organic monitoring and compliance, except PFAS.
141.25 (a), (c), and (d)	Analytical methods for radioactivity.
141.26	Monitoring frequency and compliance for radionuclides in community water systems.
141.31(d)	Reporting requirements.
141.33(e)	Record maintenance.
141.40	Monitoring requirements for unregulated contaminants.
141.61	Maximum contaminant levels for organic contaminants.
141.62, excluding (b)	Maximum contaminant levels for inorganic contaminants.
141.63(e)	Maximum contaminant levels (MCLs) for microbiological contaminants.
141.64	Maximum contaminant levels for disinfection byproducts.
141.65(c)	Maximum Residual Disinfectant Levels.
141.66	Maximum contaminant levels for radionuclides.
Control of Lead and Copper	
141.80((~~, excluding (c)(3)(v)~~))	General requirements.
141.81	Applicability of corrosion control treatment steps to small, medium-size and large water systems.
141.82 (((~~(a) through (h)~~))), excluding (i)	Description of corrosion control treatment requirements.
141.83	Source water treatment requirements.
141.84	Lead service line replacement requirements.
141.85	Public education and supplemental monitoring requirements.
141.86 (((~~(a) through (f)~~))), excluding (g)	Monitoring requirements for lead and copper in tap water.
141.87	Monitoring requirements for water quality parameters.
141.88	Monitoring requirements for lead and copper in source water.
141.89	Analytical methods.
141.90, excluding (((~~(a)(4)~~))) (j)(1)	Reporting requirements.
141.91	Recordkeeping requirements.
141.92	Monitoring for lead in schools and child care facilities.
141.93, excluding (c)(1)	Small water system compliance flexibility.
Disinfectants and Disinfection Byproducts (D/DBP)	
141.130	General requirements.
141.131	Analytical requirements.
141.132, excluding (c)(1)(i)	Monitoring requirements.
141.133	Compliance requirements.
141.134	Reporting and recordkeeping requirements.
141.135	Treatment technique for control of disinfection byproduct precursors.
((**~~Subpart O - Consumer Confidence Reports~~**	
~~141.153 (h)(8)(ii)~~	~~Contents of the reports.~~))
Enhanced Filtration and Disinfection - Systems Serving 10,000 or More People	
141.175(b)	Reporting and recordkeeping requirements.
Subpart Q - Public Notification of Drinking Water Violations	
141.201, excluding (3)(ii) of Table 1	General public notification requirements.
141.202, excluding (3) of Table 1	Tier 1 Public Notice - Form, manner, and frequency of notice.
141.203	Tier 2 Public Notice - Form, manner, and frequency of notice.
141.204	Tier 3 Public Notice - Form, manner, and frequency of notice.
141.205	Content of the public notice.
141.206	Notice to new billing units or new customers.

141.207	Special notice of the availability of unregulated contaminant monitoring results.
141.208	Special notice for exceedances of the SMCL for fluoride.
141.211	Special notice for repeated failure to conduct monitoring of the source water for *Cryptosporidium* and for failure to determine bin classification or mean *Cryptosporidium* level.
Appendix A to Subpart Q of Part 141	NPDWR violations and other situations requiring public notice.
Appendix B to Subpart Q of Part 141	Standard health effects language for public notification.
Appendix C to Subpart Q of Part 141	List of acronyms used in public notification regulation.
141.400	General requirements and applicability.
141.402(c)	Groundwater source microbial monitoring and analytical methods.
141.403 (b)(3)(i) through (iii)	Treatment technique requirements for groundwater systems.
Subpart T - Enhanced Filtration and Disinfection - Systems Serving Fewer Than 10,000 People	
141.530 through 141.544	Disinfection profile and benchmark.
141.563	What follow-up action is my system required to take based on continuous turbidity monitoring?
141.570, excluding (c)	What does Subpart T require that my system report to the state?
Subpart U - Initial Distribution System Evaluations	
141.600 through 141.605	Initial distribution system evaluations.
Subpart V - Stage 2 Disinfection Byproducts Requirements	
141.620 through 141.629, excluding 141.624	Stage 2 Disinfection Byproducts Requirements.
Subpart W - Enhanced Treatment for *Cryptosporidium*	
141.700 through 141.722	Enhanced Treatment for *Cryptosporidium.*
Subpart Y - Revised Total Coliform Rule	
141.852	Analytical methods and laboratory certification.
141.860 (c) and (d)	Violations.
Subpart Z - Control of Per- and Polyfluoroalkyl Substances (PFAS)	
141.904	Reporting and recordkeeping requirements.
141.905	Violations.
Part 143 - National Secondary Drinking Water Regulations	
143.1	Purpose.
143.2	Definitions.
143.3	Secondary maximum contaminant levels.
143.4	Monitoring.

Copies of the incorporated sections and subsections of Title 40 C.F.R. are available from the Department of Health online at: https://doh.wa.gov/Community-and-Environment/Drinking-Water/Regulation-and-Compliance/Rules, or P.O. Box 47822, Olympia, Washington 98504-7822, or by calling the department's drinking water hotline at 800-521-0323.

AMENDATORY SECTION (Amending WSR 26-08-023, filed 3/23/26, effective 4/23/26)

WAC 246-290-72230 Report contents—Information on detected contaminants. This section takes effect on January 1, 2027.

(1) This section specifies the requirements for information to be included in each report for contaminants subject to mandatory monitoring. It applies to:

(a) Contaminants subject to an MCL, federal action level, SAL, TT, or MRDL (regulated contaminants); and

(b) Detected contaminants without an MCL, federal action level, SAL, TT, or MRDL for which monitoring is required.

(2) The data relating to these contaminants must be presented in the reports in a manner that is clear and understandable for consumers. For example, the data may be displayed in one table or in several adjacent tables. Any additional monitoring results which a community water system chooses to include in its report must be displayed separately.

(3)(a) Except under (b) of this subsection, the data must be derived from data collected to comply with EPA and state monitoring and analytical requirements during the previous calendar year, or the most recent calendar year before the previous calendar year.

(b) When a system is allowed to monitor for regulated contaminants less than once a year, the contaminant data section must include the date and results of the most recent sampling and the report must include a brief statement indicating that the data presented in the report are from the most recent testing done in accordance with the regulations.

(c) No data older than five years need be included.

(4) For each detected regulated contaminant listed in WAC 246-290-72400, the contaminant data section(s) must contain:

(a) The MCL or SAL for that contaminant expressed as a number equal to or greater than 1.0 (as provided in WAC 246-290-72400);

(b) The MCLG for that contaminant expressed in the same units as the MCL;

(c) If there is no MCL or SAL for a detected contaminant, the contaminant data section(s) must indicate that there is a treatment technique, or specify the action level, applicable to that contaminant, and the report must include the definitions for treatment technique, action level, or both, as appropriate, specified in WAC 246-290-72220;

(d) Except for turbidity and *E. coli*, the contaminant data section(s) for contaminants with an MCL or SAL must contain the highest contaminant level used to determine compliance with a SAL or a National Primary Drinking Water Regulation and the range of results, as follows:

(i) When compliance with the MCL or SAL is determined annually or less frequently: The highest detected level at any sampling location and the range of results expressed in the same units as the MCL or SAL.

(ii) When compliance with the MCL or SAL is determined by calculating a running annual average of all samples taken at a sampling location: The highest average of any of the sampling locations and the range of individual sample results for all sampling locations expressed in the same units as the MCL or SAL. For the TTHM and HAA5 MCLs determined on the basis of the LRAA, systems must include the highest LRAA for TTHM and HAA5 and the range of individual sample results for all monitoring locations expressed in the same units as the MCL. If more than one location exceeds the TTHM or HAA5 MCL, the system must include the LRAA for all locations that exceed the MCL.

(iii) When rounding of results to determine compliance with the MCL or SAL is allowed by the regulations, rounding should be done prior to multiplying the results by the factor listed in WAC 246-290-72400;

(e) For turbidity:

(i) When it is reported under WAC 246-290-670 through 246-290-678: The highest average monthly value.

(ii) When it is reported under the requirements of WAC 246-290-686 through 246-290-696: The highest monthly value. The report should include an explanation of the reasons for measuring turbidity.

(iii) When it is reported under WAC 246-290-650 through 246-290-668: The highest single measurement and the lowest monthly percentage of samples meeting the turbidity limits specified in WAC 246-290-650 through 246-290-668 for the filtration technology being used. The report should include an explanation of the reasons for measuring turbidity;

(f) For lead and copper: The 90th percentile value of the most recent round(s) of sampling and the number of sampling sites exceeding the action level, and the range of tap sampling results;

(g) For *E. coli* analytical results under WAC 246-290-300 (3)(e) through (g): The total number of positive samples; and

(h) The likely source(s) of detected contaminants to the best of the purveyor's knowledge. Specific information regarding contaminants may be available in sanitary surveys and source water assessments, and should be used when available to the purveyor. If the purveyor lacks specific information on the likely source, the report must include one or more of the typical sources for that contaminant listed in WAC 246-290-72400 that are most applicable to the system.

(5) If a community water system distributes water to its customers from multiple hydraulically independent distribution systems that are fed by different raw water sources, the contaminant data section(s) should differentiate contaminant data for each service area and the report should identify each separate distribution system. For example, if displayed in a table, it should contain a separate column for each service area. Alternatively, systems could produce separate reports tailored to include data for each service area.

(6)(a) The detected contaminant data section(s) must clearly identify any data indicating violations of MCLs, MRDLs, or treatment techniques.

(b) The report must contain a clear and readily understandable explanation of each violation including:

(i) The length of the violation;

(ii) The potential adverse health effects using the relevant language of WAC 246-290-72400; and

(iii) Actions taken by the system to address the violation.

(7) Detected contaminants without an MCL, SAL, federal action level, TT, or MRDL for which monitoring is required, the reports must present the average and range at which the contaminant was detected. The report must include a brief explanation of the reasons for monitoring for unregulated contaminants such as:

(a) Unregulated contaminant monitoring helps EPA to determine where certain contaminants occur and whether EPA should consider regulating those contaminants in the future.

(b) An alternative educational statement approved by the department.

(8) For systems that exceeded the lead action level in 40 C.F.R. 141.80(c) as adopted under WAC 246-290-025:

(a) The detected contaminant data section must clearly identify the exceedance if any corrective action has been required by EPA or the department during the monitoring period covered by the report.

(b) The report must include:

(i) A clear and readily understandable explanation of the exceedance;

(ii) The steps consumers can take to reduce their exposure to lead in drinking water; and

(iii) A description of any corrective actions the system has or will take to address the exceedance.

AMENDATORY SECTION (Amending WSR 26-08-023, filed 3/23/26, effective 4/23/26)

WAC 246-290-72300 Report contents—Lead and copper. This section takes effect on January 1, 2027. This section applies to systems subject to 40 C.F.R. 141 Subpart I.

(1) The report must notify consumers that complete lead tap sampling data are available for review and must include information on how to access the data.

(2) The report must include a statement that a service line inventory (including inventories consisting only of a statement that there are no lead, galvanized requiring replacement, or lead status unknown service lines, known lead connectors or connectors of unknown material) has been prepared and include instructions to access the publicly available service line inventory. If the service line inventory is available online, the report must include the direct link to the inventory.

(3) For systems with lead, galvanized requiring replacement, or lead status unknown service lines in the system's inventory pursuant to 40 C.F.R. 141.84 (a) and (b), the report must include information on how to obtain a copy of the service line replacement plan or a direct link to the plan if the system is required to make the service line replacement plan available online.

(4) The report must contain a plainly worded explanation of the corrosion control efforts the system is taking in accordance with 40 C.F.R. 141 Subpart I. Corrosion control efforts consist of treatment (e.g., pH adjustment, alkalinity adjustment, or corrosion inhibitor addition) and other efforts contributing to the control of the corrosivity of water, e.g., monitoring to assess the corrosivity of water. The system may use one of the following templates or use their own explanation that includes equivalent information.

(a) For systems with state or EPA-designated Optimal Corrosion Control Treatment:

(i) Corrosion of pipes, plumbing fittings and fixtures may cause lead and copper to enter drinking water. To assess corrosion of lead and copper, (NAME OF SYSTEM) conducts tap sampling for lead and copper at selected sites (INSERT FREQUENCY AT WHICH SYSTEM CONDUCTS TAP SAMPLING). (NAME OF SYSTEM) treats water using (IDENTIFY TREATMENT METHOD) to control corrosion, which was designated as the optimal corrosion control treatment by (THE STATE OR EPA, AS APPLICABLE). To ensure the treatment is operating effectively, (NAME OF SYSTEM) monitors water quality parameters set by (THE STATE OR EPA, AS APPLICABLE) (INSERT FREQUENCY AT WHICH SYSTEM CONDUCTS WATER QUALITY PARAMETER MONITORING).

(ii) If applicable, add: (NAME OF SYSTEM) is currently conducting a study of corrosion control to determine if any changes to treatment methods are needed to minimize the corrosivity of the water.

(b) For systems without state or EPA designated Optimal Corrosion Control Treatment:

(i) Corrosion of pipes, plumbing fittings, and fixtures may cause metals, including lead and copper, to enter drinking water. To assess corrosion of lead and copper, (NAME OF SYSTEM) conducts tap sampling for lead and copper at selected sites (INSERT FREQUENCY AT WHICH SYSTEM CONDUCTS TAP SAMPLING).

(ii) If applicable, add: (NAME OF SYSTEM) treats water using (IDENTIFY TREATMENT METHOD) to control corrosion.

(iii) If applicable, add: (NAME OF SYSTEM) is currently conducting a study of corrosion control to determine if any changes to treatment methods are needed to minimize the corrosivity of the water.

(5) The report must include a statement that the water system is required to sample for lead in schools and licensed child care facilities as requested by the facility and that directs the public to contact their school or child care facility for further information about potential sampling results.

AMENDATORY SECTION (Amending WSR 26-08-023, filed 3/23/26, effective 4/23/26)

WAC 246-290-72350 Report contents—Required additional health information. This section takes effect on January 1, 2027. All reports must prominently display the following language: Some people may be more vulnerable to contaminants in drinking water than the general population. Immuno-compromised people such as people with cancer undergoing chemotherapy, people who have undergone organ transplants, people with HIV/AIDS or other immune system disorders, some elderly, and infants can be particularly at risk from infections. These people should seek advice about drinking water from their health care providers. Environmental Protection Agency/Centers for Disease Control guidelines on appropriate means to lessen the risk of infection by *Cryptosporidium* and other microbial contaminants are available from the Safe Drinking Water Hotline (800-426-4791) or on EPA's website epa.gov/safewater.

(1) A system that detects arsenic levels above 0.005 mg/L and up to and including 0.010 mg/L:

(a) Must include in its report a short informational statement about arsenic, using language such as: Arsenic is known to cause cancer in humans. Arsenic also may cause other health effects such as skin damage and circulatory problems. (NAME OF SYSTEM) meets the EPA arsenic drinking water standard, also known as a Maximum Contaminant Level (MCL). However, you should know that EPA's MCL for arsenic balances the scientific community's understanding of arsenic-related health effects and the cost of removing arsenic from drinking water. The highest concentration of arsenic found in (YEAR) was (INSERT MAX ARSENIC LEVEL UNDER WAC 246-290-72230 (4)(d)) ppb.

(b) May use an alternative educational statement approved by the department.

(2) A system that detects nitrate at levels above 5 mg/L, but below the MCL:

(a) Must include a short informational statement about the impacts of nitrate on children using language such as: Even though (NAME OF SYSTEM) meets the EPA nitrate drinking water standard, also known

as a Maximum Contaminant Level (MCL), if you are caring for an infant and using tap water to prepare formula, you may want to use alternate sources of water or ask for advice from your health care provider. Nitrate levels above 10 ppm pose a particularly high health concern for infants under six months of age and can interfere with the capacity of the infant's blood to carry oxygen, resulting in a serious illness. Symptoms of serious illness include shortness of breath and blueness of the skin, known as "blue baby syndrome." Nitrate levels in drinking water increase for short periods of time due to high levels of rainfall or agricultural activity, therefore we test for nitrate (INSERT APPLICABLE SAMPLING FREQUENCY). The highest level for nitrate found during (YEAR) was (INSERT MAX NITRATE LEVEL UNDER WAC 246-290-72230 (4)(d)) ppm.

(b) May use an alternative educational statement approved by the department.

(3) All reports must include a short informational statement about lead in drinking water and its effects on children.

(a) The statement must include the following information: ((~~If present, elevated levels of lead can cause serious health problems, especially for pregnant women and young children. Lead in drinking water is primarily from materials and components associated with service lines and home plumbing. (NAME OF SYSTEM) is responsible for providing high quality drinking water, but cannot control the variety of materials used in plumbing components. When your water has been sitting for several hours, you can minimize the potential for lead exposure by flushing your tap for 30 seconds to two minutes before using water for drinking or cooking. If you are concerned about lead in your water, you may wish to have your water tested. Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available from the Safe Drinking Water Hotline or~~)) Lead can cause serious health effects in people of all ages, especially pregnant people, infants (both formula-fed and breastfed), and young children. Lead in drinking water is primarily from materials and parts used in service lines and in home plumbing. (INSERT NAME OF SYSTEM) is responsible for providing high quality drinking water and removing lead pipes but cannot control the variety of materials used in the plumbing in your home. Because lead levels may vary over time, lead exposure is possible even when your tap sampling results do not detect lead at one point in time. You can help protect yourself and your family by identifying and removing lead materials within your home plumbing and taking steps to reduce your family's risk. Using a filter, certified by an American National Standards Institute accredited certifier to reduce lead, is effective in reducing lead exposures. Follow the instructions provided with the filter to ensure the filter is used properly. Use only cold water for drinking, cooking, and making baby formula. Boiling water does not remove lead from water. Before using tap water for drinking, cooking, or making baby formula, flush your pipes for several minutes. You can do this by running your tap, taking a shower, doing laundry, or a load of dishes. If you have a lead service line or galvanized requiring replacement service line, you may need to flush your pipes for a longer period. If you are concerned about lead in your water and wish to have your water tested, contact (INSERT NAME OF SYSTEM and CONTACT INFORMATION). Information on lead in drinking water, testing methods, and steps you can take to minimize exposure is available at http://www.epa.gov/safewater/lead.

(b) A system may write its own educational statement, but only in consultation with the department.

AMENDATORY SECTION (Amending WSR 26-08-023, filed 3/23/26, effective 4/23/26)

WAC 246-290-72400 Regulated contaminants.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Microbiological Contaminants						
Total Coliform Bacteria	TT	-	TT	0	Naturally present in the environment	Coliforms are bacteria that are naturally present in the environment and are used as an indicator that other, potentially harmful, waterborne pathogens may be present or that a potential pathway exists through which contamination may enter the drinking water distribution system. We found coliforms indicating the need to look for potential problems in water treatment or distribution. When this occurs, we are required to conduct assessment(s) to identify problems and to correct any problems that were found during these assessments.
E. coli	Routine and repeat samples are total coliform-positive and either is *E. coli*-positive or system fails to take repeat samples following *E. coli*-positive routine sample or system fails to analyze total coliform-positive repeat sample for *E. coli*.	-	Routine and repeat samples are total coliform-positive and either is *E. coli*-positive or system fails to take repeat samples following *E. coli*-positive routine sample or system fails to analyze total coliform-positive repeat sample for *E. coli*.	0	Human and animal fecal waste	*E. coli* are bacteria whose presence indicates that the water may be contaminated with human or animal wastes. Human pathogens in these wastes can cause short-term effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a greater health risk for infants, young children, the elderly, and people with severely-compromised immune systems.
((~~Fecal indicators (*E. coli*)~~	~~TT~~	-	~~TT~~	~~0~~	~~Human and animal fecal waste~~	~~Fecal indicators are microbes whose presence indicates that the water may be contaminated with human or animal wastes. Microbes in these wastes can cause short-term health effects, such as diarrhea, cramps, nausea, headaches, or other symptoms. They may pose a special health risk for infants, young children, some of the elderly, and people with severely compromised immune systems.~~))
Total organic carbon	TT	-	TT	N/A	Naturally present in the environment	Total organic carbon (TOC) has no health effects. However, total organic carbon provides a medium for the formation of disinfection byproducts. These byproducts include trihalomethanes (THMs) and haloacetic acids (HAAs). Drinking water containing these byproducts in excess of the MCL may lead to adverse health effects, liver or kidney problems, or nervous system effects, and may lead to an increased risk of getting cancer.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Turbidity	TT	-	TT	N/A	Soil runoff	Turbidity has no health effects. However, turbidity can interfere with disinfection and provide a medium for microbial growth. Turbidity may indicate the presence of disease-causing organisms. These organisms include bacteria, viruses, and parasites that can cause symptoms such as nausea, cramps, diarrhea and associated headaches.
Giardia lamblia Viruses *Cryptosporidium*	TT	-	TT	0	Human and animal fecal waste	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Heterotrophic plate count (HPC) bacteria	TT	-	TT	N/A	HPC measures a range of bacteria that are naturally present in the environment	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Legionella	TT	-	TT	0	Found naturally in water; multiplies in heating systems	Inadequately treated water may contain disease-causing organisms. These organisms include bacteria viruses, and parasites which can cause symptoms such as nausea, cramps, diarrhea, and associated headaches.
Radioactive Contaminants						
Beta/photon emitters	4 mrem/yr	-	4 mrem/yr	0	Decay of natural and man-made deposits	Certain minerals are radioactive and may emit forms of radiation known as photons and beta radiation. Some people who drink water containing beta and photon emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Alpha emitters [gross alpha excluding uranium and radon]	15 pCi/l	-	15 (pCi/L)	0	Erosion of natural deposits	Certain minerals are radioactive and may emit a form of radiation known as alpha radiation. Some people who drink water containing alpha emitters in excess of the MCL over many years may have an increased risk of getting cancer.
Combined radium [226 & 228]	5 pCi/l	-	5 (pCi/L)	0	Erosion of natural deposits	Some people who drink water containing radium 226 or 228 in excess of the MCL over many years may have an increased risk of getting cancer.
Uranium	30 ppb	-	30 ppb	0	Erosion of natural deposits	Some people who drink water containing uranium in excess of the MCL over many years may have an increased risk of getting cancer and kidney toxicity.
Inorganic Contaminants						
Antimony	.006 ppm	1000	6 ppb	6 ppb	Discharge from petroleum refineries; fire retardants; ceramics; electronics; solder	Some people who drink water containing antimony well in excess of the MCL over many years could experience increases in blood cholesterol and decreases in blood sugar.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Arsenic	0.010 ppm	1000	10 ppb	0	Erosion of natural deposits; Runoff from orchards; Runoff from glass and electronics production wastes	Some people who drink water containing arsenic in excess of the MCL over many years could experience skin damage or problems with their circulatory system, and may have an increased risk of getting cancer.
Asbestos	7 MFL	-	7 MFL	7 MFL	Decay of asbestos cement water mains; Erosion of natural deposits	Some people who drink water containing asbestos in excess of the MCL over many years may have an increased risk of developing benign intestinal polyps.
Barium	2 ppm	-	2 ppm	2 ppm	Discharge of drilling wastes; Discharge from metal refineries; Erosion of natural deposits	Some people who drink water containing barium in excess of the MCL over many years could experience an increase in their blood pressure.
Beryllium	.004 ppm	1000	4 ppb	4 ppb	Discharge from metal refineries and coal-burning factories; Discharge from electrical, aerospace, and defense industries	Some people who drink water containing beryllium well in excess of the MCL over many years could develop intestinal lesions.
Cadmium	.005 ppm	1000	5 ppb	5 ppb	Corrosion of galvanized pipes; Erosion of natural deposits; Discharge from metal refineries; Runoff from waste batteries and paints	Some people who drink water containing cadmium in excess of the MCL over many years could experience kidney damage.
Chromium	.1 ppm	1000	100 ppb	100 ppb	Discharge from steel and pulp mills; Erosion of natural deposits	Some people who use water containing chromium well in excess of the MCL over many years could experience allergic dermatitis.
Copper	TT AL = 1.3 ppm	-	TT AL = 1.3 ppm	1.3 ppm	Corrosion of household plumbing systems; Erosion of natural deposits	Copper is an essential nutrient, but some people who drink water containing copper in excess of the action level over a relatively short amount of time could experience gastrointestinal distress. Some people who drink water containing copper in excess of the action level over many years could suffer liver or kidney damage. People with Wilson's Disease should consult their personal doctor.
Cyanide	.2 ppm	1000	200 ppb	200 ppb	Discharge from steel/metal factories; Discharge from plastic and fertilizer factories	Some people who drink water containing cyanide well in excess of the MCL over many years could experience nerve damage or problems with their thyroid.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Fluoride	4 ppm	-	4 ppm	4 ppm	Erosion of natural deposits; Water additive which promotes strong teeth; Discharge from fertilizer and aluminum factories	Some people who drink water containing fluoride in excess of the MCL over many years could get bone disease, including pain and tenderness of the bones. Fluoride in drinking water at half the MCL or more may cause mottling of children's teeth, usually in children less than nine years old. Mottling, also known as dental fluorosis, may include brown staining and/or pitting of the teeth, and occurs only in developing teeth before they erupt from the gums.
Lead	TT AL = ((~~.015~~)) .010 ppm	1000	TT AL = ((~~15~~)) 10 ppb	0	Corrosion of household plumbing systems((~~,~~)) and service lines connecting buildings to water mains, erosion of natural deposits.	((~~Infants and children who drink water containing lead in excess of the action level could experience delays in their physical or mental development. Children could show slight deficits in attention span and learning abilities. Adults who drink this water over many years could develop kidney problems or high blood pressure.~~)) There is no safe level of lead in drinking water. Exposure to lead in drinking water can cause serious health effects in all age groups, especially pregnant people, infants (both formula-fed and breastfed), and young children. Some of the health effects to infants and children include decreases in IQ and attention span. Lead exposure can also result in new or worsened learning and behavior problems. The children of persons who are exposed to lead before or during pregnancy may be at increased risk of these harmful health effects. Adults have increased risks of heart disease, high blood pressure, kidney, or nervous system problems.
Mercury [inorganic]	.002 ppm	1000	2 ppb	2 ppb	Erosion of natural deposits; Discharge from refineries and factories; Runoff from landfills; Runoff from cropland	Some people who drink water containing inorganic mercury well in excess of the MCL over many years could experience kidney damage.
Nitrate		-	10.0 ppm	10.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrate in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Nitrite	1.0 ppm	-	1.0 ppm	1.0 ppm	Runoff from fertilizer use; Leaching from septic tanks, sewage; Erosion of natural deposits	Infants below the age of six months who drink water containing nitrite in excess of the MCL could become seriously ill and, if untreated, may die. Symptoms include shortness of breath and blue baby syndrome.
Selenium	.05 ppm	1000	50 ppb	50 ppb	Discharge from petroleum and metal refineries; Erosion of natural deposits; Discharge from mines	Selenium is an essential nutrient. However, some people who drink water containing selenium in excess of the MCL over many years could experience hair or fingernail losses, numbness in fingers or toes, or problems with their circulation.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Thalium	.002 ppm	1000	2 ppb	0.5 ppb	Leaching from ore-processing sites; Discharge from electronics, glass, and drug factories	Some people who drink water containing thallium in excess of the MCL over many years could experience hair loss, changes in their blood, or problems with their kidneys, intestines, or liver.
Disinfection Byproducts (DBPs)						
Bromate	.010 ppm	1000	10 ppb	0	Byproduct of drinking water disinfection	Some people who drink water containing bromate in excess of the MCL over many years may have an increased risk of getting cancer.
Chloramines	MRDL = 4 ppm	-	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chloramines well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chloramines well in excess of the MRDL could experience stomach discomfort or anemia.
Chlorine	MRDL = 4 ppm	-	MRDL = 4 ppm	MRDLG = 4 ppm	Water additive used to control microbes	Some people who use drinking water containing chlorine well in excess of the MRDL could experience irritating effects to their eyes and nose. Some people who drink water containing chlorine well in excess of the MRDL could experience stomach discomfort.
Chlorite	1 ppm	-	1 ppm	0.8 ppm	Byproduct of drinking water disinfection	Some infants and young children who drink water containing chlorite in excess of the MCL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorite in excess of the MCL. Some people may experience anemia.
Chlorine dioxide	MRDL = .8 ppm	1000	MRDL = 800 ppb	MRDLG = 800 ppb	Water additive used to control microbes	Some infants and young children who drink water containing chlorine dioxide in excess of the MRDL could experience nervous system effects. Similar effects may occur in fetuses of pregnant mothers who drink water containing chlorine dioxide in excess of the MRDL. Some people may experience anemia.
Haloacetic Acids (HAA5)	60 ppb	-	60 ppb	N/A for combined dichloroacetic acid = 0; monochloroacetic acid = 70 ppb; trichloroacetic acid = 20 ppb	Byproduct of drinking water disinfection	Some people who drink water containing haloacetic acids in excess of the MCL over many years may have an increased risk of getting cancer.
Total Trihalomethanes [TTHMs]	80 ppb	-	80 ppb	N/A (chloroform = 70 ppb; dibromochloromethane = 60 ppb; bromoform = 0; bromodichloromethane = 0)	Byproduct of drinking water disinfection	Some people who drink water containing trihalomethanes in excess of the MCL over many years may experience problems with their liver, kidneys, or central nervous systems, and may have an increased risk of getting cancer.
Synthetic Organic Contaminants including Pesticides and Herbicides, except PFAS						

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
2,4-D	70 ppb	-	70 ppb	70 ppb	Runoff from herbicide used on row crops	Some people who drink water containing the weed killer 2,4-D well in excess of the MCL over many years could experience problems with their kidneys, liver, or adrenal glands.
2,4,5-TP [Silvex]	50 ppb	-	50 ppb	50 ppb	Residue of banned herbicide	Some people who drink water containing silvex in excess of the MCL over many years could experience liver problems.
Alachlor	2 ppb	-	2 ppb	0	Runoff from herbicide used on row crops	Some people who drink water containing alachlor in excess of the MCL over many years could have problems with their eyes, liver, kidneys, or spleen, or experience anemia, and may have an increased risk of getting cancer.
Atrazine	3 ppb	-	3 ppb	3 ppb	Runoff from herbicide used on row crops	Some people who drink water containing atrazine well in excess of the MCL over many years could experience problems with their cardiovascular system or reproductive difficulties.
Benzo(a)pyrene [PAH]	.2 ppb	1000	200 ppt	0	Leaching from linings of water storage tanks and distribution lines	Some people who drink water containing benzo(a)pyrene in excess of the MCL over many years may experience reproductive difficulties and may have an increased risk of getting cancer.
Carbofuran	40 ppb	-	40 ppb	40 ppb	Leaching of soil fumigant used on rice and alfalfa	Some people who drink water containing carbofuran in excess of the MCL over many years could experience problems with their blood, or nervous or reproductive systems.
Chlordane	2 ppb	-	2 ppb	0	Residue of banned termiticide	Some people who drink water containing chlordane in excess of the MCL over many years could experience problems with their liver or nervous system, and may have an increased risk of getting cancer.
Dalapon	200 ppb	-	200 ppb	200 ppb	Runoff from herbicide used on rights of way	Some people who drink water containing dalapon well in excess of the MCL over many years could experience minor kidney changes.
Di(2-ethylhexyl) adipate	400 ppb	-	400 ppb	400 ppb	Discharge from chemical factories	Some people who drink water containing di (2-ethylhexyl) adipate well in excess of the MCL over many years could experience toxic effects or reproductive difficulties.
Di(2-ethylhexyl) phthalate	6 ppb	-	6 ppb	0	Discharge from rubber and chemical factories	Some people who drink water containing di (2-ethylhexyl) phthalate well in excess of the MCL over many years may have problems with their liver, or experience reproductive difficulties, and may have an increased risk of getting cancer.
Dibromochloropropane [DBCP]	.2 ppb	1000	200 ppt	0	Runoff/ leaching from soil fumigant used on soybeans, cotton, pineapples, and orchards	Some people who drink water containing DBCP in excess of the MCL over many years could experience reproductive problems and may have an increased risk of getting cancer.
Dinoseb	7 ppb	-	7 ppb	7 ppb	Runoff from herbicide used on soybeans and vegetables	Some people who drink water containing dinoseb well in excess of the MCL over many years could experience reproductive difficulties.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Dioxin [2,3,7,8-TCDD]	.03 ppt	1,000	30 ppb	0	Emissions from waste incineration and other combustion; Discharge from chemical factories	Some people who drink water containing dioxin in excess of the MCL over many years could experience reproductive difficulties and may have an increased risk of getting cancer.
Diquat	.02 ppb	1000	20 ppt	20 ppt	Runoff from herbicide use	Some people who drink water containing diquat in excess of the MCL over many years could get cataracts.
Endothall	100 ppb	-	100 ppb	100 ppb	Runoff from herbicide use	Some people who drink water containing endothall in excess of the MCL over many years could experience problems with their stomach or intestines.
Endrin	2 ppb	-	2 ppb	2 ppb	Residue of banned insecticide	Some people who drink water containing endrin in excess of the MCL over many years could experience liver problems.
Ethylene dibromide	.05 ppb	1000	50 ppt	0	Discharge from petroleum refineries	Some people who drink water containing ethylene dibromide in excess of the MCL over many years could experience problems with their liver, stomach, reproductive system, or kidneys, and may have an increased risk of getting cancer.
Glyphosate	700 ppb	-	700 ppb	700 ppb	Runoff from herbicide use	Some people who drink water containing glyphosate in excess of the MCL over many years could experience problems with their kidneys or reproductive difficulties.
Heptachlor	.4 ppb	1000	400 ppt	0	Residue of banned pesticide	Some people who drink water containing heptachlor in excess of the MCL over many years could experience liver damage and may have an increased risk of getting cancer.
Heptachlor epoxide	.2 ppb	1000	200 ppt	0	Breakdown of heptachlor	Some people who drink water containing heptachlor epoxide in excess of the MCL over many years could experience liver damage, and may have an increased risk of getting cancer.
Hexachlorobenzene	1 ppb	-	1 ppb	0	Discharge from metal refineries and agricultural chemical factories	Some people who drink water containing hexachlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys, or adverse reproductive effects, and may have an increased risk of getting cancer.
Hexachlorocyclo-pentadiene	50 ppb	-	50 ppb	50 ppb	Discharge from chemical factories	Some people who drink water containing hexachlorocyclopentadiene well in excess of the MCL over many years could experience problems with their kidneys or stomach.
Lindane	.2 ppb	1000	200 ppt	200 ppt	Runoff/ leaching from insecticide used on cattle, lumber, gardens	Some people who drink water containing lindane in excess of the MCL over many years could experience problems with their kidneys or liver.
Methoxychlor	40 ppb	-	40 ppb	40 ppb	Runoff/ leaching from insecticide used on fruits, vegetables, alfalfa, livestock	Some people who drink water containing methoxychlor in excess of the MCL over many years could experience reproductive difficulties.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Oxamyl [Vydate]	200 ppb	-	200 ppb	200 ppb	Runoff/ leaching from insecticide used on apples, potatoes and tomatoes	Some people who drink water containing oxamyl in excess of the MCL over many years could experience slight nervous system effects.
PCBs [Polychlorinated biphenyls]	.5 ppb	1000	500 ppt	0	Runoff from landfills; Discharge of waste chemicals	Some people who drink water containing PCBs in excess of the MCL over many years could experience changes in their skin, problems with their thymus gland, immune deficiencies, or reproductive or nervous system difficulties, and may have an increased risk of getting cancer.
Pentachlorophenol	1 ppb	-	1 ppb	0	Discharge from wood preserving factories	Some people who drink water containing pentachlorophenol in excess of the MCL over many years could experience problems with their liver or kidneys, and may have an increased risk of getting cancer.
Picloram	500 ppb	-	500 ppb	500 ppb	Herbicide runoff	Some people who drink water containing picloram in excess of the MCL over many years could experience problems with their liver.
Simazine	4 ppb	-	4 ppb	4 ppb	Herbicide runoff	Some people who drink water containing simazine in excess of the MCL over many years could experience problems with their blood.
Toxaphene	3 ppb	-	3 ppb	0	Runoff/ leaching from insecticide used on cotton and cattle	Some people who drink water containing toxaphene in excess of the MCL over many years could have problems with their kidneys, liver, or thyroid, and may have an increased risk of getting cancer.
Synthetic Organic Contaminants - PFAS						
HFPO-DA	10 ppt	-	10 ppt	10 ppt	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Some people who drink water containing HFPO-DA in excess of the MCL over many years may have increased health risks such as immune, liver, and kidney effects. There is also a potential concern for cancer associated with HFPO-DA exposure. In addition, there may be increased risks of developmental effects for people who drink water containing HFPO-DA in excess of the MCL following repeated exposure during pregnancy and/or childhood.
PFOA	((~~10 ppt (SAL, effective for CCRs until 4/26/27)~~)) 4.0 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	-	((~~10 ppt (SAL, effective for CCRs until 4/26/27)~~)) 4.0 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	0 ppt	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Some people who drink water containing PFOA in excess of the MCL over many years may have increased health risks such as cardiovascular, immune, and liver effects, as well as increased incidence of certain types of cancers including kidney and testicular cancer. In addition, there may be increased risks of developmental and immune effects for people who drink water containing PFOA in excess of the MCL following repeated exposure during pregnancy and/or childhood.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
PFOS	((~~15 ppt (SAL, effective for CCRs until 4/26/27)~~)) 4.0 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	-	((~~15 ppt (SAL, effective for CCRs until 4/26/27)~~)) 4.0 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	0 ppt	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Some people who drink water containing PFOS in excess of the MCL over many years may have increased health risks such as cardiovascular, immune, and liver effects, as well as increased incidence of certain types of cancers including liver cancer. In addition, there may be increased risks of developmental and immune effects for people who drink water containing PFOS in excess of the MCL following repeated exposure during pregnancy and/or childhood.
PFHxS	((~~65 ppt (SAL, effective for CCRs until 4/26/27)~~)) 10 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	-	((~~65 ppt (SAL, effective for CCRs until 4/26/27)~~)) 10 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	10 ppt	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Some people who drink water containing PFHxS in excess of the MCL over many years may have increased health risks such as immune, thyroid, and liver effects. In addition there may be increased risks of developmental effects for people who drink water containing PFHxS in excess of the MCL following repeated exposure during pregnancy and/or childhood.
PFNA	((~~9 ppt (SAL, effective for CCRs until 4/26/27)~~)) 10 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	-	((~~9 ppt (SAL, effective for CCRs until 4/26/27)~~)) 10 ppt (((~~MCL, effective for CCRs starting 4/26/27~~)))	10 ppt	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Some people who drink water containing PFNA in excess of the MCL over many years may have increased health risks such as elevated cholesterol levels, immune effects, and liver effects. In addition, there may be increased risks of developmental effects for people who drink water containing PFNA in excess of the MCL following repeated exposure during pregnancy and/or childhood.
((~~PFBS~~	~~345 ppt (SAL, effective for CCRs until 4/26/27)~~ ~~MCL is part of Hazard Index as of 4/26/27)~~	-	~~345 ppt (SAL, effective for CCRs until 4/26/27)~~ ~~MCL is part of Hazard Index as of 4/26/27)~~	-	~~Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities~~	~~Some people who drink water containing PFBS in excess of the SAL may experience higher risk of cholesterol, liver, kidney or thyroid problems. Early life is the most sensitive period for altered thyroid hormone; sensitive populations include persons who are pregnant, nursing or less than a year old.~~))
Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA)	1 (unitless)	-	1 (unitless)	1 (unitless)	Discharge from manufacturing and industrial chemical facilities, use of certain consumer products, occupational exposures, and certain firefighting activities	Per- and polyfluoroalkyl substances (PFAS) can persist in the human body and exposure may lead to increased risk of adverse health effects. Low levels of multiple PFAS that individually would not likely result in increased risk of adverse health effects may result in adverse health effects when combined in a mixture. Some people who consume drinking water containing mixtures of PFAS in excess of the Hazard Index (HI) MCL may have increased health risks such as liver, immune, and thyroid effects following exposure over many years and developmental and thyroid effects following repeated exposure during pregnancy and/or childhood.
Volatile Organic Contaminants						

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Benzene	5 ppb	-	5 ppb	0	Discharge from factories; Leaching from gas storage tanks and landfills	Some people who drink water containing benzene in excess of the MCL over many years could experience anemia or a decrease in blood platelets, and may have an increased risk of getting cancer.
Carbon tetrachloride	5 ppb	-	5 ppb	0	Discharge from chemical plants and other industrial activities	Some people who drink water containing carbon tetrachloride in excess of the MCL over many years could experience problems with their liver and may have an increased risk of getting cancer.
Chlorobenzene	100 ppb	-	100 ppb	100 ppb	Discharge from chemical and agricultural chemical factories	Some people who drink water containing chlorobenzene in excess of the MCL over many years could experience problems with their liver or kidneys.
o-Dichlorobenzene	600 ppb	-	600 ppb	600 ppb	Discharge from industrial chemical factories	Some people who drink water containing o-dichlorobenzene well in excess of the MCL over many years could experience problems with their liver, kidneys, or circulatory systems.
p-Dichlorobenzene	75 ppb	-	75 ppb	75 ppb	Discharge from industrial chemical factories	Some people who drink water containing p-dichlorobenzene in excess of the MCL over many years could experience anemia, damage to their liver, kidneys, or spleen, or changes in their blood.
1,2-Dichloroethane	5 ppb	-	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloroethane in excess of the MCL over many years may have an increased risk of getting cancer.
1,1-Dichloroethylene	7 ppb	-	7 ppb	7 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
cis-1,2-Dichloroethylene	70 ppb	-	70 ppb	70 ppb	Discharge from industrial chemical factories	Some people who drink water containing cis-1,2-dichloroethylene in excess of the MCL over many years could experience problems with their liver.
trans-1,2-Dichloroethylene	100 ppb	-	100 ppb	100 ppb	Discharge from industrial chemical factories	Some people who drink water containing trans-1,2-dichloroethylene well in excess of the MCL over many years could experience problems with their liver.
Dichloromethane	5 ppb	-	5 ppb	0	Discharge from pharmaceutical and chemical factories	Some people who drink water containing dichloromethane in excess of the MCL over many years could have liver problems and may have an increased risk of getting cancer.
1,2-Dichloropropane	5 ppb	-	5 ppb	0	Discharge from industrial chemical factories	Some people who drink water containing 1,2-dichloropropane in excess of the MCL over many years may have an increased risk of getting cancer.
Ethylbenzene	700 ppb	-	700 ppb	700 ppb	Discharge from petroleum refineries	Some people who drink water containing ethylbenzene well in excess of the MCL over many years could experience problems with their liver or kidneys.
Styrene	100 ppb	-	100 ppb	100 ppb	Discharge from rubber and plastic factories; Leaching from landfills	Some people who drink water containing styrene well in excess of the MCL over many years could have problems with their liver, kidneys, or circulatory system.

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
Tetrachloroethylene	5 ppb	-	5 ppb	0	Discharge from factories and dry cleaners	Some people who drink water containing tetrachloroethylene in excess of the MCL over many years could have problems with their liver, and may have an increased risk of getting cancer.
1,2,4-Trichlorobenzene	70 ppb	-	70 ppb	70 ppb	Discharge from textile-finishing factories	Some people who drink water containing 1,2,4-trichlorobenzene well in excess of the MCL over many years could experience changes in their adrenal glands.
1,1,1-Trichloroethane	200 ppb	-	200 ppb	200 ppb	Discharge from metal degreasing sites and other factories	Some people who drink water containing 1,1,1-trichloroethane in excess of the MCL over many years could experience problems with their liver, nervous system, or circulatory system.
1,1,2-Trichloroethane	5 ppb	-	5 ppb	3 ppb	Discharge from industrial chemical factories	Some people who drink water containing 1,1,2-trichloroethane well in excess of the MCL over many years could have problems with their liver, kidneys, or immune systems.
Toluene	1000 ppm	-	1000 ppm	1000 ppm	Discharge from petroleum factories	Some people who drink water containing toluene well in excess of the MCL over many years could have problems with their nervous system, kidneys, or liver.
Vinyl Chloride	2 ppb	-	2 ppb	0	Leaching from PVC piping: Discharge from plastics factories	Some people who drink water containing vinyl chloride in excess of the MCL over many years may have an increased risk of getting cancer.
Xylenes	10,000 ppb	-	10,000 ppb	10,000 ppb	Discharge from petroleum factories; Discharge from chemical factories	Some people who drink water containing xylenes in excess of the MCL over many years could experience damage to their nervous system.
Treatment Technique Violations						
Acrylamide	TT	-	TT	0	Added to water during sewage/ wastewater treatment	Some people who drink water containing high levels of acrylamide over a long period of time could have problems with their nervous system or blood, and may have an increased risk of getting cancer.
Epichlorohydrin	TT	-	TT	0	Discharge from industrial chemical factories; an impurity of some water treatment chemicals	Some people who drink water containing high levels of epichlorohydrin over a long period of time could experience stomach problems, and may have an increased risk of getting cancer.
Groundwater rule TT violations	TT	-	TT	N/A	-	Inadequately treated or inadequately protected water may contain disease-causing organisms. These organisms can cause symptoms such as diarrhea, nausea, cramps, and associated headaches.

Key

AL = Action Level

MCL = Maximum Contaminant Level

MCLG = Maximum Contaminant Level Goal

MFL = million fibers per liter

MRDL = Maximum Residual Disinfectant Level

MRDLG = Maximum Residual Disinfectant Level Goal

mrem/year = millirems per year (a measure of radiation absorbed by the body)

N/A = Not Applicable

Contaminant	MCL or SAL (units match lab results)	To convert lab results for CCR, multiply by	MCL or SAL in CCR units	MCLG in CCR units	Major Sources in Drinking Water	Health Effects Language
NTU = Nephelometric Turbidity Units (a measure of water clarity)						
pCi/L = picocuries per liter (a measure of radioactivity)						
ppm = parts per million, or milligrams per liter (mg/L)						
ppb = parts per billion, or micrograms per liter (ug/L)						
ppt = parts per trillion, or nanograms per liter (ng/L)						
ppq = parts per quadrillion, or picograms per liter (pg/L)						
SAL = state action level						
TT = Treatment Technique						

RDS-7086.1

AMENDATORY SECTION (Amending WSR 25-13-093, filed 6/17/25, effective 7/18/25)

WAC 246-290-310 Maximum contaminant levels (MCLs) and maximum residual disinfectant levels (MRDLs). (1) General.

(a) The purveyor shall be responsible for complying with the standards of water quality identified in this section. If a contaminant exceeds its MCL or its maximum residual disinfectant level (MRDL), the purveyor shall take follow-up action under WAC 246-290-320.

(b) When enforcing the standards described under this section, the department shall enforce compliance with the primary standards as its first priority.

(2) Bacteriological.

(a) An *E. coli* MCL under this subsection is considered a primary standard.

(b) *E. coli* MCL. An *E. coli* MCL violation occurs each month in which a system is required to monitor for total coliforms when there is:

(i) *E. coli* presence in a repeat sample following a total coliform presence routine sample;

(ii) Total coliform presence in any repeat samples collected as a follow-up to a sample with *E. coli* presence;

(iii) The system fails to take all required repeat samples following an *E. coli* presence routine sample; or

(iv) The system fails to test for *E. coli* when any repeat samples test positive for total coliform.

(3) Inorganic chemical and physical.

(a) The primary and secondary standards are listed in Tables 5 and 6 of this section:

TABLE 5
INORGANIC CHEMICAL CHARACTERISTICS

Contaminant	Primary MCLs (mg/L)
Antimony (Sb)	0.006
Arsenic (As)	0.010*

Asbestos	7 million fibers/liter (longer than 10 microns)
Barium (Ba)	2.0
Beryllium (Be)	0.004
Cadmium (Cd)	0.005
Chromium (Cr)	0.1
Copper (Cu)	**
Cyanide (CN)	0.2
Fluoride (F)	4.0***
Lead (Pb)	**
Mercury (Hg)	0.002
Nitrate (as N)	10.0
Nitrite (as N)	1.0
Selenium (Se)	0.05
Sodium (Na)	**
Thallium (Tl)	0.002

Contaminant	Secondary MCLs (mg/L)
Chloride (Cl)	250.0
Fluoride (F)	2.0***
Iron (Fe)	0.3
Manganese (Mn)	0.05
Silver (Ag)	0.1
Sulfate (SO_4)	250.0
Zinc (Zn)	5.0

Note* Does not apply to TNC systems.

Note** Although the state board of health has not established MCLs for copper, lead, and sodium, there is sufficient public health significance connected with copper, lead, and sodium levels to require inclusion in inorganic chemical and physical source monitoring. For lead and copper, the EPA has established distribution system related levels at which a system is required to consider corrosion control. These levels, called "action levels," are ((~~0.015~~)) 0.0105 mg/L for lead and 1.3 mg/L for copper and are applied to the highest concentration in 10 percent of all samples collected from the distribution system. The EPA has also established a recommended level of 20 mg/L for sodium as a level of concern for those consumers that may be restricted for daily sodium intake in their diets.

Note*** If a water system provides community fluoridation, the level of fluoride and associated requirements are set under WAC 246-290-460.

TABLE 6
PHYSICAL CHARACTERISTICS

Contaminant	Secondary MCLs
Color	15 Color Units
Specific Conductivity	700 umhos/cm
Total Dissolved Solids (TDS)	500 mg/L

(b) Compliance with the MCLs, except for nitrate and nitrite, in this subsection is determined by a running annual average at each sampling point. The system will not be considered in violation of the MCL until it has completed one year of quarterly sampling and at least one sampling point is in violation of the MCL. If one sampling point is in violation of the MCL, the system is in violation of the MCL.

(i) If any sample will cause the running annual average to exceed the MCL at any sampling point, the system is out of compliance with the MCL immediately.

(ii) If a system fails to collect the required number of samples, compliance will be based on the total number of samples collected.

(iii) If a sample result is less than the detection limit, zero will be used to calculate the running annual average.

(c) Compliance with the MCLs for nitrate and nitrite is determined based on one sample if the levels of these contaminants are below the MCLs as determined under Table 5 of this section. If the levels of nitrate or nitrite exceed the MCLs in the initial sample, a confirmation sample is required under 40 C.F.R. 141.23 (f)(2), and compliance shall be determined based on the average of the initial and confirmation samples.

(4) Disinfection byproducts.

(a) The department shall consider standards under this subsection as primary standards. The MCLs in this subsection apply to monitoring required by WAC 246-290-300(6) and 40 C.F.R. 141.620 - 629.

(b) The MCLs for disinfection byproducts are as follows:

TABLE 7
DISINFECTION BYPRODUCTS

Disinfection Byproduct	MCL (mg/L)
Total Trihalomethanes (TTHMs)	0.080
Haloacetic acids (five) (HAA5)	0.060
Bromate	0.010
Chlorite	1.0

(c) Whether a system has exceeded the disinfection byproduct MCLs shall be determined in accordance with 40 C.F.R. 141.133. Beginning on the dates specified for compliance in 40 C.F.R. 141.620(c), compliance with the TTHMs and HAA5 MCLs shall be based on the LRAAs as required by 40 C.F.R. 141.64 (b)(2) and 40 C.F.R. 141.620(d). Compliance with the bromate and chlorite MCL will continue to be determined in accordance with 40 C.F.R. 141.133.

(5) Disinfectant residuals.

(a) The department shall consider standards under this subsection primary standards. The MRDLs in this subsection apply to monitoring required by WAC 246-290-300(6).

(b) The MRDL for disinfectants is as follows:

TABLE 8
DISINFECTANT RESIDUAL MRDLs

Disinfectant Residual	MRDL (mg/L)
Chlorine	4.0 (as Cl_2)
Chloramines	4.0 (as Cl_2)
Chlorine Dioxide	0.8 (as ClO_2)

(c) Whether a system has exceeded MRDLs shall be determined in accordance with 40 C.F.R. 141.133.

(6) Radionuclides.

(a) The department shall consider standards under this subsection primary standards.

(b) The MCLs for radium-226 and radium-228, gross alpha particle activity, beta particle and photon radioactivity, and uranium shall be as listed in 40 C.F.R. 141.66.

(7) Organic chemicals.

(a) The department shall consider standards under this subsection primary standards.

(b) VOCs.

(i) The MCLs for VOCs are as follows:

Contaminant	Chemical Abstract Service (CAS) Number	MCL (ppb)
Vinyl chloride	75-01-4	2
Benzene	71-43-2	5
Carbon tetrachloride	56-23-5	5
1,2-Dichloroethane	107-06-2	5
Trichloroethylene	79-01-6	5
para-Dichlorobenzene	106-46-7	75
1,1-Dichloroethylene	75-35-4	7
1,1,1-Trichloroethane	71-55-6	200
cis-1,2-Dichloroethylene	156-59-2	70
1,2-Dichloropropane	78-87-5	5
Ethylbenzene	100-41-4	700
Monochlorobenzene	108-90-7	100
o-Dichlorobenzene	95-50-1	600
Styrene	100-42-5	100
Trichloroethane	127-18-4	5
Toluene	108-88-3	1,000
trans-1,2-Dichloroethylene	156-60-5	100
Xylenes (total)	1330-20-7	10,000
Dichloromethane	75-09-2	5
1,2,4-Trichlorobenzene	120-82-1	70
1,1,2-Trichloroethane	79-00-5	5

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(f).

(c) SOCs, except PFAS.

(i) MCLs for SOCs shall be as listed in 40 C.F.R. 141.61(c).

(ii) The department shall determine compliance with this subsection based on compliance with 40 C.F.R. 141.24(h).

(d) PFAS.

(i) The MCLs for PFAS, effective in accordance with 40 C.F.R. 141.6, are as follows:

Contaminant	Chemical Abstract Service (CAS) Number	MCL (ppt or ng/L)	HBWC (ppt or ng/L) for hazard index calculation
PFOA	45285-51-6	4.0	Not applicable
PFOS	45298-90-6	4.0	Not applicable
PFHxS	108427-53-8	10	10
HFPO-DA	122499-17-6	10	10
PFNA	72007-68-2	10	10
PFBS	45187-15-3	No individual MCL	2,000
Hazard Index PFAS (HFPO-DA, PFBS, PFHxS, and PFNA)	Not applicable	1 (unitless)[1]	Not applicable

[1]The PFAS Mixture Hazard Index (HI) is the sum of component hazard quotients (HQs), which are calculated by dividing the measured component PFAS concentration in water by the relevant health-based water concentration when expressed in the same units (shown in ppt for simplification). The HBWC for PFHxS is 10 ng/l; the HBWC for HFPO-DA is 10 ng/l; the HBWC for PFNA is 10 ng/l; and the HBWC for PFBS is 2000 ng/l.

(ii) The MCLs for PFAS will become effective according to the dates outlined in 40 C.F.R. 141.6.

(8) Other contaminants.

The state board of health shall determine state MCLs for any additional contaminants as described in WAC 246-290-315 (5) through (8).

WSR 26-15-066
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
[Filed July 15, 2026, 8:21 a.m., effective August 15, 2026]

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

Purpose: The amendments and new sections will incorporate the requirements of E2SSB 5337, chapter 187, Laws of 2025, Memory care certification, creating a certification process for assisted living facilities (ALF) providing memory care services in a memory care facility or memory care unit. There are also minor changes and clarifications to other sections of chapter 388-78A WAC, Assisted living facility rules. Proposed changes to the ALF chapter for operators of memory care facilities or memory care units adds new sections for certification requirements, implementation of certification for licensed ALFs, certified memory care disclosure, the evaluation of certification, and the addition of the Consumer Protection Act for memory care.

Proposed changes to existing rules include definitions for dementia, memory care facility or memory care unit, and memory care services. The proposed rules allow dementia services to be provided in a nonrestricted egress ALF; semi-annual ongoing assessments for residents receiving memory care services; daily activity requirements; and health support services to include memory care services, physical environment requirements, caregiver availability 24 hours per day, including caregivers physically present 24 hours a day in cottages or buildings, caregivers completing six hours of continuing education related to dementia, and policies and procedures to address residents with behavioral challenges.

Proposed changes to existing rules include ALF developing an emergency plan addressing residents with dementia, extreme heat and cold in the emergency and disaster preparedness plan, a licensee's responsibility to post the certification certificate, how an ALF will apply for certification, what the department of social and health services (department) can review during a certification application, the annual renewal process for certification, and how an ALF with a certification completes a change of ownership. The proposed rules also provide enforcement remedies for ALFs providing memory care services without being certified; continued use of terminology, such as memory care or specialized dementia care without certification; and the ability to suspend or revoke a certification.

The proposed rules make minor changes to existing rules, [including] updating reporting of abuse and neglect, and reporting fires and incidents. Edits were also made to reflect the organizational name change, include the option to report online, correct a rule reference in sewage and liquid waste disposal, change an "or" to "and" in resident units, update toilet rooms and bathrooms to the current building code regulations for roll-in showers, and update laundry to allow for hot water temperatures or chemical sanitizer.

Citation of Rules Affected by this Order: New WAC 388-78A-2383, 388-78A-2384, 388-78A-2385, 388-78A-2387, and 388-78A-2389; and amending WAC 388-78A-2020, 388-78A-2050, 388-78A-2100, 388-78A-2180, 388-78A-2200, 388-78A-2381, 388-78A-2450, 388-78A-2600, 388-78A-2630, 388-78A-2650, 388-78A-2700, 388-78A-2730, 388-78A-2750, 388-78A-2760, 388-78A-2775, 388-78A-2790, 388-78A-2960, 388-78A-3010, 388-78A-3030,

388-78A-3040, 388-78A-3160, 388-78A-3170, 388-78A-3181, and 388-78A-3230.

Statutory Authority for Adoption: RCW 18.20.090 and 18.20.550.

Adopted under notice filed as WSR 26-09-129 on April 21, 2026.

Changes Other than Editing from Proposed to Adopted Version: Clarifying language changes were made to WAC 388-78A-2381 General design requirements for memory care: The language in subsection (2)(g)(i)(B) was changed from "provide" to "maintain." Additionally, a reference to an already established subsection in this WAC was added to subsection (2)(g)(i)(B) clarifying a facility must have a policy and procedures to ensure residents can access an outdoor space when the facility provides an alternative viewing area. Finally, the department inadvertently missed an amended reference in WAC 388-78A-2020 that had been adopted in WSR 26-05-046 but had not been codified on the legislative website. That amended rule is reflected in this permanent adoption filing.

A final cost-benefit analysis is available by contacting Tamara Tredo, P.O. Box 45600, Olympia, WA 98504-5600, phone 360-999-0237, TTY 711 relay service, email RCSPolicy@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 5, Amended 18, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 5, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 24, Repealed 0.

Date Adopted: July 14, 2026.

Lisa N.H. Yanagida
Chief of Staff

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 26-17 issue of the Register.

WSR 26-15-073
PERMANENT RULES
DEPARTMENT OF
FISH AND WILDLIFE

[Order 26-13—Filed July 15, 2026, 2:42 p.m., effective August 15, 2026]

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

Purpose: The purpose of this expedited rule amendment is to update and clarify sections of the hydraulic code in chapter 220-660 WAC. This rule project corrects the rule language that is incorrect or no longer current. The proposed changes also clarify rule language without affecting the meaning of these rules.

Citation of Rules Affected by this Order: Amending WAC 220-660-020, 220-660-030, 220-660-050, 220-660-070, 220-660-080, 220-660-090, 220-600-100, 220-660-120, 220-660-140, 220-660-250, 220-660-270, 220-660-330, 220-660-360, 220-660-380, 220-660-460, and 220-660-470.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.055, 77.04.020, 77.55.021, 77.55.091, 77.55.181, and 77.12.047.

Other Authority: RCW 34.05.328.

Adopted under notice filed as WSR 26-10-072 on May 5, 2026.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 16, Repealed 0.

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

Date Adopted: July 15, 2026.

Kelly Susewind
Director

RDS-7134.2

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-020 Instructions for using chapter 220-660 WAC. The technical provisions in WAC 220-660-090 through ((~~220-660-460~~)) 220-660-450 represent common technical provisions for the protection of fish life for typical hydraulic projects proposed to the department. Implementing these provisions is necessary to minimize project-specific and cumulative impacts to fish life. These provisions reflect the current and best science, technology, and construction practices related to the protection of fish life. The department will incorporate new science and technology as it becomes available, and will al-

low alternative practices that provide equal or greater protection for fish life.

The technical provisions will apply to a hydraulic project when included as provisions ((~~on~~)) in the hydraulic project approval (HPA). The department will review each application on an individual basis. Common technical provisions ((~~applicable to a specific project~~)) may be modified or ((~~deleted~~)) omitted by the department for a specific project pursuant to WAC 220-660-070. HPAs may also have special technical provisions to address project-specific or site-specific considerations not adequately addressed by the common technical provisions. All hydraulic projects must also meet the applicable mitigation requirements in WAC 220-660-080 and any other provisions included in the HPA.

In addition to the rules in this chapter, the department has developed guidance to help applicants. This guidance reflects the department's experience and expertise with various types of hydraulic projects. Following the guidance will help ensure that a hydraulic project adequately protects fish life and will speed the department's review and decision process. ((~~All~~)) Guidance documents are available on the department's website.

AMENDATORY SECTION (Amending WSR 21-09-066, filed 4/19/21, effective 5/20/21)

WAC 220-660-030 Definitions. The following are definitions for terms used in this chapter.

(1) "Abandoning an excavation site" means not working an excavation site for ((~~forty-eight~~)) 48 hours or longer.

(2) "Aggregate" means a mixture of minerals separable by mechanical or physical means.

(3) "Aquatic beneficial plant" means all native and nonnative aquatic plants except those on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(4) "Aquatic invasive species" means an invasive species of the animal kingdom with a life cycle that is at least partly dependent upon fresh, brackish, or marine waters. Examples include certain species of waterfowl, amphibians, fish, shellfish, and nutria.

(5) "Aquatic noxious weed" means an aquatic plant on the state noxious weed lists in WAC 16-750-005, 16-750-011, and 16-750-015.

(6) "Aquatic plant" means a native or nonnative emergent, submersed, partially submersed, free-floating, or floating-leaved plant species that is dependent upon fresh, brackish, or marine water ecosystems and includes all stages of development and parts.

(7) "*Aquatic Plants and Fish* pamphlet" means a document that details the rules for aquatic noxious weed and aquatic beneficial plant removal and control activities and that serves as the hydraulic project approval for certain plant removal and control activities in Washington state.

(8) "Artificial materials" means clean, inert materials used to construct diversion structures for mineral prospecting.

(9) "Associated human-made agricultural drainage facilities" means dikes, drains, pumps, drainage tiles, and drainage pipe made by humans that protect agricultural land.

(10) "Authorized agent" means someone who is authorized by the applicant to act on behalf of the applicant.

(11) "Bank" means any land surface landward of the ordinary high water line next to a body of water and constrains the water except during floods. The term "bank" also includes all land surfaces of islands within a body of water that are below the flood elevation of the surrounding body of water.

(12) "Bankfull width" means the width of the surface of the water at the point where water just begins to overflow into the active flood plain. In streams where there is no flood plain it is often the width of a stream or river at the dominant channel forming flow that reoccurs every one to two years.

(13) "Beach area" means the beds between the ordinary high water line and extreme low water.

(14) "Bed" means the land below (waterward of) the ordinary high water lines of state waters. This definition does not include irrigation ditches, canals, stormwater runoff devices, or other artificial watercourses except where they exist in a natural watercourse that has been artificially altered.

(15) "Bed materials" means naturally occurring materials such as gravel, cobble, rock, rubble, sand, mud, and aquatic plants that form the beds of state waters. Bed materials are also found in deposits or bars above the wetted perimeter of water bodies.

(16) "Board" means the pollution control hearings board created in chapter 43.21B RCW.

(17) "Bottom barrier or screen" means sheets of synthetic or natural fiber material used to cover and kill plants growing on the bottom of a watercourse.

(18) "Boulder" means a stream substrate particle larger than ((~~ten~~)) 10 inches in diameter.

(19) "Bridge shadow" means the area under a bridge defined by the shadow cast by the sun. This area may not receive enough light and rain to support the plant growth needed for biotechnical bank stabilization.

(20) "Channel bed width" means the width of the bankfull channel, although bankfull may not be well defined in some channels. For those streams which are nonalluvial or do not have flood plains, the channel width must be determined using features that do not depend on a flood plain.

(21) "Chronic danger" means a condition declared by the county legislative authority in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(22) "Chronic danger HPA" means a written hydraulic project approval issued in response to a chronic danger declaration made by a county legislative authority.

(23) "Classify" means to sort aggregate by hand or through a screen, grizzly, or similar device to remove the larger material and concentrate the remaining aggregate.

(24) "Commission" means the Washington state fish and wildlife commission.

(25) "Compensatory mitigation" means the restoration, creation, enhancement, or preservation of aquatic resources to compensate for adverse impacts that remain after all appropriate and practicable avoidance and minimization has been achieved.

(26) "Concentrator" means a device used to physically or mechanically separate the valuable mineral content from aggregate.

(27) "Control" of an aquatic plant means to prevent all seed production and to prevent the dispersal of all propagative parts capable of forming new plants.

(28) "County legislative authority" means ((~~a county commission, council, or other legislative body~~)) the elected body in each Washington county, typically the county commission, having legal authority to enact the laws of the county. County legislative authority includes the county executive in those charter counties with an elective office of county executive, however designated. County legislative authority does not include appointed administrators or other county employees.

(29) "Crevicing" means removing aggregate from cracks and crevices using hand-held mineral prospecting tools.

(30) "Critical food fish or shellfish habitats" means those habitats that are essential to fish life. These habitats include habitats of special concern listed in WAC 220-660-100 and 220-660-320.

(31) "Department" means the department of fish and wildlife.

(32) "Design flood" means a stream discharge of a specific rate and probability best suited to ensure the project design creates and shapes habitat or protects property and structures to a given level of risk (e.g., the 100-year design flood).

(33) "Director" means the director of the department of fish and wildlife.

(34) "Ditch" means a wholly artificial watercourse or a natural watercourse (waters of the state) altered by humans.

(35) "Diver-operated dredging" means the use of portable suction or hydraulic dredges held by SCUBA divers to remove aquatic plants.

(36) "Dredging" means removal of bed material using other than hand-held tools. This does not include metals mining and milling operations as defined in chapter 78.56 RCW.

(37) "Dryland dredge" means a suction dredge with a nozzle capable of introducing water under pressure from the suction dredge pump to the tip of the nozzle.

(38) "Early infestation" of an aquatic noxious weed means a stage of development, life history, or area of coverage that makes ((~~one hundred~~)) 100 percent control and eradication likely to occur.

(39) "Emergency" means an immediate threat to life, the public, property, or of environmental degradation.

(40) "Emergency HPA" means a verbal or written hydraulic project approval issued in response to a declaration of emergency.

(41) "Entrained" means the entrapment of fish into a watercourse diversion that has no screen, into high velocity water along the face of an improperly designed screen, or into the vegetation cut by a mechanical harvester.

(42) "Equipment" means any device powered by internal combustion; hydraulics; electricity, except less than one horsepower; or livestock used as draft animals, except saddle horses; and the lines, cables, arms, or extensions associated with the device.

(43) "Eradicate" or "eradication" of an aquatic noxious weed means to eliminate it within an area of infestation.

(44) "Established ford" means a crossing place in a watercourse that was in existence and used annually before 1986 or permitted by the department in or after 1986, and has identifiable approaches on the banks.

(45) "Excavation line" means a line on the dry bed at or parallel to the water's edge. The department determines the distance from the water's edge for each project site. The excavation line may change with water level fluctuations.

(46) "Excavation site" means the pit, furrow, or hole from which aggregate is removed to process and recover minerals, or into which wastewater is discharged to settle out sediments.

(47) "Excavation zone" means the area between the excavation line and the bank or the center of the gravel bar.

(48) "Expedited HPA" means a written hydraulic project approval issued in those instances ((~~where~~)) when normal permit processing would result in a significant hardship for the applicant or unacceptable damage to the environment.

(49) "Farm and agricultural land" means those lands ((~~identified~~)) defined in RCW 84.34.020.

(50) "Filter blanket" means one or more layers of pervious materials (organic, mineral, or synthetic) designed and installed to provide drainage, yet prevent the movement of soil particles by flowing water.

(51) "Fish conservation bank" means a habitat creation, restoration, or enhancement project intended to provide a bank of credits to compensate for unavoidable impacts to habitat that supports fish life from future development projects. Fish conservation banks are managed to optimize desired habitat for ESA-listed and at-risk fish species.

(52) "Fish habitat" or "habitat that supports fish life" means habitat, which is used by fish life at any life stage at any time of the year including potential habitat likely to be used by fish life, which could reasonably be recovered by restoration or management and includes off-channel habitat.

(53) "Fish habitat enhancement project" means a hydraulic project that meets criteria in RCW 77.55.181 (1)(a).

(54) "Fish habitat improvement structures" or "stream channel improvements" means natural materials such as large wood, rock, or synthetic materials such as chain or rope placed in or next to bodies of water to improve existing conditions for fish life. Examples are engineered logjams, large woody material, and boulders.

(55) "Fish guard" means ((~~a device installed at or near a surface water diversion head gate, or on the intake of any device used for removing water from fish-bearing waters, to prevent entrainment, injury, or death of fish life. Fish guards physically keep fish from entering the diversion or intake and do not rely on avoidance behavior~~)) "fish screen" as defined in subsection (58) of this section.

(56) "Fish life" means all fish species, including food fish, shellfish, game fish, unclassified fish and shellfish species, and all stages of development of those species.

(57) "Fish passage improvement structure" means artificial structures that are used to provide passage through, over, and/or around artificial barriers. They provide a graduated change in gradient with refuge areas allowing fish to pass barriers.

(58) "Fish screen" means ((~~"fish guard."~~)) a device installed at or near a surface water diversion head gate, or on the intake of any device used for removing water from fish-bearing waters, to prevent entrainment, injury, or death of fish life. Fish screens physically keep fish from entering the diversion or intake and do not rely on avoidance behavior.

(59) "Flood gate" means a structure to control flooding through which water flows freely in one direction but is prevented from flowing in the other direction.

(60) "Food fish" means those species of the classes Osteichthyes, Agnatha, and Chondrichthyes that must not be fished for except as authorized by rule of the commission.

(61) "Forest practices hydraulic project" means a hydraulic project that requires a forest practices application or notification under chapter 76.09 RCW.

(62) "Frequent scour zone" means the area between the wetted perimeter and the toe of the slope. The frequent scour zone is comprised of aggregate, boulders, or bedrock. Organic soils are not present in the frequent scour zone.

(63) "Freshwater area" means those state waters and associated beds waterward of the ordinary high water line that are upstream of stream and river mouths. Freshwater areas also include all lakes, ponds, and tributary streams and surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not include irrigation ditches, canals, stormwater treatment, and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

(64) "Functional grating" means the ((~~percent open area of the grating~~)) portion of the grating that is open to allow light to penetrate to the water surface and that is not covered or blocked by any objects such as structural components, framing wood, flotation tubs, or objects placed on the surface of the grating.

(65) "Ganged equipment" means two or more pieces of mineral prospecting equipment coupled together to increase efficiency. An example is adding a second sluice to a high-banker.

(66) "General provisions" means those provisions that are included in every HPA.

(67) "*Gold and Fish* pamphlet" means a document that details the rules for conducting ((~~small-scale and other~~)) mineral prospecting and mining activities with specific tools and equipment and that serves as the hydraulic project approval for certain mineral prospecting and mining activities in Washington state.

(68) "Gravity siphon aquatic mining" means any prospecting or mining activity that uses water drawn into a hose, pipe, or tube via the effects of gravity or siphon to excavate, concentrate, or process aggregate.

(69) "Habitat function" means the natural attributes of a given habitat that support the fish life that rely upon that habitat.

(70) "Habitat value" means an estimate of habitat quality, ecologically important functions and the relative value of the hydraulic project site within the watershed.

(71) "Hand-held equipment" means equipment held by hand and powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are chainsaws, drills, and grinders.

(72) "Hand-held mineral prospecting tools" means tools used for mineral prospecting and mining that are held by hand and do not have moving parts powered, in whole or in part, by internal combustion, electricity, hydraulics, or pneumatics. Examples include, but are not necessarily limited to, shovels, picks, trowels, hammers, and pry bars.

(73) "Hand-held tools" means tools held by hand and are not powered by internal combustion, hydraulics, pneumatics, or electricity. Examples are shovels, rakes, hammers, pry bars, and cable winches. This definition does not apply to hand-held tools used for mineral prospecting. See "hand-held mineral prospecting tools."

(74) "Hatchery" means any water impoundment or facility used for the captive spawning, hatching, or rearing of fish life.

(75) "High-banker" means a stationary concentrator operated outside the wetted perimeter of the body of water from which the water is removed and that uses water supplied by hand or by pumping. A high-banker consists of a sluice box, hopper, and water supply. Aggregate is supplied to the high-banker by means other than suction dredging. This definition excludes rocker boxes. See Figure 1.

Figure 1: High-banker

(76) "High-banking" means using a high-banker to recover minerals.

(77) "Hydraulic drop" means an abrupt drop in water surface elevation.

(78) "Hydraulic project" means the construction or performance of work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or freshwaters of the state.

(79) "Hydraulic project approval" or "HPA" means:

(a) A written approval for a hydraulic project issued under this chapter and signed by the director of the department or the director's designee; or

(b) A verbal approval for an emergency hydraulic project issued under this chapter by the director of the department or the director's designee; or

(c) The following printed pamphlet approvals:

(i) A "*Gold and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific small scale mineral prospecting and placer mining activities; or

(ii) An "*Aquatic Plants and Fish*" pamphlet issued under this chapter by the department, which identifies and authorizes specific aquatic plant removal and control activities.

(80) "Imminent danger" means a threat by weather, water flow, or other natural conditions that is likely to occur within ((~~sixty~~)) 60 days of a request for a permit application.

(81) "In-lieu fee (ILF) program" means a state or federal certified program authorizing a person pay a fee to a third party instead of conducting project-specific mitigation or buying credits from a mitigation or fish conservation bank.

(82) "In-water blasting" means the use of explosives on, under, or in waters of the state, or in any location adjacent to the waters

of the state, where blasting could impact fish life or habitat that supports fish life.

(83) "Job site" means the area of ground including and immediately adjacent to the area where work is conducted under an HPA. For mineral prospecting and placer mining projects, the job site includes the excavation site.

(84) "Joint aquatic resources permit application" or "JARPA" means a form provided by the department and other agencies that a person may submit to request a written HPA for a hydraulic project.

(85) "Lake" means any natural standing fresh waters or artificially impounded natural fresh waters of the state, except impoundments of the Columbia and Snake rivers.

(86) "Large woody material" means trees or tree parts larger than four inches in diameter and longer than six feet, or rootwads, wholly or partially waterward of the ordinary high water line.

(87) "Macroalgae" means any of the nonvascular aquatic plant species (the red, green, or brown seaweeds) that can be seen without using a microscope. They may be attached to the substrate or other macroalgae by a holdfast, or found drifting individually or in mats.

(88) "Maintenance" means repairing, remodeling, or making minor alterations to a facility or project to keep the facility or project in properly functioning and safe condition.

(89) "Major modification" means any change to a hydraulic project approval that is not a minor modification.

(90) "Marina" means a public or private facility providing boat moorage space, fuel, or commercial services. Commercial services include overnight or live-aboard boating accommodations.

(91) "Marine terminal" means a public or private commercial wharf located in navigable waters of the state and used, or intended to be used, as a port or facility for storing, handling, transferring, or transporting goods to and from vessels.

(92) "Mean annual flood" means the average of all the annual peak floods of record.

(93) "Mean higher high water" or "MHHW" means the tidal elevation obtained by averaging each day's highest tide at a particular location over a period of ((~~nineteen~~)) 19 years, as determined by National Oceanic and Atmospheric Administration (NOAA). It is measured from mean lower low water, which is a reference datum used to delineate waters of the state in saltwater areas.

(94) "Mean lower low water" or "MLLW" means the 0.0 feet tidal elevation, as determined by NOAA. It is determined by averaging each day's lowest tide at a particular location over a period of ((~~nineteen~~)) 19 years. MLLW is a reference datum used to delineate waters of the state in saltwater areas. NOAA provides detailed information on their "Tides, Currents, and Predictions" website.

(95) "Mechanical harvesting and cutting" means partially removing or controlling aquatic plants by using aquatic mechanical harvesters, which cut and collect aquatic plants, and mechanical cutters, which only cut aquatic plants.

(96) "Mineral prospect" or "mineral prospecting" means to excavate, process, or classify aggregate using hand-held mineral prospecting tools and mineral prospecting equipment.

(97) "Mineral prospecting equipment" means any natural or manufactured device, implement, or animal (other than the human body) used in any aspect of prospecting for or recovering minerals.

(98) "Mini high-banker" means a high-banker with a riffle area of three square feet or less. See Figure 2.

Figure 2: Mini high-banker

(99) "Mini rocker box" means a rocker box with a riffle area of three square feet or less. See Figure 3.

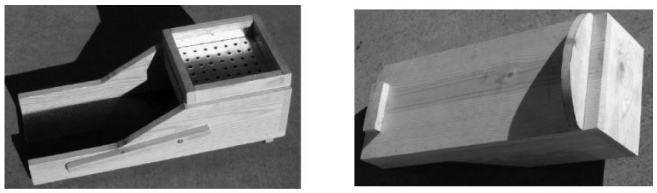


Figure 3: Mini rocker box (top view and bottom view)

(100) "Mining" means the production activity that follows mineral prospecting.

(101) "Minor modification" means a small change in work timing or plans and specifications of a hydraulic project.

(102) "Mitigation" means sequentially avoiding impacts, minimizing impacts, and compensating for remaining unavoidable impacts to fish life or habitat that supports fish life.

(103) "Mitigation bank" means a site where wetlands or other aquatic resources are restored, created, enhanced, or preserved. The bank exists expressly to provide compensatory mitigation before unavoidable impacts to wetlands or other aquatic resources occur.

(104) "Mitigation sequence" means the successive steps that the department and the applicant must consider and implement to protect fish life when constructing or performing work. These steps must be considered and implemented in the order listed:

(a) Avoid the impact altogether by not taking a certain action or parts of an action.

(b) Minimize unavoidable impacts by limiting the degree or magnitude of the action and its implementation by using appropriate technology or by taking steps to reduce impacts.

(c) Rectify the impact by repairing, rehabilitating, or restoring the affected environment.

(d) Reduce or eliminate the impact over time.

(e) Compensate for remaining unmitigated impacts by replacing, enhancing, or providing substitute resources or environments.

(f) Monitor the impact and take appropriate corrective measures to reach the identified goal.

(105) "Motorized or gravity siphon equipment" means any form of motorized equipment including, but not limited to, a motorized suction dredge or a gravity siphon suction dredge, for the purpose of extracting gold, silver, or other precious metals, but does not include metals mining and milling operations as defined in RCW 78.56.020.

(106) "Multiple site permit" or "multisite permit" means a hydraulic project approval issued to a person ((~~under RCW 77.55.021~~)) for hydraulic projects occurring at more than one specific location and for which ((~~includes~~)) site-specific requirements are included.

(107) "Natural conditions" means environmental situations that occur or are found in nature. This does not include artificial or manufactured conditions.

(108) "Nearshore" means shallow waters where sunlight reaching the bed is sufficient to support the growth of submerged aquatic vegetation.

(109) "Nearshore zone" means the three critical "edge" habitats as follows: The edge between upland and aquatic environments, the edge between the shallow productive zone and deep water, and the edge between fresh and marine waters.

(110) "No net loss" means:

(a) Sequentially ((~~for~~)) avoiding impacts, minimizing unavoidable impacts, and compensating for remaining adverse impacts to fish life.

(b) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for net loss of habitat functions necessary to sustain fish life.

(c) Sequentially avoiding impacts, minimizing unavoidable impacts, and compensating for loss of area by habitat type.

(d) Mitigation required to achieve no net loss should benefit the fish life being impacted.

(111) "Ordinary high water line" or "OHWL" means the mark on the shores of all water that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in ordinary years as to mark upon the soil or vegetation a character distinct from the abutting upland. Provided, that in any area where the ordinary high water line cannot be found, the ordinary high water line adjoining saltwater is the line of mean higher high water and the ordinary high water line adjoining freshwater is the elevation of the mean annual flood.

(112) "Pan" means an open metal or plastic dish operated by hand to separate gold or other minerals from aggregate by washing the aggregate. See Figure 4.

Figure 4: Pan

(113) "Panning" means the use of a pan to wash aggregate.

(114) "Permanent ford" means a ford approved by the department that is in place for more than one operating season.

(115) "Person" means an applicant, authorized agent, permittee, or contractor. The term person includes an individual, a public or private entity, or an organization.

(116) "Placer" means a glacial or alluvial deposit of gravel or sand containing eroded particles of minerals.

(117) "Pool" means a portion of the stream with reduced current velocity, often with water deeper than the surrounding areas.

(118) "Power sluice" means "high-banker."

(119) "Power sluice/suction dredge combination" means a machine that can be used as a power sluice, or with minor modifications, as a suction dredge. See Figure 5.

Figure 5: Power sluices/suction dredge combination

(120) "Process aggregate" or "processing aggregate" means the physical or mechanical separation of the valuable mineral content within aggregate.

(121) "Protection of fish life" means avoiding, minimizing unavoidable impacts, and compensating for remaining impacts to fish life and the habitat that supports fish life ((~~through~~)) by following mitigation sequencing.

(122) "Purple loosestrife" means *Lythrum salicaria* and *Lythrum virgatum* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(b).

(123) "Qualified professional" means a scientist, engineer, or technologist specializing in a relevant applied science or technology

including fisheries or wildlife biology, engineering, geomorphology, geology, hydrology, or hydrogeology. This person may be certified with an appropriate professional organization, and acting under that association's code of ethics and subject to disciplinary action by that association. A qualified professional can also be someone who, through demonstrated education, experience, accreditation, and knowledge relevant to the particular subject matter, may be reasonably relied on to provide advice within that person's area of expertise. This definition does not supersede other state laws that govern the qualifications of professionals that perform hydraulic projects.

(124) "Redd" means a nest made in gravel, consisting of a depression dug by a fish for egg deposition, and associated gravel mounds. See Figure 6.

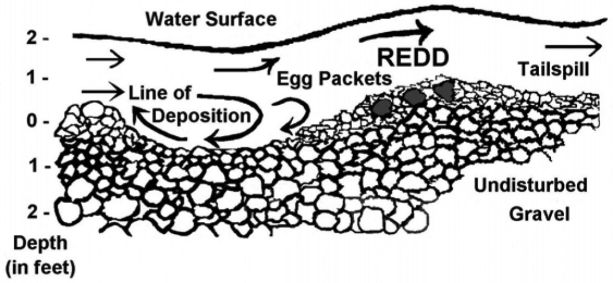


Figure 6: Cross-section of a typical redd

(125) "Rehabilitation" means major work required to restore the integrity of a structurally deficient or functionally obsolete structure. This can include partial replacement of a structure.

(126) "Replacement" means the complete removal of an existing structure and construction of a substitute structure in the same general location.

(127) "Riffle" means:

(a) The bottom of a concentrator containing a series of interstices or grooves to catch and retain a mineral such as gold; or

(b) A short, relatively shallow and coarse-bedded length of stream over which the stream flows at higher velocity and higher turbulence than it ((~~normally~~)) does in comparison to a pool.

(128) "River" or "stream" means "watercourse."

(129) "Riparian zones" means the land adjacent to streams, rivers, ponds, lakes, and those wetlands whose soils and vegetation are influenced by ponded or channelized water. They are the transition areas between aquatic and upland habitats often with elements of both ecosystems.

(130) "Rocker box" means a nonmotorized concentrator consisting of a hopper attached to a cradle and a sluice box operated with a rocking motion. See Figure 7.

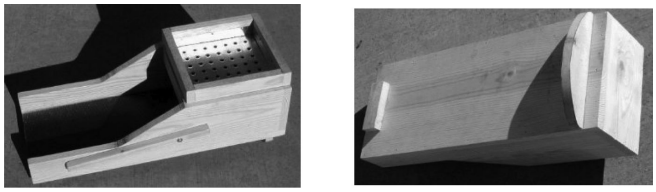


Figure 7: Rocker box

(131) "Rotovation" means the use of aquatic rotovators, machines that have underwater rototiller-like blades, to uproot aquatic plants as a means of control.

(132) "Roughened channel" means to construct a channel of a graded mix of sediment with enough roughness and hydraulic diversity to achieve fish passage. Roughened channels are designed to resist erosion and are often built at a steeper gradient than the prevailing channel.

(133) "Saltwater area" means those state waters and associated beds waterward of the ordinary high water line in Puget Sound, the Strait of Juan de Fuca and the open coast. Saltwater areas include estuaries and other surface-water-connected wetlands that provide or maintain habitat that support fish life. This definition does not include irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

(134) "Scientific measurement devices" means devices that measure and/or record environmental data, such as staff gauges, tide gauges, water recording devices, water quality testing ((~~and improvement~~)) devices, and similar instruments.

(135) "Seagrass" means native *Zostera* species, *Ruppia maritima*, and *Phyllospadix* species.

(136) "Shellfish" means those species of marine and freshwater invertebrates that have been classified and that must not be taken except as authorized by rule of the commission. The term shellfish includes all stages of development and the bodily parts of shellfish species.

(137) "Sluice" means a trough equipped with riffles across its bottom used to recover gold and other minerals with the use of flowing water. See Figure 8.

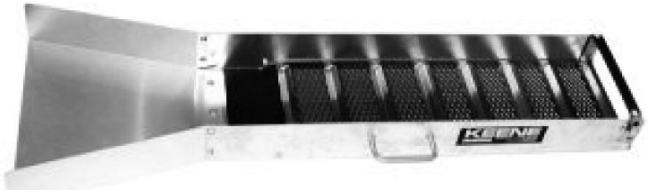


Figure 8: Sluice

(138) "Spartina" means *Spartina alterniflora*, *Spartina anglica*, *Spartina* x *townsendii*, and *Spartina patens* as classified in RCW 17.10.010(10) and defined in RCW 17.26.020 (5)(a).

(139) "Special provisions" means those requirements that are part of a HPA, are site-<u>specific</u> or project-specific, and supplement or amend the technical provisions.

(140) "Spiral wheel" means a hand-operated or battery-powered rotating pan used to recover gold and minerals with the use of water. See Figure 9.

Figure 9: Spiral wheel

(141) "Stable slope" means a slope without measurable evidence of slumping, sloughing, or other movement. Stable slopes will not show evidence of landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically present on stable slopes.

(142) "Suction dredge" means any motorized or nonmotorized device that removes aggregate from the bed, banks, or uplands by means of vacuum created by water flowing through a tube or hose. Bulb snifters are not considered suction dredges. See Figure 10.

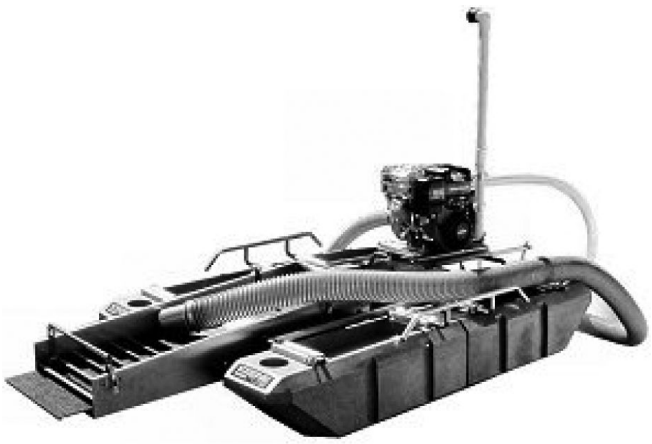


Figure 10: Suction dredge

(143) "Suction dredging" means using a suction dredge to recover gold and other minerals.

(144) "Tailings" means the waste material that remains after processing aggregate to remove valuable mineral content.

(145) "Temporary ford" means a ford that is in place for no more than one operating season ((~~or less~~)).

(146) "Tide gate" means a one-way check valve that prevents the backflow of tidal water.

(147) "Toe of the bank" or "toe of the structure" means the distinct break in slope between the stream bank or shoreline and the stream bottom or marine beach or bed, excluding areas of sloughing. For steep banks that extend into the water, the toe may be submerged waterward of the ordinary high water line. For artificial structures, such as jetties or bulkheads, the toe refers to the base of the structure where it meets the stream bed or marine beach or bed.

(148) "Toe of the slope" means the base or bottom of a slope at the point where the ground surface abruptly changes to a significantly flatter grade.

(149) "Unimpeded fish passage" means the free movement of all fish species at any mobile life stage around or through a human-made or natural structure.

(150) "Unstable slope" means a slope with visible or measurable evidence of slumping, sloughing, or other movement. Evidence of unstable slopes includes landslides, uprooted or tilted trees, exposed soils, water-saturated soils, and mud, or the recent erosion of soils and sediment. Woody vegetation is typically not present on unstable slopes.

(151) "Watercourse" or "water body" means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state.

(a) Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream.

(b) Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level.

(c) A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life.

(d) This definition does not include irrigation ditches, canals, storm water treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.

(152) "Water crossing structure((~~s~~))" means a structure((~~s~~)) that spans over, through, or under a watercourse. Examples are bridges, culverts, conduits, and fords.

((~~(152)~~)) (153) "Water right" means a certificate of water right, a vested water right or a claim to a valid vested water right, or a water permit, under Title 90 RCW.

((~~(153) "Water body" means "waters of the state."~~

~~(154) "Watercourse," "river" or "stream" means any portion of a stream or river channel, bed, bank, or bottom waterward of the ordinary high water line of waters of the state. Watercourse also means areas in which fish may spawn, reside, or pass, and tributary waters with defined bed or banks that influence the quality of habitat downstream. Watercourse also means waters that flow intermittently or that fluctuate in level during the year, and the term applies to the entire bed of such waters whether or not the water is at peak level. A watercourse includes all surface-water-connected wetlands that provide or maintain habitat that supports fish life. This definition does not in-~~

~~clude irrigation ditches, canals, stormwater treatment and conveyance systems, or other entirely artificial watercourses, except where they exist in a natural watercourse that has been altered by humans.~~

~~(155)~~)) (154) "Waters of the state" or "state waters" means all salt and freshwaters waterward of the ordinary high water line and within the territorial boundary of the state.

((~~(156)~~)) (155) "Weed rolling" means the use of a mechanical roller designed to control aquatic plant growth.

((~~(157)~~)) (156) "Wetland(s)" is as defined in RCW 90.58.030.

((~~(158)~~)) (157) "Wetted perimeter" means the areas of a watercourse covered with water. The wetted perimeter varies with flow, discharge, and tides.

((~~(159)~~)) (158) "Woody vegetation" means perennial trees and shrubs having stiff stems and bark. Woody vegetation does not include grasses, forbs, or annual plants.

((~~(160)~~)) (159) "Written notice" or "written notification" means a communication through U.S. mail or email.

AMENDATORY SECTION (Amending WSR 23-13-014, filed 6/8/23, effective 7/9/23)

WAC 220-660-050 Procedures—Hydraulic project approvals. (1) **Description:**

(a) There are six categories of HPAs: Standard, emergency, imminent danger, chronic danger, expedited, and pamphlet. These categories are discussed in more detail throughout this section. Most HPAs issued by the department are standard HPAs. Guidance for applying for an HPA is provided on the department's website.

(b) HPAs do not exempt a person from obtaining other necessary permits and following the rules and regulations of local, federal, and other Washington state agencies.

(2) **Fish life concerns:** Construction and other work activities in or near water bodies can kill or injure fish life directly and can damage or destroy habitat that supports fish life. Damaged or destroyed habitat can continue to cause lost fish life production for as long as the habitat remains altered. HPAs help ensure construction and other work is done in a manner that protects fish life.

(3) **Standard HPA:**

(a) The department issues a standard HPA when a hydraulic project does not qualify for an emergency, imminent danger, chronic danger, expedited or pamphlet HPA. An individual standard HPA is limited to a single project site. Some special types of standard HPAs may cover multiple project sites.

(b) Special types of standard HPAs:

(i) Fish habitat enhancement project (FHEP) HPA.

(A) Projects must satisfy the requirements in RCW 77.55.181(1) to be processed as a fish habitat enhancement project.

(B) Projects that are compensatory mitigation for a development or other impacting project are not eligible. This includes proposals for mitigation banks or in-lieu fee mitigation proposals. The sole purpose of the project must be for fish habitat enhancement.

(C) The department may reject an FHEP proposed under RCW 77.55.181 if the local government raises concerns during the comment period that impacts from the project cannot be mitigated by condition-

ing the HPA. The department will reject an FHEP if the department determines that the size and the scale of the project raises public health or safety concerns. If the department rejects a project for streamlined processing, the department must provide written notice to the applicant and local government within ((~~forty-five~~)) 45 days of receiving the application.

(D) An applicant whose fish habitat enhancement project is rejected may submit a new complete written application with project modifications or additional information required for streamlined processing. An applicant may request that the department consider the project under standard HPA processing procedures by submitting a new complete written application for standard processing.

(ii) Multisite HPA.

(A) A standard HPA may authorize work at multiple project sites if:

(I) All project sites are within the same water resource inventory area (WRIA) or tidal reference area;

(II) The primary hydraulic project is the same at each site so there is little variability in HPA provisions across all sites; and

(III) Work will be conducted at no more than five project sites to ensure department staff has sufficient time to conduct site reviews.

(B) The department may make an exception for projects the department has scoped prior to application submittal or when no prepermit issuance site visits are needed.

(iii) General HPA.

(A) The department may issue general HPAs to government agencies, organizations, or companies to perform the same work in multiple water bodies across a large geographic area.

(B) To qualify for a general HPA, projects must protect fish life:

(I) Technical provisions in the HPA must fully mitigate impacts to fish life;

(II) The projects must be relatively simple so that the HPA provisions are the same across all sites, and can therefore be permitted without site-specific provisions; and

(III) The projects must have little or no variability over time in site conditions or work performed.

(C) The general HPA will include a requirement that notice be given to the department when activities utilizing heavy equipment begin. The department may waive this requirement if the permittee and department meet annually to review scheduled activities for the upcoming year.

(D) The department and the applicant may negotiate the scope and scale of the project types covered. The department and the applicant must agree on the fish protection provisions required before the application is submitted.

(E) The department may reject applications for a general HPA if:

(I) The proposed project does not meet the eligibility requirements described in subsection (3)(b)(iii)(B) of this section; or

(II) The department and the applicant cannot agree on the fish protection provisions.

(F) The department must provide written notice of rejection of a general HPA application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures.

(iv) "Model" HPA.

(A) The department will establish a "model" HPA application and permitting process for qualifying hydraulic projects. To qualify, an individual project must comply with the technical provisions established in the application. Hydraulic projects that qualify for the model process must:

(I) Fully mitigate impacts to fish life in the technical provisions of the HPA;

(II) Be a low complexity project that minimizes misinterpretation of the HPA provisions allowing the HPA to be permitted without site-specific provisions; and

(III) Meet all of the eligibility requirements described in the model application.

(B) If needed to confirm project eligibility, the department may conduct a site visit before approving or rejecting a model application.

(C) The department may reject applications for model HPAs if:

(I) The plans and specifications for the project are insufficient to show that fish life will be protected; or

(II) The applicant or authorized agent does not fill out the application completely or correctly.

(D) The department must provide written notice of rejection of an application to the applicant. The applicant may submit a new complete written application with project modifications or additional information required for department consideration under standard HPA processing procedures under this section, or may submit a new model application if the department rejected the application because the person did not fill out the original application correctly.

(4) **Emergency HPA:**

(a) Declaring an emergency.

(i) Authority to declare an emergency, or continue an existing declaration of emergency, is conveyed to the governor, the department, or to a county legislative authority by statute. An emergency declaration may be made when there is an immediate threat to life, the public, property, or of environmental degradation;

(ii) The county legislative authority must notify the department, in writing, if it declares an emergency;

(iii) Emergency declarations made by the department must be documented in writing;

(iv) When an emergency is declared, the department must immediately grant verbal approval upon request for work to protect life or property threatened by waters of the state because of the emergency, including repairing or replacing a stream crossing, removing obstructions, or protecting stream banks. The department may also grant written approval if the applicant agrees.

(b) If the department issues a verbal HPA, the department must follow up with a written HPA documenting the exact provisions of the verbal HPA within ((~~thirty~~)) 30 days of issuing the verbal HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for emergency HPAs.

(d) The department may require a person to submit an as-built drawing within ((~~thirty~~)) 30 days after the hydraulic project authorized in the emergency HPA is completed.

(e) Within ((~~ninety~~)) 90 days after a hydraulic project authorized in an emergency HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(5) **Imminent danger HPA:**

(a) Authority to declare imminent danger is conveyed to the department or county legislative authority by statute. The county legislative authority must notify the department in writing if it determines that an imminent danger exists.

(b) Imminent danger declarations made by the department must be documented in writing.

(c) When imminent danger exists, the department must issue an expedited HPA upon request for work to remove obstructions, repair existing structures, restore banks, and to protect fish life or property.

(d) When imminent danger exists, and before starting work, a person must submit a complete written application to the department to obtain an imminent danger HPA. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for imminent danger HPAs.

(e) Imminent danger HPAs must be issued by the department within ((~~fifteen~~)) 15 calendar days after receiving a complete written application. Work under an imminent danger HPA must be completed within ((~~sixty~~)) 60 calendar days of the date the HPA is issued.

(f) Within ((~~ninety~~)) 90 days after a hydraulic project authorized in an imminent danger HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(6) **Chronic danger HPA:**

(a) The department must issue a chronic danger HPA upon request for work required to abate the chronic danger. This work may include removing obstructions, repairing existing structures, restoring banks, restoring road or highway access, protecting fish life, or protecting property.

(b) Authority to declare when a chronic danger exists is conveyed to a county legislative authority by statute. A chronic danger is a condition in which any property, except for property located on a marine shoreline, has experienced at least two consecutive years of flooding or erosion that has damaged or has threatened to damage a major structure, water supply system, septic system, or access to any road or highway.

(c) The county legislative authority must notify the department in writing when it determines a chronic danger exists.

(d) When chronic danger is declared, and before starting work, a person must submit a complete written application to the department to obtain a chronic danger HPA. Unless the project also satisfies the requirements for fish habitat enhancement projects identified in RCW 77.55.181 (1)(a)(ii), compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is required. Projects that meet the requirements in RCW 77.55.181 (1)(a)(ii), will be processed under RCW 77.55.181(3), and the provisions of chapter 43.21C RCW will not be required.

(7) **Expedited HPA:**

(a) The department may issue an expedited HPA when normal processing would result in significant hardship for the applicant or unacceptable environmental damage would occur.

(b) Before starting work, a person must submit a complete written application to the department to obtain an HPA.

(c) Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act) is not required for expedited HPAs. The department must issue expedited HPAs within ((~~fifteen~~)) 15 calendar days

after receipt of a complete written application. Work under an expedited HPA must be completed within ((~~sixty~~)) 60 calendar days of the date the HPA is issued.

(d) Within ((~~ninety~~)) 90 days after a hydraulic project authorized in an expedited HPA is completed, any remaining impacts must be mitigated or a mitigation plan must be submitted to the department for approval.

(8) **Pamphlet HPA:**

(a) There are two pamphlet HPAs, *Gold and Fish* and *Aquatic Plants and Fish*, that cover the most common types of small scale mineral prospecting and removing or controlling aquatic plants, respectively. A person must follow the provisions in the pamphlet. If a person cannot follow the provisions, or disagrees with any provision, the permittee must apply for a standard HPA before starting the hydraulic project.

(b) A person must review a pamphlet HPA before conducting the authorized hydraulic project.

(c) When a pamphlet HPA is used, the permittee must have the pamphlet HPA on the job site when conducting work and the pamphlet must be immediately available for inspection by the department upon request.

(d) All persons conducting the project must follow all provisions of the pamphlet HPA.

(e) The department may grant exceptions to a pamphlet HPA only if a person applies for a standard individual HPA for the project.

(f) Pamphlet HPAs do not exempt a person from obtaining other appropriate permits and following the rules and regulations of local, federal, and other Washington state agencies.

(9) **How to get an HPA:**

(a) How to get a pamphlet HPA: A person can download and save or print a pamphlet HPA from the department's website. A person may also request a pamphlet HPA from the department either verbally or in writing.

(b) How to get an emergency HPA: Upon an emergency declaration, and before starting emergency work, a person must obtain a verbal or written HPA from the department. A complete written application is not required. However, a person must provide adequate information describing the proposed action. Compliance with the provisions of chapter 43.21C RCW (State Environmental Policy Act), is not required for emergency HPAs. A person may request a verbal or written emergency HPA from the biologist who issues HPAs for the geographic area where the emergency is located Monday through Friday from 8:00 a.m. to 5:00 p.m. If the biologist cannot be contacted or it is after business hours, a person must contact the emergency hotline at ((~~360-902-2537~~)) 1-800-514-8140 to request an emergency HPA.

(c) How to get a standard, expedited, or chronic danger HPA:

(i) A person must submit a complete written application to the department to obtain an HPA unless the project qualifies for one of the following:

(A) A pamphlet HPA, subsection (3) of this section; or

(B) An emergency HPA, subsection (5) of this section.

(ii) When applying for an HPA, a person must submit one of the following application forms to the department:

(A) The electronic online application developed by the department;

(B) The current version of the JARPA;

(C) The current version of the JARPA including the most recent version of the application for streamlined processing of fish habitat

enhancement projects when applying for streamlined processing under RCW 77.55.181. These may be submitted to the department as attachments to the online application form;

The Washington department of transportation may omit the JARPA when applying for streamlined processing of fish habitat enhancement projects using the online application system;

(D) The most recent version of the model HPA application or other department-approved alternative applications available from the department's public website; or

(E) The current version of the JARPA if applying for approval of a watershed restoration project under RCW 77.55.171. This may be submitted to the department as an attachment to the online application form.

(iii) A complete application package for an HPA must contain:

(A) A completed application form signed and dated by the applicant, landowner(s) or landowner representative(s) of any project site or off-site mitigation location, and the authorized agent, if any. Completing and submitting the application forms through the department's online permitting system is the same as providing signature and date, if all documents required during the online application process are submitted to the department. The property owner, if different than the applicant, or easement holder must consent to the department staff entering the property where the project is located to inspect the project site or any work;

(B) Plans for the overall project;

(C) Complete plans and specifications for all aspects of the proposed construction or work waterward of the mean higher high water line in salt water, or waterward of the ordinary high water line in fresh water;

(D) A description of the measures that will be implemented for the protection of fish life, including any reports assessing impacts from the hydraulic project to fish life and their habitat, and plans to mitigate those impacts to ensure the project results in no net loss;

(E) For a standard or chronic danger HPA application, a copy of the written notice from the lead agency demonstrating compliance with any applicable requirements of the State Environmental Policy Act under chapter 43.21C RCW, unless otherwise provided for in chapter 77.55 RCW; or the project qualifies for a specific categorical exemption under chapter 197-11 WAC;

(F) Written approval by one of the entities specified in RCW 77.55.181 if the applicant is proposing a fish enhancement project;

(G) For an expedited HPA application, an explanation of why normal processing would result in significant hardship for the applicant or unacceptable environmental damage.

(H) For a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment, a copy of a permit issued under the federal Clean Water Act by Washington department of ecology that authorizes the use of that equipment at the location proposed, or written notice from Washington department of ecology declaring that a federal Clean Water Act permit is not required.

(I) When applying for a standard written HPA for mineral prospecting work within the wetted perimeter outside of the allowable work times authorized in WAC 220-660-300 and 220-660-305, a person must identify the upstream and downstream extent of each project location within a stream. The location of each site can be no greater than the length contained within a registered mining claim, if the project oc-

curs on a claim, or ((~~one thousand three hundred~~)) 1,300 linear feet of stream, if the project does not occur on a claim.

(iv) HPA application submission:

(A) A person must submit the complete application package by:

(I) Using the department's online permitting system;

(II) Sending the package via mail to:

Department of Fish and Wildlife
P.O. Box 43234
Olympia, WA 98504-3234;

(III) Sending the package via email to: HPAapplications@dfw.wa.gov;

(IV) ((~~Sending the package via fax to: 360-902-2946;~~

~~(V)~~)) Uploading the package to a file transfer protocol site acceptable to the department; or

((~~(VI)~~)) (V) Hand delivering the package to the department at 1111 Washington Street S.E., Olympia, WA 98504, Habitat Program, Fifth Floor. The department will not accept applications submitted elsewhere or by other than the applicant or authorized agent.

(B) Dimensions of printed documents submitted with the application package may not be larger than ((~~eleven~~)) 11 inches by ((~~seventeen~~)) 17 inches. Pages of documents submitted may not be bound except by paper clips or other temporary fastening.

(C) A person must submit applications and supporting documents with a combined total of ((~~thirty~~)) 30 or more pages as digital files rather than printed documents. All digital files must be in formats compatible with Microsoft Word, Microsoft Excel, or Microsoft Access programs, or in PDF, TIFF, JPEG, or GIF formats.

(D) Applications submitted to the habitat program during normal business hours (8:00 a.m. to 5:00 p.m. Pacific Standard Time) are deemed received on the date the habitat program receives the application. The department may declare applications received by the habitat program after normal business hours as received on the next business day.

(10) **Incomplete applications:**

(a) Within ((~~ten~~)) 10 days of receipt of the application, the department must determine whether an application meets the requirements of this section. If the department determines the application does not meet the requirements, the department will provide written or emailed notification of an incomplete application to the applicant or authorized agent. This written or emailed notification must include a description of information needed to make the application complete. The department may return the incomplete application to the applicant or authorized agent or hold the application on file until it receives the missing information. The department will not begin to process the application until it receives all information needed to complete the application.

(b) The applicant or authorized agent must submit additional information in response to a written notification of incomplete application through the department's online permitting system or to the department's habitat program, Olympia headquarters office. The department will not accept additional information submitted elsewhere or by other than the applicant or authorized agent.

(c) The department may close any application that has been incomplete for more than ((~~twelve~~)) 12 months. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option

for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

(d) The department may reject a standard HPA application for mineral prospecting involving motorized or gravity siphon equipment if the proposed project location or locations are in an area in which Washington department of ecology is prohibited under RCW 90.48.615 from issuing a permit under the federal Clean Water Act.

(11) **Application review period:**

(a) Once the department determines an application is complete, the department will provide to tribes and local, state, and federal permitting or authorizing agencies a seven-calendar-day review and comment period. The department will not issue the HPA before the end of the review period to allow all interested tribes and agencies to provide comments to the department. The department may consider all written comments received when issuing or provisioning the HPA. The review period is concurrent with the department's overall review period. Emergency, imminent danger, expedited, and modified HPAs are exempt from the review period requirement.

(b) Except for emergency, imminent danger, and expedited HPAs, the department will grant or deny approval within ((~~forty-five~~)) 45 calendar days of the receipt of a complete written application. The department will grant approval of imminent danger and expedited HPAs within ((~~fifteen~~)) 15 days of the receipt of a complete written application. The department will grant approval of emergency HPAs immediately upon request if an emergency declaration has been made.

For streamlined processing of Washington department of transportation fish passage barrier correction projects, the department will, within 30 days, either grant or deny approval, or make a determination that the streamlined review and approval process created by RCW 77.55.181 is not appropriate for the proposed project.

(c) If the department declares an imminent danger, applicant hardship, or immediate threat regarding an application for expedited or emergency HPA, the department must place written documentation of that declaration and justification for it in the application record within three days of issuing the written HPA.

(12) **Suspending the review period:**

(a) An applicant or authorized agent may request a delay in processing a standard HPA. The applicant or authorized agent must submit a written request for the delay through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept delay requests submitted elsewhere or by a person other than the applicant or authorized agent.

(b) If the department suspends the review period, the department must immediately notify the applicant in writing of the reasons for the delay. The department may suspend the review period (with or without the applicant's concurrence) if:

(i) The site is physically inaccessible for inspection or not in a condition to be evaluated (i.e., snow cover, frozen);

(ii) The applicant or authorized agent remains unavailable or unable to arrange for a field evaluation of the proposed project within ((~~ten~~)) 10 working days of the department's receipt of the application;

(iii) The applicant or authorized agent submits a written request for a delay;

(iv) The department is issuing an HPA for a stormwater discharge and is complying with the requirements of RCW 77.55.161 (3)(b); or

(v) The department is reviewing the application as part of a multiagency permit streamlining effort, and all participating permitting and authorizing agencies and the permit applicant agree to an extended timeline longer than ((~~forty-five~~)) 45 calendar days.

(c) The department may close any application if the application has been delayed for processing more than ((~~twelve~~)) 12 months for any of the reasons identified in subsection (12)(a) or (b) of this section. The department must provide the applicant or authorized agent with written notification at least one week before closing the application and must provide the option for the applicant or authorized agent to postpone the closure for up to one year. The department must provide the applicant with written notification at the time it closes the application. After an application is closed, the applicant or authorized agent must submit a new complete application to receive further consideration of the project.

(13) **Issuing or denying a hydraulic project approval:**

(a) Protection of fish life is the only grounds upon which the department may deny or provision an HPA, as provided in RCW 77.55.021. The department may not unreasonably withhold or condition approval of an HPA. The HPA provisions must reasonably relate to the project and must ensure that the project provides proper protection for fish life. The department may not impose provisions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(b) The department may not deny an emergency, imminent danger, chronic danger, or an expedited HPA, as provided in RCW 77.55.021. However, these projects must comply with the provisions in this chapter that are included in an HPA. The department will deny any other type of HPA or request to change an existing HPA when the project will not protect fish life, unless enough mitigation can be assured by provisioning the HPA or modifying the proposal. If the department denies approval, the department must provide the applicant with a written statement of the specific reasons why and how the proposed project would adversely affect fish life, as provided in RCW 77.55.021.

(c) The department may place specific time limitations on project activities in an HPA to protect fish life.

(d) The department may require a person to notify the department before hydraulic project construction or other hydraulic project work starts, upon project completion, or at other times that the department deems necessary while the HPA is in effect. The department may also require a person to provide periodic written reports to assess HPA compliance.

(e) The HPA must contain provisions that allow for minor modifications to the work timing, plans, and specifications of the project without requiring the reissuance of the HPA, as long as the modifications do not adversely affect fish life or the habitat that supports fish life. The permittee should contact the habitat program's Olympia headquarters office through email or the department's online permit application system to request a minor modification.

(f) A person may propose or conduct a hydraulic project under an environmental excellence program agreement authorized under chapter 43.21K RCW. These projects must be applied for and permitted under the requirements of chapter 43.21K RCW.

(14) **Hydraulic project approval expiration time periods:**

(a) Except for emergency, imminent danger, expedited, and pamphlet HPAs, the department may grant standard HPAs that are valid for up to five years. The permittee must demonstrate substantial progress on construction of the portion of the project authorized in the HPA within two years of the date of issuance.

(b) Imminent danger and expedited HPAs are valid for up to ((~~six-ty~~)) 60 days, and emergency HPAs are valid for the expected duration of the emergency hydraulic project.

(c) Pamphlet HPAs remain in effect indefinitely until modified or rescinded by the department.

(d) The following types of agricultural hydraulic project HPAs remain in effect without the need for periodic renewal; however, a person must notify the department before starting work each year:

(i) Seasonal work that diverts water for irrigation or stock watering; and

(ii) Stream bank stabilization projects to protect farm and agricultural land if the applicant can show that the problem causing the erosion occurs annually or more frequently. Evidence of erosion may include history of permit application, approval, or photographs. Periodic floodwaters alone do not constitute a problem that requires an HPA.

(15) **Requesting a time extension, renewal, modification, or transfer of a hydraulic project approval:**

(a) The permittee may request a time extension, renewal, modification, or transfer of an active HPA. Before the HPA expires, the permittee or authorized agent must submit a written request through the department's online permitting system or to the habitat program's Olympia headquarters office. The department may not accept requests for delay, renewal, modification, or transfer of an HPA submitted elsewhere or by a person other than the permittee or authorized agent. Written requests must include the name of the applicant, the name of the authorized agent if one is acting for the applicant, the permit number or application identification number of the HPA, the date issued, the permitting biologist, the requested changes to the HPA if requesting a time extension, renewal, or modification, the reason for the requested change, the date of the request, and the requestor's signature. Requests for transfer of an HPA to a new permittee or authorized agent must additionally include a signed, written statement that the new permittee or authorized agent agrees to the conditions of the HPA, that they agree to allow the department access to the project location to inspect the project site, mitigation site, or any work related to the project, and that they will not conduct any project activities until the department has issued approval.

(b) Requests for time extensions, renewals, or modifications of HPAs are deemed received on the date received by the department. The department may declare applications submitted to habitat program after normal business hours as received on the next business day.

(c) Within ((~~forty-five~~)) 45 days of the requested change, the department must approve or deny the request for a time extension, renewal, modification, or transfer of an approved HPA.

(d) Unless the new permittee or authorized agent requests a time extension, renewal, or modification of an approved HPA, the department may change only the name and contact information of the permittee or authorized agent and must not alter any provisions of the HPA except the project or location start dates when granting a transfer.

(e) A permittee may request a modification or renewal of an emergency HPA until the emergency declaration expires or is rescinded. Re-

quests for changes to emergency HPAs may be verbal, but must contain all of the information in (a) of this subsection.

(f) The department must not modify or renew an HPA beyond the applicable five-year or ((~~sixty~~)) 60-day periods. A person must submit a new complete application for a project needing further authorization beyond these time periods.

(g) The department will issue a letter documenting an approved minor modification(s) and a written HPA documenting an approved major modification(s) or transfer.

(16) **Modifications of a hydraulic project approval initiated by the department:**

(a) After consulting with the permittee, the department may modify an HPA because of changed conditions. The modification becomes effective immediately upon issuance of a new HPA.

(b) For hydraulic projects that divert water for agricultural irrigation or stock watering, or when the hydraulic project or other work is associated with stream bank stabilization to protect farm and agricultural land as defined in RCW 84.34.020, the department must show that changed conditions warrant the modification in order to protect fish life.

(17) **Revoking an HPA.**

(a) The department may revoke an HPA under the following conditions:

(i) At the written request of the permittee or authorized agent;

(ii) As the result of an informal or formal appeal decision;

(iii) As the result of a court ruling finding that the department issued the HPA in error;

(iv) Following change of a determination of nonsignificance or mitigated determination of nonsignificance to a determination of significance by a lead agency under chapter 43.21C RCW that applies to the hydraulic project approved by the HPA;

(v) The applicant did not correctly identify compliance with the requirements of chapter 43.21C RCW in the HPA application and the department was unaware of the error until after the HPA was issued;

(vi) Changed physical or biological conditions at the site of the hydraulic project have occurred before project initiation such that fish life cannot be protected if the project proceeds under the requirements of the existing HPA;

(vii) The permittee has not demonstrated substantial progress on construction of the hydraulic project within two years of the date of issuance as required in RCW 77.55.021 (9)(a). Substantial progress means initiation of work at any of the project locations identified in the HPA;

(viii) Duplicate HPAs have been issued for the same hydraulic project.

(b) The department must provide the permittee or authorized agent with written notification before revoking the HPA.

(c) The department must notify the permittee or authorized agent in writing immediately upon revoking the HPA.

(18) **Requesting a preapplication determination:**

(a) A person may request information or a technical assistance site visit from the department prior to submitting an HPA application or at any other time. The department will provide the requested information either verbally or in writing.

(b) If a person is unsure about whether proposed construction or other work landward of (above) the ordinary high water line requires an HPA, they may request a preapplication determination from the de-

partment under RCW 77.55.400. The department must evaluate the proposed project and determine if it is a hydraulic project and, if so, whether an HPA from the department is required to ensure proper protection of fish life.

(c) The preapplication determination request must be submitted through the department's online permitting system and must contain:

(i) A description of the proposed project, which must include the location of the ordinary high water line;

(ii) A map showing the location of the project site, which must include the location of the ordinary high water line; and

(iii) Preliminary plans and specifications of the proposed project, if available, which include the location of the ordinary high water line.

(d) The department must provide tribes and local governments a seven calendar day review and comment period. The department must consider all applicable written comments that it receives before it issues a determination as described in this subsection.

(e) The department must issue a written determination, including its rationale for the decision, within ((~~twenty-one~~)) 21 calendar days of receiving the request.

(f) Chapter 43.21C RCW (state environmental policy) does not apply to preapplication determinations issued under this subsection.

(g) The department's preapplication determination decision may be appealed as provided in WAC 220-660-460 (Informal appeal of administrative action) or WAC 220-660-470 (Formal appeal of administrative action).

(19) **Notice of intent to disapprove HPA applications:**

(a) The department may disapprove HPA applications submitted by a project proponent who has failed to comply with a stop work order or notice to comply issued under WAC 220-660-480, or who has failed to pay civil penalties issued under WAC 220-660-480. The term "project proponent" has the same definition as in RCW 77.55.410.

(b) The department may disapprove HPA applications submitted by such project proponents for up to one year after the date on which the department issues a notice of intent to disapprove HPA applications, or until such project proponent pays all outstanding civil penalties and complies with all notices to comply and stop work orders issued under WAC 220-660-480, whichever is longer (disapproval period).

(c) The department must provide written notice of its intent to disapprove HPA applications to the project proponent and to any authorized agent or landowner identified in the application, in person or via United States mail, to the mailing address(es) listed on the project proponent's HPA application.

(d) The disapproval period begins on the date the department's notice of intent to disapprove HPA applications becomes final. The notice of intent to disapprove HPA applications becomes final ((~~thirty~~)) 30 calendar days after the department issues it, or upon exhaustion of all applicable administrative and/or judicial remedies.

(e) Any project proponent issued a notice of intent to disapprove HPA applications may, within ((~~thirty~~)) 30 days of the date of the notice, initiate a formal appeal of the notice as provided in WAC 220-660-470 (Formal appeal of administrative actions).

(f) The department will provide notice and waiver of fines, civil penalties, and administrative sanctions consistent with RCW 34.05.110 and WAC 220-660-480(12).

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-070 Changes to hydraulic project approval technical provisions. (1) The department may modify or ((~~delete~~)) omit any technical provisions in this chapter through establishing ((~~conditions on~~)) site-specific or project-specific provisions in an HPA permit when any of the following is demonstrated:

(a) There is no logical application to a project;

(b) A person provides an alternative to the provision that demonstrates that it provides equal or greater protection for fish life;

(c) Enforcement of the original provision would result in denial of an HPA when there is enough mitigation defined to allow the project;

(d) The modification or ((~~deletion~~)) omission of the provision will not cause a loss of or injury to fish life, or the loss or permanent degradation of the habitat that supports fish life;

(e) The proposed hydraulic project is part of an approved cleanup action under Model Toxics Control Act, Comprehensive Environmental Response Compensation and Liability Act, or Superfund Amendment and Reauthorization Act;

(f) The technical provision or provisions conflict with applicable local, state, or federal regulations that provide equal or better protection for fish life;

(g) The technical provision or provisions are not feasible due to geological, engineering or environmental constraints or safety concerns; or

(h) New scientific information is made available that demonstrates the project will result in equal or greater protection of fish life, and the habitat that supports fish life.

(2) The department may add ((~~conditions on the HPA permit to protect fish life as needed~~)) technical provisions to address project-specific or site-specific impacts to fish life not adequately mitigated by the common technical provisions. However, all provisions in the HPA must relate to the project and be proportional to the impact of the project. The HPA will include all of the ((~~technical~~)) provisions with which a person will be required to comply.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-080 Mitigation requirements for hydraulic projects. (1) **Description:** The department defines mitigation as sequentially avoiding impacts, minimizing and rectifying unavoidable impacts, and compensating for remaining impacts. This mitigation must achieve no net loss.

(2) **Fish life concerns:** Work conducted in or near water can negatively impact fish life. Best management practices such as proper design and siting, construction timing, isolating the work area, sediment and erosion control, water-quality management, and revegetation can avoid, minimize, and rectify many of these impacts. These best management practices are reflected in the technical provisions. However, remaining impacts may require compensation to offset the loss of fish life and habitat that supports fish life.

(3) **Mitigation requirements:**

(a) The department must determine if the project actions proposed will mitigate for the project impacts to fish life and the habitat that supports fish life based on available information.

(b) A person must pay for any surveys, studies, or reports required by the department to determine if the hydraulic project mitigates impacts to fish life and the habitat that supports fish life. When required, the department will provide a written explanation of why the information is required and what standards or protocols the applicant must follow.

(c) All work subject to this chapter must achieve no net loss through a sequence of mitigation actions. However, the department may not impose permit conditions that attempt to optimize conditions for fish life that are out of proportion to the impact of the proposed project.

(d) Mitigation includes all of the action steps in the mitigation sequence.

(e) Compensatory mitigation is not required for hydraulic projects if other actions in the mitigation sequence are taken that avoid or offset impacts to fish life.

(f) The department may require advance mitigation if an experimental mitigation technique is being performed. If required, the advance mitigation should be fully functional prior to the project impacts.

(g) All maintenance work must comply with the applicable common technical ((~~construction~~)) provisions and project-specific and site-specific ((~~construction~~)) technical provisions. Maintenance work that rehabilitates and replaces a structure must also comply with the applicable common technical design provisions and project-specific and site-specific technical provisions.

(h) Replacement of any portion of any structure must comply with the requirements in this chapter governing materials that may be used.

(4) **Compensatory mitigation:**

(a) The department may determine that compensatory mitigation actions are needed to offset impacts remaining after other actions in the mitigation sequence are completed.

(b) When compensatory mitigation is needed to offset impacts, the department prefers compensatory mitigation actions that restore impacted habitat types and functions on-site or immediately adjacent to the impact site. If mitigation actions on or near the project site cannot mitigate the project impacts, then the department prefers compensatory mitigation actions at another location benefit the same fish life populations, habitat types and functions as those impacted by the project. However, the department must give due consideration to any compensatory mitigation proposal that improves the overall habitat functions in the watershed for the affected fish life populations at the project site.

(c) At the request of the project proponent, the department must accommodate the mitigation needs of the infrastructure or noninfrastructure development, including proposals or portions of proposals that are explored or developed in RCW 90.74.040. However, the department will not approve compensatory mitigation that does not provide equal or better habitat functions, value and quantity by habitat type.

(d) The department will evaluate mitigation credits and debits on a scientifically valid measure of habitat function, value, and quantity by habitat type. Compensatory mitigation must also compensate for temporal losses, uncertainty of performance, loss of habitat quantity by habitat type, and differences in habitat functions and value.

(e) The department will consider the use of credits from an approved programmatic option such as a state or federal certified fish conservation bank, a joint 404/401 mitigation and fish conservation bank, or in-lieu fee program as a form of compensation only after the standard mitigation sequencing has been applied at the impact site. These credits should benefit the same fish life populations as those impacted by the hydraulic project.

(f) For calculating compensatory mitigation requirements under this chapter, the environmental baseline is habitat conditions at the time the HPA application is submitted. However, this baseline does not apply to hydraulic projects constructed illegally. Structures that predate the hydraulic code or structures that were previously authorized under past versions of the hydraulic code are deemed legal structures.

(g) The department will evaluate impacts caused by a hydraulic project by comparing the condition of the habitat before project construction or the performance of work to the anticipated condition of the habitat after project completion.

(h) Maintenance on a legally constructed structure does not require compensatory mitigation unless:

(i) The maintenance work causes a new loss of habitat function, value, or quantity by habitat type that is not associated with the original construction of the structure; or

(ii) The maintenance work does not comply with subsection (3)(g) in this section.

(i) Removal of a human-made or engineered structure does not require compensatory mitigation. However, the department may require bank resloping, revegetation, and other job site stabilization measures after structure removal.

(j) The department may require monitoring to determine the extent and severity of impacts and the effectiveness of the compensation projects. The department may require a monitoring and contingency plan to ensure the compensatory mitigation meets the performance goals and objectives specified in the HPA. This plan may be part of a larger mitigation plan.

(5) **Mitigation plans:**

(a) The department may require a mitigation plan for projects with ongoing, complex, and experimental mitigation actions.

(b) The department must notify a person in writing if a mitigation plan is required and specify what the plan must include if a mitigation plan was not submitted with the application.

(c) When reviewing a mitigation plan under RCW 77.55.021, the department must, at the request of the applicant, follow the guidance contained in RCW 90.74.005 through 90.74.030. Pursuant to RCW 90.74.020, a mitigation plan must do the following:

(i) Guarantee long-term viability of the created, restored, enhanced, or preserved habitat, including assurances for protecting any essential habitat functions and values defined in the mitigation plan;

(ii) Provide long-term monitoring of any created, restored, or enhanced mitigation site; and

(iii) Be consistent with the local comprehensive land use plan and any other applicable planning process in effect for the development area, such as an adopted subbasin or watershed plan.

(d) When making a permit decision, the department must consider, pursuant to RCW 90.74.020, whether the mitigation plan provides equal or greater habitat functions, value, and quantity by habitat type com-

pared to the existing conditions. This consideration must be based upon the following factors:

(i) The relative value of the mitigation for the target fish life, in terms of the habitat functions, value, and quantity by habitat type;

(ii) The compatibility of the proposal with broader resource management and habitat management objectives and plans, such as existing resource management plans, species recovery plans and associated habitat restoration strategies, watershed plans, critical areas ordinances, the forestry riparian easement program, the riparian open space program, the family forest fish passage program, and shoreline master programs;

(iii) The ability of the mitigation to address scarce habitat functions or types within a watershed;

(iv) The benefits of the proposal to the broader watershed landscape, including the benefits of connecting various habitat units and reducing fish life-limiting habitats;

(v) The benefits of implementing advance compensatory mitigation before the project's anticipated impacts occur; and

(vi) The significance of any negative impacts to nontarget fish life.

(e) A mitigation plan may be approved through a memorandum of agreement between a person and the department.

(f) The department will require a memorandum of agreement between an applicant and the department if mitigation actions, including monitoring, exceed the five-year statutory time limitation of the HPA.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-090 Technical provisions. Technical provisions are avoidance and minimization ((~~mitigation~~)) measures ((~~commonly~~)) used to protect fish life. WAC 220-660-100 through 220-660-450 are common technical provisions ((~~listed by~~)) for typical hydraulic projects ((~~types~~)). All projects will also be reviewed relative to the provisions of WAC 220-660-080. The department will require ((~~certain~~)) technical provisions ((~~depending upon~~)) relevant to the individual proposal and the site characteristics. ((~~Additional~~)) The department will also include special technical provisions ((~~may be included~~)) to address project-specific and site-specific conditions not adequately mitigated by the common technical provisions. ((~~Those provisions must be in the HPA.~~)) The department may apply saltwater provisions listed in WAC 220-660-310 through 220-660-450, in addition to any project-specific and site-specific technical provisions, to a project in tidally influenced areas upstream of river mouths and the mainstem Columbia River downstream of Bonneville Dam.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-100 Freshwater habitats of special concern. (1) **Description:**

(a) Freshwater habitats of special concern provide essential functions important in the developmental life histories of ((~~twenty-two~~)) priority fish species. Priority fish species include species that are listed under state and federal endangered species laws, and species of recreational, commercial, or tribal importance.

(b) The presence of freshwater habitats of special concern or adjacent areas with similar characteristics may restrict project type, design, location, and timing. These restrictions also may benefit other fish species that use these habitats. The department may determine the location of such habitats by a site visit, and/or by considering maps, publications, and other available information.

(2) **Fish life concerns:**

(a) All fish and shellfish have special habitat requirements related to water quantity and quality (including temperature) and to the physical features of the stream or body of water in which they live. For example, salmon and steelhead spawn and live for a time in a stream before going to the ocean. They require an ample supply of clean, cool, well-oxygenated water. Adults need clean gravel in which to spawn and juvenile fish require instream cover such as tree parts, boulders, or overhanging banks in which to hide from predators. Vegetated stream banks shade the water from the warming effects of the sun. Insects drop off overhanging vegetation and provide food. When juvenile salmon or steelhead enter saltwater, their habitat requirements change. During this critical transition period, they must have shallow, nearshore waters where they can migrate, school, feed, and seek protection from larger fish. Each species of fish and shellfish has similar, yet unique requirements. They have become adapted to and require these natural conditions as a result of the ((~~ten thousand~~)) 10,000 years of evolution since the last ice age. The degradation of any one of the elements of their required habitat results in reduced numbers of fish and shellfish.

(b) Construction activity in or near the water has the potential to kill fish or shellfish directly. More importantly, this activity can also alter the habitat that fish and shellfish require. Direct damage or loss of habitat results in direct loss of fish and shellfish production. Direct killing of fish or shellfish is usually a one-time loss. Damaged habitat, however, can continue to cause lost production of fish and shellfish for as long as the habitat remains altered.

(3) **Freshwater habitats of special concern:**

(a) The following habitats serve essential functions in the developmental life histories of ((~~twenty-two~~)) priority fish species:

(i) Spawning habitat;

(ii) Rearing habitat;

(iii) Migration corridors;

(iv) Cover and shelter provided by large woody debris, live tree roots, deep pools, shallow water, undercut banks, overhanging vegetation, turbulence, and large interstitial areas in cobble or boulder substrate;

(v) Off-channel habitat including wall-based channels, flood swales, side channels, and flood plain spring channels;

(vi) Native aquatic vegetation beds; and

(vii) Native riparian vegetation zones.

(b) The following are important geomorphic processes that form and maintain freshwater habitats of special concern:

(i) Woody material sources, delivery, and transport; and

(ii) Sediment sources, delivery, and transport.

(c) A person may request information from the department about the location of priority fish species and freshwater habitats of special concern. Information about priority fish species is also available on the department's website.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-120 Common freshwater construction provisions. (1) **Description:** Only applicable common construction provisions will be applied to a specific hydraulic project. Common construction provisions include job site access, equipment use, construction materials, sediment and erosion control containment, in-water work area isolation, fish removal, job site repair, and revegetation.

(2) **Fish life concerns:** Construction and other work can negatively affect fish life. Some activities can kill or injure fish while others can cause behavioral changes that reduce fish growth and survival. Some activities can damage the habitat used for spawning and egg incubation, rearing, feeding, hiding from predators, and migration.

(3) **Staging areas:** Establish staging areas (used for activities such as equipment storage, vehicle storage, fueling, servicing, and hazardous material storage) in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

(4) **Job site access:**

(a) Use existing roadways or travel paths whenever feasible. If not feasible, minimize the number of new temporary access roads constructed.

(b) The design and location of new temporary access roads must follow the mitigation sequence to protect waters of the state from erosion and delivery of sediment.

(c) Clearly mark boundaries to establish the limit of work associated with site access and construction.

(d) Limit removal of native vegetation to one side of the channel to maintain the best shade coverage whenever feasible. Locate the project access site to minimize the need to remove woody vegetation. Woody vegetation greater than four inches diameter that must be removed to construct the hydraulic project must be marked in the field by the applicant and approved for removal by the department.

(e) Retain all natural habitat features on the bed or banks including large woody material and boulders. These natural habitat features may be moved during construction but they must be placed near the preproject location before leaving the job site.

(5) **Equipment use:**

(a) Confine the use of equipment to specific access and work corridors to protect riparian, wetland, and aquatic vegetation.

(b) If wet or muddy conditions exist, in or near a riparian zone or wetland area, use equipment that reduces ground pressure whenever feasible.

(c) Check equipment daily for leaks and complete any required repairs in an upland location before using the equipment in or near the water.

(d) Equipment used in or near water must use environmentally acceptable lubricants composed of biodegradable base oils. These are vegetable oils, synthetic esters, and polyalkylene glycols. The department may waive this requirement for a small project that has minimal use of equipment in or near the water if the duration of the project is ((~~forty-eight~~)) 48 hours or less or if containment prevents the lubricants from entering waters of the state.

(6) **Construction materials:**

(a) Store all construction and deconstruction material in a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

(b) Do not stockpile construction material waterward of the OHWL in waters of the state unless authorized by the department.

(c) Use only clean, suitable material as fill material (no trash, debris, car bodies, tires, asphalt, concrete, etc.).

(d) If the department approves the use of angular rock, the rock must be large enough and installed to withstand the 100-year peak flow or other design flow approved by the department.

(e) To prevent leaching, construct forms to contain any wet concrete. Place impervious material over any exposed wet concrete that will come in contact with waters of the state. Forms and impervious materials must remain in place until the concrete is cured.

(f) Do not use wood treated with oil-type preservative (creosote, pentachlorophenol) in any hydraulic project. Wood treated with waterborne preservative chemicals (ACZA, ACQ) may be used if the western wood preservers institute has approved the waterborne chemical for use in the aquatic environment. The manufacturer must follow the western wood preservers guidelines and the best management practices to minimize the preservative migrating from treated wood into aquatic environments. To minimize leaching, wood treated with a preservative by someone other than a manufacturer must follow the field treating guidelines. These guidelines are available at www.wwpinstitute.org.

(g) The department discourages the use of whole tires. However, products made from recycled tires specifically manufactured for use in the aquatic environment are approved by the department.

(7) **Construction-related sediment, erosion, and pollution containment:**

(a) Unless approved by the department, work in the dry watercourse (when no natural flow is occurring in the channel, or when flow is diverted around the job site).

(b) Protect all disturbed areas from erosion. Maintain erosion and sediment control until work and cleanup of the job site are completed.

(c) When using straw for erosion and sediment control, use only straw that has been certified as free of noxious weeds and their seeds.

(d) If flow conditions arise that are likely to result in unanticipated and unpreventable erosion or siltation of waters of the state, all hydraulic project activities must stop except those needed to control erosion and siltation.

(e) Prevent contaminants from the project, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.

(f) Use tarps or other methods to completely contain treated wood, sawdust, trimmings, and drill shavings.

(g) Route the construction water (wastewater) from the project to an upland area above the limits of anticipated floodwater. Remove fine sediment and other contaminants before discharging the construction water to waters of the state.

(h) Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above the limits of anticipated floodwater unless the material is approved by the department for reuse in the project. Do not burn wood treated with preservatives, trash, waste, or other deleterious materials waterward of the OHWL.

(i) Deposit all trash from the project at an appropriate upland location.

(j) Prevent transporting and introducing aquatic invasive species by thoroughly cleaning vessels, equipment, boots, waders, and other gear before removing the gear from the job site.

(8) **In-water work area isolation using block nets:**

(a) Do not install block nets at sites with heavy vegetation, large cobble or boulders, undercut banks, or deep pools unless nets can be secured and maintained.

(b) The department must determine the maximum size of the block net opening. The size of the opening depends on the bypass design, the purpose of the block net, and the fish species likely to be present.

(c) Install block nets at sites that have reduced flow volume or velocity, uniform depth, and good accessibility.

(d) Install a downstream block net if fish may reenter the work area from downstream.

(e) After the first block net is secured at the upstream end, use a second block net to herd fish downstream and out of the project area.

(f) Install the block nets at an angle to the direction of flow (not perpendicular to the flow) to avoid entrapping fish in the net.

(g) To anchor block nets, place bags filled with clean round gravel along the bottom of the nets.

(h) Secure block nets along both banks and the channel bottom to prevent failure from debris accumulation, high flows, and/or flanking.

(i) To keep fish out of the job site, leave block nets in place until the work is complete and conditions are suitable for fish.

(j) Check block nets at least three times a day for entangled fish and accumulated debris.

(9) **In-water work area isolation using a temporary bypass:**

(a) Isolate fish from the work area by using either a total or partial bypass to reroute the stream through a temporary channel or pipe.

(b) The hydraulic capacity of the stream bypass must be equal to or greater than the peak flow event expected when the bypass will be operated. The department may require a person to conduct a hydrologic analysis to determine the magnitude of this flow event. The department will not require hydraulic analysis for a bypass on a stream with low flow.

(c) Provide fish passage during times of the year when fish are expected to migrate.

(d) Sequence the work to minimize the duration of dewatering.

(e) Use the least-impacting feasible method to temporarily bypass or exclude water from the work area. Consider the physical character-

istics of the site and the anticipated volume of water flowing through the work area.

(f) Design the temporary bypass to minimize the length of the dewatered stream channel.

(g) During all phases of bypass installation and decommissioning, maintain flows downstream of the project site to ensure survival of all downstream fish.

(h) Install the temporary bypass before starting other construction work in the wetted perimeter.

(i) The department may require the installation of a cofferdam or similar device at the upstream and downstream end of the bypass to prevent backwater from entering the work area.

(j) Return diverted water to the channel immediately downstream of the work area. Dissipate flow energy from the diversion to prevent scour or erosion of the channel and bank.

(k) If the diversion inlet is a gravity diversion that provides fish passage, place the diversion outlet where it facilitates gradual and safe reentry of fish into the stream channel.

(l) If the bypass is a pumped diversion it must run continuously, once started, until it is no longer necessary to bypass flows. This requires back-up pumps on-site and ((~~twenty-four~~)) 24-hour monitoring for overnight operation.

(m) If the diversion inlet is a pump diversion in a fish-bearing stream, the pump intake structure must have a fish screen installed, operated, and maintained in accordance with RCW 77.57.010 and 77.57.070. Screen the pump intake by one of the following:

(i) Perforated plate: 0.094 inch (maximum opening diameter);

(ii) Profile bar: 0.069 inch (maximum width opening); or

(iii) Woven wire: 0.087 inch (maximum opening in the narrow direction).

(iv) The minimum open area for all types of fish screens is ((~~twenty-seven~~)) 27 percent. The screened intake must have enough surface area to ensure that the velocity through the screen is less than 0.4 feet per second.

(n) The fish screen must remain in place whenever water is withdrawn from the stream through the pump intake.

(o) Maintain fish screens to prevent injury or entrapment of fish.

(p) Remove fish screens on dewatering pumps in the isolated work area only after all fish are safe and excluded from the work area.

(q) Isolate pump hose intakes with block nets so that fish do not get near the intake.

(r) Before restoring water to the work area, stabilize the bed with clean material sized to match undisturbed sediments.

(s) Complete all in-water and channel restoration work before rewatering the work area.

(10) **In-water work area isolation using a cofferdam structure:**

(a) Use modeling to determine the impact of the cofferdam or similar device on water-surface elevations during all anticipated flows. The department will not require modeling for a cofferdam installed in a stream with low flow.

(b) When designing the cofferdam or similar device, consider the infiltration rate of seepage flow from the riverbed and banks.

(c) Install and remove cofferdams or similar devices in a manner that maintains water quality.

(11) **In-water work without a bypass or cofferdam:** In the following instances, the department will not require the use of a cofferdam,

bypass, or similar structure to separate the work area from waters of the state:

(a) When installing a cofferdam, bypass, or similar structure would cause greater impacts to fish life than it would prevent;

(b) When the work area is in deep or swiftly flowing water;

(c) When turbidity is not a concern;

(d) When fish can be excluded by nets or screens; or

(e) When fish are not present.

(12) **Fish removal:**

(a) All persons participating in fish capture and removal must have training, knowledge, and skills in the safe handling of fish.

(b) If electrofishing will be conducted, a person with electrofishing training must be on-site to conduct or direct all electrofishing activity.

(c) If personnel are available, the department and affected tribes may help capture and move fish life from the job site.

(d) Place block nets upstream and downstream of the in-water work area.

(e) Capture and safely move fish life from the work area to the nearest suitable free-flowing water.

(f) The department will require all person(s) removing fish from a job site to follow an approved protocol. An approved protocol is available on the department website. A person may submit another protocol with their application. The department will approve another protocol if it provides equal or better fish protection. The protocol will be approved by the department in the HPA.

(13) **Demobilization and cleanup:**

(a) Restore the disturbed bed, bank, and riparian zones as close as possible to preproject condition unless modified elevations and contours are authorized by the department in the approved construction drawings.

(b) Completely remove any temporary fill and return the affected areas to preproject elevation and contours. Fill material must be removed before the end of the in-water timing window if the fill material could erode into or deliver sediment-laden water into waters of the state.

(c) By the end of the in-water work period, abandon temporary roads in wet or flood-prone areas.

(d) By the end of the in-water work period, remove all temporary stream crossings and restore the bed and banks to preproject condition.

(e) Upon completion of the project, remove all materials or equipment from the site and dispose of all excess spoils and waste materials in an upland area above the limits of anticipated floodwater.

(f) To prevent fish from stranding, backfill trenches, depressions, and holes in the bed that may entrain fish during high water or wave action.

(g) Removed or replaced structures and associated materials must not reenter waters of the state unless approved by the department.

(h) To minimize sediment delivery to the stream or stream channel, do not return in-stream flows to the work area from a bypass, cofferdam or similar structure until all in-channel work is completed and the bed and banks are stabilized.

(i) Using a proven methodology, replace native riparian zone and aquatic vegetation, and wetland vascular plants (except noxious weeds) damaged or destroyed by construction. The department may require a vegetation monitoring and contingency plan.

(j) The department must approve species composition, planting densities, and a maintenance plan for replanting on a site-specific basis. The species composition should be similar to the surrounding native vegetation whenever feasible.

(k) Complete replanting during the first dormant season (late fall through late winter) after project completion. Maintain plantings for at least ((~~eighty~~)) 80 percent of the plantings survive. Failure to achieve the ((~~eighty~~)) 80 percent survival in year three will require that a person submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.

(l) The department may waive the requirement to plant vegetation where the potential for natural revegetation is adequate or where other factors preclude it.

(m) The department may require fencing or other structures to prevent livestock, wildlife, or unauthorized persons from accessing the replanted riparian and wetland sites until the plantings are well established.

(n) Remove temporary erosion and sediment control methods after job site is stabilized.

(14) **Required permittee notification:** If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the department of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington ((~~military department~~)) emergency management division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the department gives approval. The department may require additional measures to mitigate impacts.

AMENDATORY SECTION (Amending WSR 24-12-003, filed 5/22/24, effective 6/22/24)

WAC 220-660-140 Residential and public recreational docks, piers, ramps, floats, watercraft lifts, and buoys in freshwater areas. The requirements in this section apply to location, design, and construction of permanent and seasonal docks, piers, ramps (gangways), floats, watercraft lifts, and mooring buoys.

(1) **Description:** Docks are structures that are fixed to the shoreline but floating upon the water. Piers are fixed, piling-supported structures. Floats (rafts) are floating structures that are moored, anchored, or otherwise secured in the water that are not directly connected to the shoreline. A ramp is a structure that connects a pier or shoreline to a float and provides access between the two. Pilings usually associated with these structures are timber, steel, reinforced concrete, or composite posts that are driven, jacked, or cast vertically into the bed. A watercraft lift is a structure that lifts boats and personal watercraft out of the water. A mooring buoy is a structure floating on the surface of the water that is used for private and commercial vessel moorage.

(2) **Fish life concerns:**

(a) Over-water and in-water structures can alter physical processes that create or maintain habitat that supports fish life. These processes include light regime, hydrology, substrate conditions, and water quality. However, light reduction is a main impact to fish life

at critical life stages. Light reduction, or shading, by over-water or in-water structures reduces survival of aquatic plants. Aquatic plants provide food, breeding areas, and protective nurseries for fish life.

(b) Shallow water provides juvenile fish a refuge from predators like larger fish. Over-water and in-water structures can alter movement of juvenile salmon, steelhead, and other fish species. Structures grounding on the bed can physically block migration and cause other impacts. The light/dark contrast of shading/no shading of over-water and in-water structures can affect migration behavior. Fish respond by moving into deeper water which increases the risk of predation. These structures may increase the exposure of juvenile salmon, steelhead, and other small fish to predators by providing predator habitat.

(3) **Residential and public recreational dock, pier, ramp, float, watercraft lift and buoy design - General:**

(a) The design and location of structures must follow the mitigation sequence to protect freshwater habitats of special concern.

(b) Design and locate structures to protect fish spawning areas.

(c) Design and locate structures to protect juvenile salmonid migration, feeding, and rearing areas where shading impacts are a concern.

(i) Limit the width of residential piers and docks to six feet wide for the first 30 feet from the shoreline (measured from mean low water). Limit the width of recreational piers to the minimum width needed to accommodate the intended use.

(A) In certain river systems alternative residential pier and dock criteria may apply.

(B) For the Columbia River, limit the width of residential piers and docks to six feet wide for the first 50 feet from the shoreline. Docks must have 20 feet of water depth below them (both criteria measured at mean low water).

(ii) Piers must extend far enough from the shoreline so floats do not impact juvenile salmonid migration, feeding, and rearing areas. Grounding of floats is approved in reservoirs and impoundments only at times of the year when the water level is dropped.

(iii) The underside of pier must be at least one and one-half feet above the OHWL elevation unless prohibited by local land use regulations.

(iv) The department will require residential pier, dock, ramp and float designs to include grating. The department may require public recreational pier, dock, ramp and float designs to include grating.

(A) North/south oriented piers (338 to 22 degrees, or 158 to 202 degrees) greater than four feet in width must have at least 30 percent of the entire deck surface covered in functional grating. The grating must be installed parallel to the length of the pier for the entire length of the pier.

(B) Northeast/southwest, northwest/southeast and east/west oriented piers (23 to 157 degrees, 203 to 337 degrees) must have at least 50 percent of the entire deck surface covered in functional grating regardless of width. The grating must be installed parallel to the width of the pier, evenly spaced along the entire length of the pier.

(C) In water bodies with a high density of piers and docks, the department may require that grating cover entire deck surface of the pier or dock.

(D) Limit the width of residential ramps to four feet wide. Limit the width of public recreational ramps to the minimum width needed to accommodate the intended use. Cover the entire ramp surface with grating.

(E) A dock or float six feet wide or narrower must have at least 30 percent of the deck surface covered in functional grating. A dock or float wider than six feet (up to eight feet wide) must have at least 50 percent of the deck surface covered in functional grating. The grating material's open area must be at least 60 percent. In some water bodies the department may require a higher proportion of grating. Locate flotation under the solid decked area only. Orient grating so the lengthwise opening maximizes the amount of light penetration. Any objects that are not part of the structure on, above, or below the grating should not block light penetration.

(F) If only the minimum deck surface area described in (c)(iv) of this subsection is grated, the grating material's open area must be at least 60 percent unless the grating covers more than the minimum deck area. If the grating covers more than the minimum deck surface area, the grating material's open area can be reduced to at least 40 percent open area.

(d) If artificial nighttime lighting is used in the design, use low-intensity lights that are located and shielded to prevent light from attracting fish, unless there are safety constraints.

(e) Flotation for the structure must be fully enclosed and contained in a shell. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell must prevent breakup or loss of the flotation material into the water. The shell must not be readily subject to damage by ultraviolet radiation and abrasion.

(f) The design must not include skirting including batter fencing constructed around piers, docks, or floats unless approved by the department.

(g) Embedded anchor(s) or other approved anchor(s) or piling may hold floats in place.

(h) The design should not use treated wood for the decking of the structure. The design may use treated wood for structural elements. Treated wood structural elements subject to abrasion by vessels, floats, or other objects must incorporate design features to minimize abrasion of the wood.

(i) The structure must have been usable at the site within the 12 months immediately before the time of application submittal to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present.

(j) Replacement of more than 33 percent or 250 square feet of decking or replacement of decking substructure requires installation of functional grating in the replaced portion only. The grating must conform to the requirements in this section.

(4) **Piling design:**

(a) Use the smallest diameter and number of pilings required to construct a safe structure.

(b) Steel piling used to construct residential docks should not exceed six inches in diameter. Limit the diameter of steel piling used to construct public recreational docks to the minimum width needed to accommodate the intended use.

(c) The use of creosote or pentachlorophenol piling is prohibited. New and replacement piling can be steel, concrete, recycled plastic, and/or untreated or department-approved treated wood.

(d) Treated wood piling must incorporate design features to minimize abrasion of the piling from contact with vessels, floats, or other objects.

(e) All pilings must be fitted with devices to prevent perching by fish-eating birds.

(5) **Watercraft lift design:**

(a) The design of the watercraft lift/grid must follow the mitigation sequence to protect juvenile salmonid migration, feeding, and rearing areas where shading impacts are a concern.

(b) The bottom of the watercraft lift/grid must be at least one foot above the bed.

(c) Use the minimum number of pilings needed to support the watercraft lift/grid.

(6) **Mooring buoy design:**

(a) In water bodies where mooring buoy systems might damage the bed and native submerged aquatic vegetation, locate and design the buoy system to minimize damage.

(i) Locate the buoy deep enough to prevent vessel grounding.

(ii) Design and install the buoy system with mid-water floats so that anchor lines do not drag.

(iii) In areas with native submerged aquatic vegetation, use an embedment-style mooring anchor instead of a surface-style mooring anchor.

(iv) Adequately size the mooring to prevent the anchor from shifting or dragging along the bed.

(b) If the department authorizes the use of a concrete anchor, use a precast concrete anchor.

(c) The mooring buoy must have a shell that is not readily subject to damage by ultraviolet radiation and abrasion caused by rubbing against vessels, the bed, and/or waterborne debris.

(7) **Residential and public recreational docks, pier, ramp, float, watercraft lift, and buoy construction:**

(a) Operate and anchor vessels and barges during construction in a manner that protects native aquatic vegetation.

(b) Reestablish the pier or dock centerline during the construction phase using the same methodology used to establish the centerline on the construction drawings.

(c) When installing steel piling, use of a vibratory hammer or water jet to drive piling is preferred.

(d) If impact pile driving is needed, set the drop height to the minimum needed to drive the piling.

(e) Use appropriate sound attenuation to minimize harm to fish from impact pile-driving noise.

(f) To avoid attracting fish to lights at night, limit impact pile driving to daylight hours whenever feasible.

(g) The department may require the following when removing piling:

(i) Use a vibratory or water jet system to dislodge piling whenever feasible.

(ii) After removal, place the piling on a construction barge or other dry storage site. Piling removed from the substrate must be moved immediately from the water into a barge or other dry storage site. The piling must not be shaken, hosed off, left hanging to dry or any other action intended to clean or remove adhering material from the piling.

(iii) If a treated wood piling breaks during extraction, remove the stump from the water column by fully extracting the stump or cut it three feet below the substrate and cap all buried stumps with clean sediment that matches the native material.

(iv) Fill holes left by piling extraction with clean sediment that matches the native material whenever feasible.

(h) Securely anchor docks, floats, and mooring buoys.

(i) If the department authorizes the use of a concrete anchor, use a precast concrete anchor.

(j) Dispose of removed docks, piers, ramps, floats, lines, chains, cables, and mooring anchors in an upland disposal site.

(k) Place floats and buoys removed seasonally in an upland area. Do not store on the beach.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-250 Water diversions and intakes. (1) **Description:** Surface water diversions are common instream features in agricultural areas where the water is used for irrigation. Throughout the state, people also divert water for other agricultural, hydropower, industrial, recreational, residential, municipal, and hatchery uses. A water right must be obtained prior to diverting water of the state.

(2) **Fish life concerns:** To protect fish life, including salmon and steelhead, Washington state law (RCW 77.57.070 and 77.57.010) requires that all surface water diversions be screened to prevent fish from being drawn into the diversions where they are at risk for injury or death from entrainment. Other elements of a water diversion can result in direct and indirect sources of injury or mortality. Wing and check dams can prevent or delay upstream and downstream fish passage increasing predation, and fish may be physically injured or dewatered by active cleaning mechanisms or in bypass mechanisms.

(3) **Limit of department authority over water diversions and intakes:**

(a) A written HPA is not required for emergency water diversions during emergency fire response. When possible, a person must notify the department before the emergency diversion. When advance notification is not possible, a person must notify the department within ((~~twenty-four~~)) 24 hours of the emergency diversion, at the ((~~twenty-four~~)) 24-hour hotline phone number at ((~~360-902-2536~~)) 1-800-514-8140.

(b) The department cannot apply the hydraulic code to limit the amount or timing of water diverted under a water right, other than ensuring that there is sufficient bypass flow to return fish back to the stream of origin from a water diversion. However, the department requires an HPA for work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, or that will utilize any of the waters of the state to divert water under a water right.

(c) Regulating water flow from a permanent permitted irrigation structure by operating valves, or manipulating stop logs, check boards, headgates, or headboards, does not require an HPA. Any hydraulic project activity related to a change in site conditions, the manner or location of water diversion, a new landowner or contact, or new biological information, will require an HPA modification.

(d) The department must allow a person who has gravel berm dam diversion permitted by the department before January 1994 to continue to have the dam if it complies with the provisions of the HPA. However, the department can provision the approval of gravel berms.

(4) **Water diversion and intake design, construction, operation, and maintenance:**

(a) A diversion structure must not hinder upstream and downstream adult and juvenile fish passage. If passage problems develop, the department may require a person to modify the check or wing dam.

(b) At pump stations, screens, and headgate areas, a person may use excavation equipment or suction dredge to remove accumulated silts and gravel from within ((~~twenty~~)) 20 feet of the point of diversion unless otherwise permitted. Place material removed so it will not reenter waters of the state. The water diversion must be open during this work to capture disturbed sediment within the irrigation diversion and prevent loss of sediment into the stream.

(c) Equip and maintain any device used for diverting water from a fish-bearing watercourse with a fish screen approved by the department to prevent passage or impingement of fish into the diversion device. Maintain the fish screen and associated structures as necessary to achieve the approach velocity, a functional bypass, and fish protection criteria.

(d) Irrigation diversions must not create blind diversion channels leading to the fish screen. Diversions must be equipped with a fish bypass mechanism to provide opportunity for fish entrained within a delivery canal to volitionally return to the stream.

(e) Gravity diversions.

(i) Wing and check dams.

(A) Prior to constructing a wing or check dam, contact the department for opportunity to assess the site and determine whether active spawning and incubation is occurring at the site.

(B) Maintain diversion canals to maximize hydraulic gradient in the diversion canal to minimize the need for work within the natural watercourse. Maintenance includes removing sediment and debris at the point of diversion.

(C) Unless a gravel dam is approved, temporary wing or check dams for irrigation may be constructed using a combination of jersey barriers, concrete blocks, steel posts and wood, pinned straw bales, plastic sheeting, and similar inert materials.

(D) Where gravel dams are permitted, they must be constructed with gravels available on-site waterward of the OHWL, or with clean round gravel transported to the site. Limit bed disturbance to the minimum needed to achieve the provisions of the water right.

(E) Bed excavation depth to construct an irrigation diversion must not exceed ((~~eighteen~~)) 18 inches unless otherwise approved by the department to avoid destabilizing the stream bed.

(F) Earth or dirt must not be used to seal check or wing dams. Straw, plastic sheeting, filter fabric, and similar inert materials may be used to seal wing or check dams.

(G) Do not use logs or other woody material waterward of the OHWL to construct the dam unless approved by the department. Large wood from upland locations may be used to create a wing or check dam.

(H) If logs or other large woody material block water flow into a ditch or inhibit construction, a person may relocate them within the OHWL.

(I) Wing or check dams must be constructed in a manner that does not cause bank erosion.

(J) All foreign materials, except clean or native gravel, used to construct wing or check dams must be removed within seven days after the end of the irrigation season.

(ii) Diversion dams must not extend completely across the stream unless needed to seal the dam to achieve the water right.

(iii) Graveled wing dams must be removed or breached down to the natural bed elevation in at least two locations at the end of the irrigation season.

(f) Start-up and shut-down of water diversions.

(i) Clean and maintain the fish bypass mechanism prior to diverting water to ensure it is operational and will prevent injury or stranding of fish life.

(ii) Ensure that there is sufficient flow within the bypass mechanism to safely return fish life from the fish screen to state waters.

(iii) If at any point during water diversion there is insufficient instream flow to provide opportunity for fish life to migrate downstream, close the fish bypass until there is sufficient flow.

(iv) Slowly ramp down flows at the end of the irrigation season in a manner that prevents stranding or predation of fish life within a canal above the fish screens or within the fish bypass mechanism. Do not close the head gate completely until fish have either left the canal and bypass or are salvaged and returned to the stream. Head gates located downstream of the fish screen may be closed immediately at the end of the irrigation season.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-270 Utility crossings in freshwater areas. (1) **Description:** Utility ((~~lines~~)) crossings are cables and pipelines that transport gas, telecommunications, fiber optics, power, sewer, oil, and water lines from one side of a watercourse to the other. An HPA is not required for utility crossings attached to bridge structures.

(2) **Fish life concerns:**

(a) Utility crossings pose a risk to fish life and the habitat that supports fish life from potential substrate changes, destabilization of stream banks and channels, loss of riparian zone vegetation, and release of excessive sediment after stream flows resume. Utilities not buried below bed scour depth can require rock to protect them. This reduces habitat, inhibits channel processes, and can become fish passage barriers due to the rock or the pipeline.

(b) Trenching through stream banks and channels alters habitat and substrate characteristics, and therefore their productivity and should be avoided. Trenching may also cause the proportion of surface and subsurface flows to shift, altering stream hydrology. The department prefers trenchless crossing methods such as high-pressure directional drilling or punch and bore crossings that cause very little disturbance to the stream bed and banks.

(3) **Utility ((~~line~~)) crossing design:**

(a) Align the conduit as perpendicular as possible to the watercourse.

(b) Avoid crossing at meander bends, braided streams, alluvial fans, active flood plains, or any other area that is inherently unstable and may lead to eroding and scouring the stream bed.

(c) Avoid areas of groundwater upwelling or locations within ((~~one hundred~~)) 100 feet upstream of documented fish spawning areas.

(4) **Utility ((~~line~~)) crossing construction:**

(a) Install the conduit well below scour depth of the watercourse to prevent natural scouring of the stream bed from exposing the pipeline or cable.

(b) If construction involves boring or jacking:

(i) Isolate pits from surface water flow to prevent bore hole collapse; and

(ii) Before discharging wastewater to state waters, route wastewater from project activities and dewatering to an area outside the watercourse to allow removal of fine sediment and other contaminants.

(c) If construction involves trench excavation:

(i) Trench widths should be as narrow as feasible to accommodate the pipe/line and achieve the depth specified in the approved plan.

(ii) Excavate trenches in the dry or isolate them from the flowing watercourse by installing a cofferdam, culvert, flume, or other approved method;

(iii) Plowing, placement, and covering must occur in a single pass of the equipment;

(iv) Limit disturbance of the bed and banks to the amount needed to complete the project. Before returning flow, backfill trenches with approved materials and return the bed to preproject condition.

(v) Dispose of excess spoils upland or on a barge so they will not reenter waters of the state.

(vi) Isolate the conduit approach trench from the watercourse until the conduit is laid across the watercourse.

(d) If construction involves directional drilling:

(i) Design the drill path to an appropriate depth below the watercourse to minimize the risk of frac-out and to a depth to prevent exposure of the line from natural scouring of the stream bed; and

(ii) Locate the drill entry and exit points away from the banks of the watercourse to minimize impact on these areas.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-330 Authorized work times in saltwater areas. (1) **Description:** The department applies timing windows to reduce the risk of impacts to fish life at sensitive life stages. In-water work is not allowed during critical periods of the year unless a person can take mitigation measures to eliminate risk during critical periods.

(2) **Fish life concerns:** Work in or near salt waters of the state can harm fish life at sensitive life stages including spawning, incubation, juvenile migration, rearing, and feeding. Therefore, work must occur at times of the year when the risk to fish life is reduced unless the risk can be avoided.

(3) **Authorized work times:** The department must specify authorized work times for hydraulic projects when it issues HPAs. The department will allow work waterward of the OHWL for the following times, areas, and species.

(a) Tidal Reference Areas 1 through 17; March 1 through October 15 for projects in or adjacent to documented Pacific sand lance spawning beds.

(b) Tidal Reference Areas 1 through 17; October 15 through May 15 for projects in or adjacent to juvenile lingcod settlement and nursery areas. April 1 through December 31 for projects in or adjacent to lingcod nests.

(c) Tidal Reference Areas 1 through 17; September 30 through March 15 for projects in or adjacent to juvenile rockfish settlement and nursery areas.

(d) Tidal Reference Area 14; October 1 through May 15 for projects in or adjacent to documented razor clam beds.

(e) Tidal Reference Areas 1 through 17; the authorized times and areas for protection of migrating juvenile salmonids in the nearshore, and for projects in documented Pacific herring spawning beds and in or adjacent to documented surf smelt are listed in the following table:

Table 4
Authorized Times for Protection of Juvenile Salmonid Migration, Feeding and Rearing Areas and Pacific Herring Spawning and Surf Smelt Spawning Beds

AUTHORIZED TIMES			
Tidal Reference Area	**Juvenile Salmonid Migration, Feeding and Rearing Areas**	**Surf Smelt Spawning Beds**	**Herring Spawning Beds**
1	July 15 - February 15	(not present)	April 1 - January 15
2	July 15 - February 15	April 1 - June 30	April 1 - January 15
3	July 15 - February 15	May 1 - September 30	April 1 - January 15
4	August 1 - February 15 for all work except dredging in all areas except Commencement Bay. September 1 - February 15 for dredging in all areas except Commencement Bay. July 15 - February 15 for all work in Commencement Bay.	April 15 - September 30	April 15 - January 15
5	August 1 - February 15 for all work except dredging. September 1 - February 15 for dredging in all areas except Duwamish Waterway. October 16 - February 15 for dredging in the Duwamish Waterway upstream of the East and West Waterways.	April 1 - August 31 in all areas except Eagle Harbor and Sinclair Inlet. In Eagle Harbor and Sinclair Inlet, authorization is conditional upon inspection because year-round spawning occurs.	May 1 - January 15
6	July 15 - February 15 for all work except dredging. September 1 - February 15 for dredging.	April 1 - August 31	(not present)
7	July 15 - February 15 for all work except dredging in Port Gardner and the Snohomish River. September 15 - February 15 for dredging in Port Gardner. September 1 - February 15 for dredging in the Snohomish River.	Authorization is conditional upon inspection because year-round spawning occurs.	April 15 - January 31
8	August 1 - February 15	Authorization is conditional upon inspection, because year-round spawning occurs.	April 15 - January 31

AUTHORIZED TIMES			
Tidal Reference Area	**Juvenile Salmonid Migration, Feeding and Rearing Areas**	**Surf Smelt Spawning Beds**	**Herring Spawning Beds**
9	August 1 - February 15	Authorization is conditional upon inspection, because year-round spawning occurs.	April 15 - January 31 south of a line running due west from Governor's Point. June 15 - January 31 north of a line running due west from Governor's Point.
10	July 15 - February 15 July 15 - January 15 for all work from Tala Point to the Dungeness River. September 1 - March 1 San Juan Islands.	April 1 - July 31 except in the San Juan Islands where authorization is conditional upon inspection because year-round spawning occurs.	May 1 - January 15
11	July 15 - January 15	March 1 - September 15	April 1 - January 15
12	July 15 - January 15	March 1 - August 31	April 15 - February 15
13	July 15 - January 15	February 16 - July 31	April 15 - January 15
14	July 15 - February 15	October 1 - June 30	(not present)
15	July 15 - February 15	(not present)	((~~February 1 - March 31~~)) April 1 - January 31
16	July 15 - February 15	(not present)	March 15 - January 31
17	July 15 - February 15	(not present)	March 15 - January 31

(f) If the surf smelt spawning season for the project location is six months or longer, the department may permit work outside of the authorized work times if:

(i) A department-trained biologist, following the department's intertidal forage fish spawning habitat survey protocol per WAC 220-660-340, conducts a spawning survey at the job site;

(ii) The results of the inspection show that no spawning is occurring or has recently occurred; and

(iii) If the survey shows eggs are not present, the person may start work. The person must start work within ((~~seventy-two~~)) 72 hours of a survey.

(g) In documented intertidal forage fish spawning areas, the department must not allow work during surf smelt spawning seasons shorter than six months or during the Pacific sand lance spawning season. The department will make exceptions for projects receiving emergency, imminent danger, and expedited HPAs.

(h) The department will require an intertidal forage fish spawning bed survey if the job site is adjacent to a documented forage fish spawning bed, the beach at the job site has bed materials similar to the documented beach, and the work will occur during the spawning season.

(i) When specifying authorized work times for hydraulic projects, the department must consider the construction techniques, mitigation measures proposed, location of the project, and characteristics of habitats potentially affected by the project. The department may inspect the work area to evaluate the habitat.

(j) During times when work in waters of the state is prohibited to protect nearshore juvenile salmonid migration, rearing, and feeding areas, the department may permit construction if the structure is located at or landward of the OHWL, and if all construction work is conducted from the landward side of the project.

(k) The department may apply additional timing restrictions to protect other important habitat that supports fish life at a specific site.

AMENDATORY SECTION (Amending WSR 15-02-029, filed 12/30/14, effective 7/1/15)

WAC 220-660-360 Common saltwater construction provisions. (1) **Description:** Only applicable common construction provisions will be applied to a specific hydraulic project. Common construction provisions include job site access, equipment use, construction materials, sediment and erosion control containment, and job site repair and revegetation.

(2) **Fish life concerns:** Construction and other work can negatively affect fish life. Some activities can kill or injure fish life while others can cause behavioral changes that reduce growth and survival. Some activities can damage the habitat used for spawning and egg incubation, rearing, feeding, hiding from predators, and migration.

(3) **Staging areas:** Establish staging areas (used for activities such as equipment storage, vehicle storage, fueling, servicing, and hazardous material storage) at a location and manner that will prevent contaminants such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials from entering waters of the state.

(4) **Job site access:**

(a) Clearly mark boundaries to establish the limit of work associated with site access and construction.

(b) Limit the removal of native vegetation to the minimum amount needed to construct the project. Woody vegetation greater than four inches diameter that must be removed must be marked in the field by the applicant and approved for removal by the department. The department may require this large woody material to be placed on the beach after work is completed. A revegetation plan must be submitted to restore riparian vegetation removed as part of the project.

(c) Retain all natural habitat features on the beach larger than ((~~twelve~~)) 12 inches in diameter including trees, stumps, logs, and large rocks. These natural habitat features may be moved during construction but they must be placed near the preproject location before leaving the job site.

(5) **Equipment use:**

(a) Use of equipment on the beach area must be held to a minimum and confined to specific access and work corridors.

(b) Check equipment daily for leaks and complete any required repairs before using the equipment in or near the water. Do not complete repairs on the beach.

(c) Equipment used in or near water must use environmentally acceptable lubricants composed of biodegradable base oils. These are vegetable oils, synthetic esters, and polyalkylene glycols. The department may waive this requirement for a small project that has minimal use of equipment in or near the water if the duration of the project is ((~~forty-eight~~)) 48 hours or less or if containment prevents the lubricants from entering waters of the state.

(6) **Vessel operation:**

(a) Operate vessels in water deep enough to prevent impacts from grounding and propeller wash to seagrass, kelp, and forage fish spawning beds.

(b) Do not deploy anchors or spuds in seagrass, kelp, and forage fish spawning beds.

(c) Maintain anchor cable tension so anchor cables do not drag on the bed.

(7) **Construction materials:**

(a) Bed material, other than material excavated for bulkhead footings or placement of bulkhead base rock, must not be utilized for project construction or fills. The department may allow placement of dredged material in areas for beneficial uses such as beach nourishment or cleanup of contaminated sediments.

(b) Wet concrete must be prevented from entering waters of the state. Forms for any concrete structure must be constructed to prevent leaching of wet concrete. Impervious material must be placed over any exposed concrete not lined with forms that will come in contact with waters of the state. Forms and impervious material must remain in place until the concrete is cured.

(c) Do not use wood treated with oil-type preservatives (creosote, pentachlorophenol) in any hydraulic project. Wood treated with waterborne preservative chemicals (ACZA, ACQ) may be used if the western wood preservers institute has approved the waterborne chemical for use in the aquatic environment. The manufacturer must follow the western wood preservers guidelines and the best management practices to minimize the preservative migrating from treated wood into aquatic environments. To minimize leaching, wood treated with a preservative by someone other than a manufacturer must follow the field treating guidelines. These guidelines are available at http://www.wwpinstitute.org/.

(d) The department discourages the use of whole tires. However, products made from recycled tires specifically manufactured for use in the aquatic environment are approved by the department.

(8) **Construction-related sediment, erosion and pollution containment:**

(a) Project activities within the beach area must not occur when the project area, including the work corridor, is inundated by tidal waters unless the work is occurring from a vessel or barge.

(b) Protect all disturbed areas from erosion. Maintain erosion and sediment control until demobilization and cleanup of the job site is completed.

(c) When using straw for erosion and sediment control, use only straw that has been certified as free of noxious weeds and their seeds.

(d) Prevent contaminants from the project, such as petroleum products, hydraulic fluid, fresh concrete, sediments, sediment-laden water, chemicals, or any other toxic or harmful materials, from entering or leaching into waters of the state.

(e) Use tarps or other methods to completely contain treated wood sawdust, trimmings, and drill shavings.

(f) Deposit waste material from the project, such as construction debris, silt, excess dirt, or overburden, in an upland area above extreme high tide waters unless the material is approved by the department for reuse in the project.

(g) Prevent transporting and introducing aquatic invasive species by thoroughly cleaning vessels, equipment, boots, waders, and other gear before removing the gear from the job site.

(9) **Demobilization and cleanup:**

(a) Reshape beach area depressions created during project activities to preproject beach level upon project completion.

(b) All debris or deleterious material resulting from construction must be removed from the beach area or bed and prevented from entering waters of the state.

(c) Do not burn wood treated with preservatives, trash, waste, or other deleterious materials waterward of the OHWL.

(d) Restore the disturbed bed, bank, and riparian zones as close as possible to their preproject condition unless modified elevations and contours are approved by the department.

(e) Using a proven methodology, replace native riparian zone and aquatic vegetation, and wetland vascular plants (except noxious weeds) damaged or destroyed by construction. The department may require a vegetation monitoring and contingency plan.

(f) The department must approve species composition, planting densities and a maintenance plan for replanting on a site-specific basis. The species composition should be similar to the surrounding native vegetation.

(g) Complete replanting during the first dormant season (late fall through late winter) after project completion. Maintain plantings for at least ((~~eighty~~)) 80 percent of the plantings survive. Failure to achieve the ((~~eighty~~)) 80 percent survival in year three will require that a person submit a plan with follow-up measures to achieve requirements or reasons to modify requirements.

(h) The department may waive the requirement to plant vegetation where the potential for natural revegetation is adequate.

(i) The department may require fencing or other structures to prevent livestock, wildlife, or unauthorized persons from accessing the replanted riparian and wetland sites until the plantings are well established.

(j) Remove temporary erosion and sediment control methods after job site is stabilized.

(10) **Required permittee notification:** If a fish kill occurs or fish are observed in distress at the job site, immediately stop all activities causing harm. Immediately notify the department of the problem. If the likely cause of the fish kill or fish distress is related to water quality, also notify the Washington ((~~military department~~)) emergency management division at 1-800-258-5990. Activities related to the fish kill or fish distress must not resume until the department gives approval. The department may require additional measures to mitigate impacts.

AMENDATORY SECTION (Amending WSR 24-12-003, filed 5/22/24, effective 6/22/24)

WAC 220-660-380 Residential and public recreational docks, piers, ramps, floats, watercraft lifts, and buoys in saltwater areas. This section applies to the design and construction of permanent, seasonal or temporary docks, piers, ramps (gangways), floats, watercraft lifts, and mooring systems.

(1) **Description:** Docks are structures that are fixed to the shoreline but floating upon the water. Piers are fixed, piling-supported structures. Floats (rafts) are floating structures that are moor-

ed, anchored, or otherwise secured in the water that are not directly connected to the shoreline. A ramp is a gangway that connects a pier or shoreline to a float and provides access between the two. Pilings usually associated with these structures are timber, steel, reinforced concrete, or composite posts that are driven or jacked into the bed. A watercraft lift is a structure that lifts boats and personal watercraft out of the water. A mooring buoy is a structure floating on the surface of the water that is used for private and commercial vessel moorage.

(2) **Fish life concerns:**

(a) Over-water and in-water structures can alter physical processes that create or maintain habitat that supports fish life. These processes include light regime, hydrology, substrate conditions, and water quality. Light reduction is the main impact to fish life at critical life stages. Light reduction or shading by over-water or in-water structures reduces survival of aquatic plants. Aquatic plants provide food, breeding areas, and protective nurseries for fish life.

(b) Shallow water provides juvenile fish a refuge from predators like larger fish. Over-water and in-water structures can alter movement of juvenile salmon, steelhead and other fish species. Structures grounding on the bed can physically block migration and damage forage fish spawning beds. The light/dark contrast of shading/no shading caused by over-water and in-water structures can affect migration behavior. Fish respond by moving into deeper water which increases the risk of predation.

(3) **Residential and public recreational pier, ramp, float, watercraft lift and buoy design - Generally:**

(a) The department requires that new structures are designed with a pier and ramp to span the intertidal beach, whenever feasible.

(b) The design and location of structures must follow the mitigation sequence to protect salt water habitats of special concern.

(i) Design and locate structures to protect juvenile salmonid migration, feeding, and rearing areas.

(ii) Design and locate structures to protect documented Pacific herring, Pacific sand lance, and surf smelt spawning beds; and rockfish and lingcod settlement and nursery areas.

(iii) The department will require a seagrass/macroalgae habitat survey for all new construction unless the department can determine the project will not impact seagrass and kelp beds, and in herring spawning beds other macroalgae used as spawning substrate. A survey is not required for replacement of an existing structure within its original footprint.

(A) Structures must be located at least 25 feet (measured horizontally from the nearest edge of the structure) and four vertical feet away from seagrass and kelp beds (measured at extreme low water).

(B) In documented herring spawning areas, structures must be located at least 25 feet (measured horizontally from the nearest edge of the structure) and four vertical feet from macroalgae beds on which herring spawn (measured at extreme low water).

(iv) If artificial nighttime lighting is used in the project, use low-intensity lights that are located and shielded to prevent light from attracting fish or disrupting fish migration behavior, unless there are safety constraints.

(v) The design must not include skirting including batter fencing constructed around piers, docks, or floats unless approved by the department. The design should not use treated wood for the decking of the structure. The design may use treated wood for structural ele-

ments. Treated wood structural elements subject to abrasion by vessels, floats, or other objects must incorporate design features such as rub strips to minimize abrasion of the wood.

(c) The structure must have been usable at the site within the past 12 months of the time of application submittal to be considered a replacement structure. Usable means no major deterioration or section loss in critical structural components is present.

(d) Replacement of more than 33 percent or 250 square feet of decking or replacement of decking substructure requires installation of functional grating in the replaced section only. The grating must conform to the requirements in this section.

(4) **Pier and ramp design:**

(a) Design piers to maximize height over the bed to improve light transmission. The bottom of the pier must be at least six feet above the bed at the landward end.

(b) Limit the width of residential piers to no more than six feet wide. Limit the width of recreational piers to the minimum width needed to accommodate the intended use.

(c) North/south oriented piers (338 to 22 degrees, or 158 to 202 degrees) greater than four feet in width must have at least 30 percent of the entire deck surface covered in functional grating. The grating must be installed parallel to the length of the pier for the entire length of the pier.

(d) Northeast/southwest, northwest/southeast, and east/west oriented piers (23 to 157 degrees, 203 to 337 degrees) must have at least 50 percent of the entire deck surface covered in functional grating regardless of width. The grating must be installed parallel to the width of the pier, evenly spaced along the entire length of the pier.

(e) If only the minimum pier deck surface described in (c) or (d) of this subsection is covered, the grating material's open area must be at least 60 percent open area unless grating covers more than the minimum pier deck area of the pier. If the grating covers more than the minimum deck surface area, the grating material's open area can be reduced down to at least 40 percent open area.

(f) Limit the width of residential ramps to four feet wide. Limit the width of public recreational ramps to the minimum width needed to accommodate the intended use. Cover the entire ramp surface with grating.

(5) **Float design (floats connected to a pier):**

(a) Whenever feasible, place float so that the largest dimension is oriented north/south.

(b) Limit the width of residential floats to eight feet. Limit the width of public recreational floats to the minimum width needed to accommodate the intended use.

(c) Whenever feasible, limit the length of single-family dock floats to 30 feet and joint-use dock floats to 60 feet.

(d) If the design has a float positioned perpendicular to the ramp to serve as a ramp landing, this float must not be more than six feet wide and 10 feet long.

(e) Design floats in intertidal areas with stoppers or support pilings that keep the bottom of the floats at least one foot above the substrate so that the structure will not rest on the bottom.

(f) A float six feet wide or less must have at least 30 percent of the entire deck surface covered in functional grating. A float between six and eight feet wide must have at least 50 percent of the entire deck surface covered in functional grating. Orient grating so the lengthwise opening maximizes the amount of light penetration. Any ob-

jects that are not part of the structure on, above, or below the grating should not block light penetration. Flotation must be located under the solid decked area only.

(g) The grating material's open area must be at least 60 percent.

(h) Flotation for the structure must be fully enclosed and contained in a shell. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell must prevent breakup or loss of the flotation material into the water. The shell must not be readily subject to damage by ultraviolet radiation and abrasion.

(i) Embedded anchor(s), pilings (with stops), and float support/stub pilings may be used to hold floats in place.

(j) If a project uses anchors to hold the float in place, the anchor lines must not rest on the substrate at any time.

(6) **Piling design:**

(a) Use the smallest diameter and number of pilings required to construct a safe structure.

(b) Steel piling used to construct residential docks should not exceed 12 inches in diameter. Limit the diameter of steel piling used to construct public recreational docks to the minimum diameter needed to accommodate the intended use.

(c) The use of creosote or pentachlorophenol piling is prohibited. New and replacement piling can be steel, concrete, recycled plastic, or untreated or treated wood approved by the department.

(d) Treated wood piling must incorporate design features to minimize abrasion of the piling from contact with vessels, floats, or other objects.

(e) Fit all pilings with devices to prevent perching by fish-eating birds.

(7) **Watercraft lift/grid design:**

(a) Design the watercraft lift/grid to minimize shading caused by the structure.

(b) The bottom of the watercraft lift/grid must be at least one foot above the bed.

(c) Use the minimum number of piling needed to support the watercraft lift/grid.

(8) **Buoy design:** In water bodies where buoy systems might damage submerged aquatic vegetation, locate and design the buoy system to minimize damage.

(a) Whenever feasible, use an embedded anchor.

(i) A seagrass/macroalgae habitat survey is not required if an embedment-style mooring anchor is installed. The department will require the diver/installer to locate the anchor so the mooring buoy system will not damage seagrass and kelp beds, and in herring spawning beds other macroalgae used as spawning substrate.

(ii) A seagrass/macroalgae habitat survey is required if a surface style mooring anchor is installed. The survey is needed to ensure the mooring buoy system is installed at a location where seagrass, kelp, and in herring spawning beds other macroalgae used as spawning substrate will not be damaged.

(b) Place the buoy deep enough to prevent vessel grounding.

(c) Locate the buoy to avoid damage from vessel propellers to submerged aquatic vegetation.

(d) Design and install the buoy system with a mid-water float so that anchor lines do not drag.

(e) Adequately size the mooring to prevent the anchor from shifting or dragging along the bed.

(f) If the department authorizes the use of a concrete anchor, use a precast concrete anchor.

(g) The buoy must have a shell that is resistant to ultraviolet radiation (sunlight) and abrasion caused by rubbing against vessels, the bed, and/or waterborne debris.

(9) **Replacement floating docks:** The department will authorize replacement floating docks, if:

(a) The area of replaced floating dock structure is not expanded;

(b) The replaced floating dock is not relocated within waters of the state without written authorization from the department. The replaced structure must be removed and disposed of upland so it will not reenter state waters;

(c) Floats are designed with stoppers or support pilings that keep the bottom of the floats at least one foot above the substrate so that the structure will not rest on the bottom;

(d) A float six feet wide or less must have at least 30 percent of the entire deck surface covered in functional grating. A float between six and eight feet wide must have at least 50 percent of the entire deck surface covered in functional grating. Orient grating so the lengthwise opening maximizes the amount of light penetration. Any objects that are not part of the structure on, above, or below the grating should not block light penetration. Flotation must be located under the solid decked area only;

(e) The grating material's open area must be at least 60 percent;

(f) Flotation for the structure must be fully enclosed and contained in a shell. Flotation containing expanded or extruded plastic foam must be enclosed in a shell made of plastic with a minimum thickness of 0.15 inches, concrete, aluminum, or steel. The shell must prevent breakup or loss of the flotation material into the water. The shell must not be readily subject to damage by ultraviolet radiation and abrasion.

(10) **Residential and public recreational dock, pier, ramp, float, floating dock, watercraft lift, and buoy construction:**

(a) The dock or pier centerline must be reestablished during construction using the same methodology used to establish the centerline during the seagrass/macroalgae habitat survey.

(b) When installing steel piling, use of a vibratory hammer is preferred.

(c) If impact pile driving is used, set the drop height to the minimum needed to drive the piling.

(d) Use appropriate sound attenuation to minimize harm to fish from impact pile-driving noise.

(e) To avoid attracting fish to light at night, limit impact pile driving to daylight hours whenever feasible.

(f) The department may require the following during piling removal:

(i) Use of a vibratory system to dislodge piling whenever feasible;

(ii) Place the piling on a construction barge or other dry storage site after the piling is removed. The piling must not be shaken, hosed off, left hanging to dry or any other action intended to clean or remove adhering material from the piling;

(iii) If a treated wood piling breaks during extraction, remove the stump from the water column by fully extracting the stump or cut-

ting it three feet below the substrate and cap all buried stumps with clean sediment that matches the native material;

(iv) Fill holes left by piling extraction with clean sediment that matches the native material whenever feasible;

(v) When removing creosote piling:

(A) Containment booms and absorbent booms (or other oil absorbent fabric) must be placed around the perimeter of the work area to capture wood debris, oil, and other materials released into marine waters as a result of construction activities to remove creosote pilings. All accumulated debris must be collected and disposed upland at an approved disposal site; and

(B) Creosote logs and timbers must be fully suspended during removal so no portion of the log drags through the water or onto the beach.

(g) Securely anchor dock, floats, and mooring buoys.

(h) Dispose of replaced piers, ramps, floats, docks, lines, chains, cables, or mooring anchors in an upland disposal site; and

(i) Place floats and buoys removed seasonally in an upland area. Do not store on the beach.

AMENDATORY SECTION (Amending WSR 20-11-019, filed 5/12/20, effective 6/12/20)

WAC 220-660-460 Informal appeal of administrative actions. An informal appeal is an internal department review of a department HPA decision and is conducted under chapter 34.05 RCW (Administrative Procedure Act).

(1) The department recommends that a person aggrieved by a department HPA decision contact the department employee responsible for making the decision before initiating an informal appeal. Discussion of concerns with the department employee often results in a resolution without the need for an informal appeal.

(2) The department encourages a person aggrieved by a department HPA decision to take advantage of the informal appeal process before initiating a formal appeal. However, a person may pursue a formal appeal under WAC 220-660-470 without first obtaining informal review under this section.

This rule does not apply to pamphlet HPAs. A person who disagrees with a provision in a pamphlet HPA may apply for an individual, written HPA.

This rule does not apply to correction requests issued following a technical assistance visit or compliance inspection under WAC 220-660-480.

(3) Requesting an informal appeal.

(a) Any person with legal standing may request an informal appeal of the issuance, denial, provisioning, or modification of an HPA, the rejection of a fish habitat enhancement project application, or a preapplication determination.

(b) Issuance of a stop work order or notice to comply may be informally appealed only by the project proponent who received the notice or order or by the owner of the land on which the hydraulic project is located.

(c) Issuance of a notice of civil penalty may be informally appealed only by the person incurring the penalty.

(4) A request for an informal appeal must be in writing and must be received by the department within ((~~thirty~~)) 30 days from the date of receipt of the decision, order, or notice. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence, up to ((~~forty-five~~)) 45 days from the date of mailing. A person's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt.

(5) A request for informal appeal must be submitted in one of the following ways:

(a) Mailed to the:

HPA Appeals Coordinator
Department of Fish and Wildlife
Habitat Program
P.O. Box 43234
Olympia, WA 98504-3234;

(b) Email: HPAapplications@dfw.wa.gov; or

(c) ((~~Fax: 360-902-2946; or~~

~~(d)~~)) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth Floor.

(6) The request must be plainly labeled as "Request for Informal Appeal" and must include the following:

(a) The appellant's name, address, email address (if available), and phone number;

(b) The specific department action that the appellant contests;

(c) The date of the specific department action being contested;

(d) The log number or a copy of the HPA, or a copy of the specific department action that the appellant contests;

(e) A short and plain statement explaining why the appellant considers the department action or order to provide inadequate protection of fish life or to be otherwise unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) Whether the appellant is the permittee, HPA applicant, landowner, resident, or another person with an interest in the department action in question;

(h) The specific relief requested;

(i) The attorney's name, address, email address (if available), and phone number, if the appellant is represented by legal counsel; and

(j) The signature of the appellant or his or her attorney.

(7) Upon receipt of a valid request for an informal appeal, the department may initiate a review of the department action.

(8) Informal conference. If the appellant agrees, and the appellant applied for the HPA, resolution of the appeal may be facilitated through an informal conference. The informal conference is an optional part of the informal appeal and is normally a discussion between the appellant, the department employee responsible for the decision, and a supervisor. The time period for the department to issue a decision on an informal appeal is suspended during the informal conference process.

(9) Informal appeal hearing. If the appeal is received from a person who is not the permittee, or if the appeal involves an order imposing civil penalties, or if a resolution is not reached through the informal conference process, then the HPA appeals coordinator or

designee may conduct an informal appeal hearing or review. Upon completion of the informal appeal hearing or review, the HPA appeals coordinator or designee must recommend a decision to the director or designee. The director or designee must approve or decline to approve the recommended decision within ((~~sixty~~)) 60 days of the date the department received the request for informal appeal, unless the appellant agrees to an extension of time. The department must notify the appellant in writing of the decision of the director or designee.

(10) If the department declines to initiate an informal review of its action after receipt of a valid request, or the appellant still wishes to contest the department action following completion of the informal appeal process, the appellant may initiate a formal appeal under WAC 220-660-470. Formal review must be requested within the time periods specified in WAC 220-660-470.

AMENDATORY SECTION (Amending WSR 20-11-019, filed 5/12/20, effective 6/12/20)

WAC 220-660-470 Formal appeal of administrative actions. A formal appeal is an appeal to the pollution control hearings board (board) under chapters 34.05 RCW and 371-08 WAC.

(1) The department recommends that a person aggrieved by a department HPA decision contact the department employee responsible for making the decision on the HPA before initiating a formal appeal. Discussion of concerns with the department employee often results in a resolution without the need for a formal appeal.

(2) The department encourages a person aggrieved by a department HPA decision to take advantage of the informal appeal process under WAC 220-660-460 before initiating a formal appeal. However, a person may pursue a formal appeal under this section without first completing the informal appeal process under WAC 220-660-460.

This rule does not apply to pamphlet HPAs. A person who disagrees with a provision in a pamphlet HPA may apply for an individual, written HPA.

This rule does not apply to correction requests issued following a technical assistance visit or compliance inspection, under WAC 220-660-480.

(3) Requesting a formal appeal.

(a) Any person with standing may request a formal appeal of the issuance, denial, provisioning, or modification of an HPA; the rejection of a fish habitat enhancement project application for streamlined processing; a notice of intent to disapprove HPA applications; or a preapplication determination.

(b) Issuance of a stop work order, notice to comply, or notice of intent to disapprove HPA applications, may be formally appealed only by a person who received the order or notice from the department or by the owner of the land on which the hydraulic project is located.

(c) Issuance of a notice of civil penalty may be formally appealed only by the person incurring the penalty.

(4) The recipient of a stop work order must comply with the order immediately upon receipt. However, the board may stay, modify, or discontinue the order upon motion, under such conditions as the board may impose.

(5) A request for formal appeal must be in writing and must be filed with the clerk of the board and served on the department within

((~~thirty~~)) 30 days from the date of receipt of the decision, order, or notice. "Date of receipt" means:

(a) Five business days after the date of mailing; or

(b) The date of actual receipt, when the actual receipt date can be proven by a preponderance of the evidence, up to ((~~forty-five~~)) 45 days from the date of mailing. A person's sworn affidavit or declaration indicating the date of receipt, which is unchallenged by the department, must constitute enough evidence of actual receipt.

(6) The request must be plainly labeled as "Request for Formal Appeal" and, under WAC 371-08-340, must include the following:

(a) The appellant's name, mailing address, email address (if available), and phone number; and if represented by another, the representative's name, mailing address, email address, and phone number;

(b) The specific department action that the appellant contests;

(c) The date of the specific department action being contested;

(d) A copy of the decision, notice, order, or HPA you are appealing, and if appealing a permit decision, a copy of the HPA application;

(e) A short and plain statement explaining why the appellant considers the department action, notice, or order to provide inadequate protection of fish life or to be otherwise unjust or unlawful;

(f) A clear and concise statement of facts to explain the appellant's grounds for appeal;

(g) Whether the appellant is the permittee, HPA applicant, landowner, resident, or another person with an interest in the department action in question;

(h) The specific relief requested;

(i) The signature of the appellant or his or her representative.

(7) Service on the department must be submitted in one of the following ways:

(a) Mailed to:

HPA Appeals Coordinator
Department of Fish and Wildlife
Habitat Program
P.O. Box 43234
Olympia, WA 98504-3234;

(b) Email: HPAapplications@dfw.wa.gov; or

(c) ((~~Fax: 360-902-2946; or~~

~~(d)~~)) Hand delivered to the Natural Resources Building, 1111 Washington Street S.E., Habitat Program, Fifth Floor.

(8) The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal must be within ((~~thirty~~)) 30 days from the date of receipt of the department's written decision in response to the informal appeal.

(9) The department at its discretion may stay the effectiveness of any decision or order that has been appealed to the board. The department will use the standards in WAC 371-08-415(4) to make a decision on any stay request. At any time during the appeal, the appellant may apply to the board for a stay of the decision or order, or removal of a stay imposed by the department.

(10) If there is no timely request for an appeal, the department action will be final and nonappealable.

WSR 26-15-078
PERMANENT RULES
DEPARTMENT OF HEALTH
(Pharmacy Quality Assurance Commission)
[Filed July 16, 2026, 8:28 a.m., effective August 16, 2026]

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

Purpose: Clarifying conditions for ancillary utilization plans (AUPs) submitted to the pharmacy quality assurance commission (commission) for approval. The commission is adopting an amendment to WAC 246-945-410 to replace the term "facility" with "pharmacy" to clarify that only pharmacies may submit an AUP, per RCW 18.64A.040 and 18.64A.060, for approval by the commission to utilize pharmacy ancillary personnel as defined in RCW 18.64A.010(5).

Citation of Rules Affected by this Order: Amending WAC 246-945-410.

Statutory Authority for Adoption: RCW 18.64.005, 18.64A.040, and 18.64A.060.

Adopted under notice filed as WSR 26-09-060 on April 13, 2026.

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

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

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

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

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

Date Adopted: July 16, 2026.

Ann Wolken, PharmD, RPh, Chair
Pharmacy Quality Assurance Commission

RDS-7010.1

AMENDATORY SECTION (Amending WSR 20-12-072, filed 6/1/20, effective 7/1/20)

WAC 246-945-410 Facility standards. A facility must meet the following minimum requirements:

(1) The facility shall be constructed and equipped with adequate security to protect equipment, records, and supply of drugs, devices, and other restricted sale items from unauthorized access, acquisition, or use.

(2) The facility shall be properly equipped to ensure the safe, clean, and sanitary condition necessary for the proper operation, the safe preparation of prescriptions, and to safeguard product integrity.

(3) The facility shall be staffed sufficiently to allow appropriate supervision, operate safely and, if applicable, remain open during posted hours of operation.

(4) The facility shall be adequately stocked to maintain at all times a representative assortment of drugs in order to meet the pharmaceutical needs of its patients in compliance with WAC 246-945-415.

(5) The facility shall designate a responsible pharmacy manager:

(a) By the date of opening; and

(b) Within ((~~thirty~~)) 30 calendar days of a vacancy.

(6) The facility shall create and implement policies and procedures related to:

(a) Purchasing, ordering, storing, compounding, delivering, dispensing, and administering legend drugs, including controlled substances.

(b) Accuracy of inventory records, patient medical records as related to the administration of controlled substances and legend drugs, and any other records required to be kept by state and federal laws.

(c) Adequate security of legend drugs, including controlled substances.

(d) Controlling access to legend drugs, including controlled substances.

(7) Prescription drugs must only be dispensed pursuant to a valid prescription as required by WAC 246-945-011.

(8) A drug utilization review of each prescription before dispensing and delivery shall occur except in emergent medical situations, or if:

(a) The drug is a subsequent dose from a previously reviewed prescription;

(b) The prescriber is in the immediate vicinity and controls the drug dispensing process;

(c) The medication delivery system is being used to provide access to medications on override and only a quantity sufficient to meet the immediate need of the patient is removed; or

(d) Twenty-four hour pharmacy services are not available, and a pharmacist will review all prescriptions added to a patient's profile within six hours of the facility opening.

(9) Each drug dispensed and delivered to a patient must bear a complete and accurate label as required by WAC 246-945-015 through 246-945-018. The information contained on the label shall be supplemented by oral or written information as required by WAC 246-945-325.

(10) Access to the drug storage area located within the facility should be limited to pharmacists unless one of the following applies:

(a) A pharmacy intern, or pharmacy ancillary personnel enter under the immediate supervision of a pharmacist; or

(b) A pharmacist authorizes temporary access to an individual performing a legitimate nonpharmacy function under the immediate supervision of the pharmacist; or

(c) The facility has a policy and procedure restricting access to a health care professional licensed under the chapters specified in RCW 18.130.040, and the actions of the health care professional are within their scope of practice.

(11) In accordance with RCW 18.64A.060 prior to utilizing pharmacy ancillary personnel a ((~~facility~~)) pharmacy shall submit to the commission a utilization plan for pharmacy technicians and pharmacy assistants:

(a) Utilization plan for pharmacy technicians. The application for approval must describe the manner in which the pharmacy technicians will be utilized and supervised, including job descriptions, task analysis or similar type documents that define the duties performed and the conditions under which they are performed, number of

positions in each category, as well as other information as may be required by the commission. The commission will be notified of all changes to the utilization plan. A copy of the utilization plan must be maintained in the pharmacy. The utilization plan must comply with WAC 246-945-315 and 246-945-320.

(b) Utilization plan for pharmacy assistants. The application for approval shall list the job title or function of the pharmacy assistant and comply with WAC 246-945-315(3).

(12) A facility's paper prescriptions must be maintained in accordance with WAC 246-945-020 and as follows:

(a) Paper prescriptions for Schedule II drugs must be maintained as a separate file from other prescriptions.

(b) Paper prescriptions for Schedule III, IV, and V drugs must be maintained as a separate file, or maintained in a separate file with prescriptions for noncontrolled legend drugs as allowed under federal law.

WSR 26-15-082
PERMANENT RULES
HEALTH CARE AUTHORITY

[Filed July 16, 2026, 10:54 a.m., effective August 16, 2026]

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

Purpose: The health care authority (agency) is developing new rules relating to behavioral health preadmission screening and resident review (PASRR) requirements for people with mental illness. The proposed chapter clarifies who must initiate and conduct a PASRR level 1 screening, which evaluators must make PASRR determinations, and what is required for a PASRR level 2 evaluation. The rules also establish an appeals process and requirements for nursing facilities before and after a client's admission.

Citation of Rules Affected by this Order: New chapter 182-145 WAC.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Adopted under notice filed as WSR 26-10-019 on April 28, 2026.

Changes Other than Editing from Proposed to Adopted Version:

Proposed/ Adopted	WAC Subsection	Reason
WAC 182-145-200 Definitions		
Proposed	**"Serious mental illness"** means, for the purposes of this chapter, any mental illness that: (a) Resulted in functional impairment, which substantially limits one or more major life activities such as employment, school, or social relationships; or (b) Would have caused an impairment absent treatment or support services.	The agency has revised the definition of "serious mental illness" to include "known or suspected mental illness," which results in functional impairment. If a person has had a stroke or other brain injury and there is either no known or suspected symptoms of mental illness or functional limitations as a result of the injury, then a PASRR level 1 referral is not required.
Adopted	**"Serious mental illness"** means, for the purposes of this chapter, any known or suspected mental illness that: (a) Resulted in functional impairment, which substantially limits one or more major life activities such as employment, school, or social relationships; or (b) Would have caused an impairment absent treatment or support services.	
WAC 182-145-400		
Proposed	**WAC 182-145-400 Screening and evaluation process.** The behavioral health (BH) preadmission screening and resident review (PASRR) process must include the following steps: (1) A referring provider, such as a hospital, physician, or other licensed medical professional, must conduct a BH PASRR level 1 screening to identify whether there is credible suspicion that a person may have a BH PASRR condition; (2) The referent conducting the screening must use the standardized form and guidelines developed by the department of social and health services' PASRR program to conduct the BH PASRR level 1 screening; (3) The developmental disabilities community services (DDCS) division or authority-appointed behavioral health (BH) PASRR evaluator, or both, as appropriate, must make the BH PASRR determination. (a) DDCS provides determinations for an intellectual disability or related condition (ID/RC); (b) The authority provides determinations for a serious mental illness or related condition; and (c) If a person shows indicators of both a serious mental illness and ID/RC, the referent must provide the PASRR level 1 screening form to both DDCS and the authority.	The agency has replaced "credible suspicion" with "known or suspected" in subsection (1) to align with DSHS form 14-300. We also removed "related condition" throughout this section where it appeared following "serious mental illness" because "related condition" applies only to individuals with an intellectual disability. The more applicable criteria for referring people with a history of stroke and/or brain injury that is not covered by the developmental disabilities administration (DDA) and could require referral to BH PASRR would be the presence of known or suspected "functional limitations."

Proposed/ Adopted	WAC Subsection	Reason
	(4) Based upon the BH PASRR level 1 screening, a person who has a known mental illness, or a person with a suspected serious mental illness, or a related condition must undergo an evaluation; and (5) The BH PASRR determination results in either a BH PASRR level 2 invalidation or a BH PASRR level 2 evaluation. A BH PASRR level 2 evaluation must include the following information: (a) Whether the person has a mental illness, or has a suspected serious mental illness, or related condition; (b) For a person who has a BH PASRR condition, whether nursing facility placement is appropriate given their behavioral health PASRR condition; and (c) If nursing facility placement is appropriate: (i) Whether the person requires specialized services while residing at the nursing facility; and (ii) Which specialized services would be beneficial to the person while residing there.	Additionally, we replaced "developmental disabilities community services" or "DDCS" throughout this chapter with "developmental disabilities administration" or "DDA" to reflect the administration's name change.
Adopted	**WAC 182-145-400 Screening and evaluation process.** The behavioral health (BH) preadmission screening and resident review (PASRR) process must include the following steps: (1) A referring provider, such as a hospital, physician, or other licensed medical professional, must conduct a BH PASRR level 1 screening to identify whether there is a known or suspected BH PASRR condition; (2) The referent conducting the screening must use the standardized form and guidelines developed by the department of social and health services' PASRR program to conduct the BH PASRR level 1 screening; (3) The developmental disabilities administration (DDA) division or authority-appointed behavioral health (BH) PASRR evaluator, or both, as appropriate, must make the BH PASRR determination. (a) DDA provides determinations for an intellectual disability or related condition (ID/RC); (b) The authority provides determinations for a serious mental illness; and (c) If a person shows indicators of both a serious mental illness and ID/RC, the referent must provide the PASRR level 1 screening form to both DDA and the authority. (4) Based upon the BH PASRR level 1 screening, a person who has a known mental illness, or a person with a suspected serious mental illness must undergo an evaluation; and (5) The BH PASRR determination results in either a BH PASRR level 2 invalidation or a BH PASRR level 2 evaluation. A BH PASRR level 2 evaluation must include the following information: (a) Whether the person has a mental illness, or has a suspected serious mental illness; (b) For a person who has a BH PASRR condition, whether nursing facility placement is appropriate given their behavioral health PASRR condition; and (c) If nursing facility placement is appropriate: (i) Whether the person requires specialized services while residing at the nursing facility; and (ii) Which specialized services would be beneficial to the person while residing there.	
WAC 182-145-900		

Proposed/ Adopted	WAC Subsection	Reason
Proposed	**WAC 182-145-900 Behavioral health preadmission screening and resident review (PASRR) appeals.** (1) People who have been evaluated by a behavioral health (BH) preadmission screening and resident review (PASRR) evaluator have the right to an administrative hearing to dispute the following determinations by the BH PASRR evaluator: (a) Nursing facility placement is not appropriate to meet the person's needs; or (b) The person does not require specialized services. (2) Any decision rendered by the office of administrative hearings (OAH) is an initial decision appealable to the authority's board of appeals.	The agency added a new subsection (3) to clarify that DSHS' WAC 388-97-0140 may apply to people subject to behavioral health PASRR determinations.
Adopted	**WAC 182-145-900 Behavioral health preadmission screening and resident review (PASRR) appeals.** (1) People who have been evaluated by a behavioral health (BH) preadmission screening and resident review (PASRR) evaluator have the right to an administrative hearing to dispute the following determinations by the BH PASRR evaluator: (a) Nursing facility placement is not appropriate to meet the person's needs; or (b) The person does not require specialized services. (2) Any decision rendered by the office of administrative hearings (OAH) is an initial decision appealable to the authority's board of appeals. (3) For additional information regarding PASRR appeals, see WAC 388-97-0140.	

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 9, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 9, Repealed 0.

Date Adopted: July 16, 2026.

Wendy Barcus
Rules Coordinator

RDS-6847.6

Chapter 182-145 WAC
BEHAVIORAL HEALTH PREADMISSION SCREENING AND RESIDENT REVIEW (PASRR) FOR SERIOUS MENTAL ILLNESS

NEW SECTION

WAC 182-145-100 General. (1) This chapter describes the behavioral health (BH) preadmission screening and resident review (PASRR) program and a person's rights relating to PASRR. For admission screening regulations for people with intellectual disabilities or a related condition, see chapter 388-834 WAC.

(2) The goals of the PASRR process are to ensure that people:

(a) Who have a mental illness, serious mental illness, intellectual disabilities, or a related condition are not inappropriately admitted to a medicaid-certified nursing facility; and

(b) Who are appropriately admitted to a nursing facility receive the recommended specialized services for their BH PASRR condition.

(3) For PASRR rules relating to nursing facility compliance, see WAC 388-97-1910 through 388-97-2000.

NEW SECTION

WAC 182-145-200 Definitions. The following definitions apply to this chapter:

"Behavioral health notice of determination (NOD)" means a written notice to a person that a behavioral health PASRR evaluation and determination has been made regarding the person's nursing facility stay, including the person's existing or suspected behavioral health diagnosis, and whether the person may need or benefit from behavioral health services. This is provided to facilities to document that the behavioral health (BH) PASRR evaluation is complete and the level 2 evaluation or invalidation is pending. The NOD indicates that BH PASRR requirements have been met prior to nursing facility admission.

"Behavioral health PASRR determination" means a written notice from the behavioral health PASRR evaluator that indicates completion of either a level 2 evaluation or a level 2 invalidation.

"Behavioral health PASRR evaluator (BH PASRR evaluator)" means an authority-appointed, licensed mental health provider who provides behavioral health PASRR level 2 evaluations and PASRR determinations.

"Behavioral health PASRR level 2 evaluation" means an evaluation that is completed when a possible behavioral health (BH) PASRR condition is identified by the PASRR level 1 screening. The BH PASRR level 2 evaluation determines whether the person has credible suspicion of a BH PASRR condition, needs nursing facility care, and may need specialized services while in the nursing facility.

"Behavioral health PASRR level 2 invalidation" means the form (HCA 82-0034) used to determine that a person residing in a nursing facility or a nursing facility applicant who has been identified as positive on a PASRR level 1 screening does not require specialized service recommendations.

"Categorical determination" means a determination by a behavioral health or developmental disabilities administration (DDA) PASRR evaluator that a person may be admitted to a nursing facility on a temporary basis.

"Credible suspicion (of a behavioral health PASRR condition)" means a person exhibits or is reliably reported to exhibit one or more functional limitations, or there is some evidence that a serious mental illness may exist due to symptoms, behaviors, or other indicators. This is also considered a "known or suspected" condition.

"Developmental disabilities administration (DDA)" means the division of the department of social and health services that provides support to people with intellectual and developmental disabilities.

"Exempted hospital discharge" means the process by which a person may be admitted to a nursing facility without a behavioral health PASRR level 2 evaluation, due to the anticipated length of stay being 30 days or fewer, even though the person may have a behavioral health PASRR condition.

"Interfacility transfer" means a person who is transferred from one nursing facility to another nursing facility, with or without an intervening hospital stay. The person is not considered a new admission and does not need a preadmission screening.

"Mental illness" means a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified within the current *Diagnostic and Statistical Manual of Mental Disorders* (DSM).

"Minimum data set" means a core set of screening, clinical, and functional status data elements, including common definitions and coding categories, which form the foundation of a comprehensive assessment for all residents of nursing homes certified to participate in medicare or medicaid.

"PASRR condition" means a mental illness, serious mental illness, intellectual or developmental disability, or related condition, as defined in 42 C.F.R. § 483.102(b) or successor rule or governing statute.

"PASRR level 1 screening" means a screening that is completed when a person:

(a) Is referred to a medicaid-certified nursing facility by a physician, hospital, or other referring entity; or

(b) Residing in a nursing facility experiences a significant change in condition.

"Preadmission screening and resident review (PASRR) process" or **"PASRR process"** means the process required by federal law to determine if admission to a nursing facility is appropriate for a person who has a BH PASRR condition, and if so, to determine whether specialized services are necessary during the nursing facility stay.

"Referent" means both the licensed medical professional who completes a PASRR level 1 screening form and their employer or organization.

"Serious mental illness" means, for the purposes of this chapter, any known or suspected mental illness that:

(a) Resulted in functional impairment, which substantially limits one or more major life activities such as employment, school, or social relationships; or

(b) Would have caused an impairment absent treatment or support services.

"Significant change in condition" means a deterioration or improvement in the physical or mental condition of a person with a PASRR condition, such that:

(a) The person may reasonably require new, different, or fewer specialized services;

(b) The person's care plan requires changes regarding a known or suspected behavioral health PASRR condition; or

(c) Significant improvements have led to the possibility of community placement as a reasonable consideration for the person.

"Specialized services" means services, as described in 42 C.F.R. § 483.120 or successor laws or governing statute and provided or ar-

ranged for by the authority or department of social and health services, that are in addition to nursing facility care. These services enable a person residing in a nursing facility with a behavioral health PASRR condition to preserve or increase their functional status, self-determination, and independence.

NEW SECTION

WAC 182-145-300 Screening requirements. (1) Any person referred to a medicaid-certified nursing facility, regardless of whether the person has private insurance, must have a behavioral health preadmission screening and resident review (PASRR) level 1 screening and determination prior to nursing facility admission.

(2) For new nursing facility admissions, a hospital or primary care provider, as defined in RCW 74.09.010, is a referring provider and is responsible for initiating the behavioral health PASRR level 1 screening. For hospital-specific regulations, see WAC 246-320-226.

(3) For existing nursing facility residents, the behavioral health level 1 screening may be initiated by a licensed medical professional.

NEW SECTION

WAC 182-145-400 Screening and evaluation process. The behavioral health (BH) preadmission screening and resident review (PASRR) process must include the following steps:

(1) A referring provider, such as a hospital, physician, or other licensed medical professional, must conduct a BH PASRR level 1 screening to identify whether there is a known or suspected BH PASRR condition;

(2) The referent conducting the screening must use the standardized form and guidelines developed by the department of social and health services' PASRR program to conduct the BH PASRR level 1 screening;

(3) The developmental disabilities administration (DDA) division or authority-appointed behavioral health (BH) PASRR evaluator, or both, as appropriate, must make the BH PASRR determination.

(a) DDA provides determinations for an intellectual disability or related condition (ID/RC);

(b) The authority provides determinations for a serious mental illness; and

(c) If a person shows indicators of both a serious mental illness and ID/RC, the referent must provide the PASRR level 1 screening form to both DDA and the authority.

(4) Based upon the BH PASRR level 1 screening, a person who has a known mental illness, or a person with a suspected serious mental illness must undergo an evaluation; and

(5) The BH PASRR determination results in either a BH PASRR level 2 invalidation or a BH PASRR level 2 evaluation. A BH PASRR level 2 evaluation must include the following information:

(a) Whether the person has a mental illness, or has a suspected serious mental illness;

(b) For a person who has a BH PASRR condition, whether nursing facility placement is appropriate given their behavioral health PASRR condition; and

(c) If nursing facility placement is appropriate:

(i) Whether the person requires specialized services while residing at the nursing facility; and

(ii) Which specialized services would be beneficial to the person while residing there.

NEW SECTION

WAC 182-145-500 Requirements for nursing facilities prior to admission. (1) If a person's behavioral health (BH) preadmission screening resident review (PASRR) level 1 screening does not identify a known or suspected BH PASRR condition, a nursing facility may directly admit the person, and the person's BH PASRR level 1 documentation must become part of their medical record.

(2) If a BH PASRR level 1 screening indicates a known or suspected BH PASRR condition, the referent must forward the screening to the behavioral health (BH PASRR) evaluator for a BH PASRR determination before the person's hospital discharge. For nursing facility-specific guidelines, see WAC 388-97-1915.

(a) The BH PASRR evaluator must make a BH PASRR determination prior to nursing facility admission, unless the person meets the criteria for an exempted hospital discharge as described in subsection (8) of this section or meets the definition of an interfacility transfer.

(b) The nursing facility must:

(i) Verify the referring hospital or provider completed the person's BH PASRR level 1 screening or deny admission until that screening is complete; and

(ii) Verify the person has a complete BH PASRR determination when the BH PASRR level 1 screening indicates the person may have a BH PASRR condition.

(3) A person must have, at a minimum, either a completed BH PASRR level 2 invalidation or a BH notice of determination (NOD) before admission to a nursing facility to indicate completion of a BH PASRR determination.

(4) The BH PASRR evaluator must provide the:

(a) BH NOD to the discharging hospital and if possible, the admitting nursing facility; and

(b) BH PASRR level 2 evaluation, once completed, to:

(i) The person evaluated and their legal representative; and

(ii) The admitting or retaining nursing facility.

(5) The BH PASRR level 2 evaluation must include:

(a) Whether a nursing facility level of service is appropriate based on the person's behavioral health needs; and

(b) Recommendations for specialized services, if necessary.

(6) A BH NOD from the BH PASRR evaluator is only required if documentation of the final BH PASRR determination is not complete prior to the person's hospital discharge. For developmental disabilities administration-specific PASRR requirements for a person with an intellectual disability or a related condition (ID/RC), see WAC 388-97-1910 through 388-97-2000.

(7) The nursing facility must deny admission until the person's BH PASRR determination is completed, unless:

(a) All the criteria are met for an exempted hospital discharge; and

(b) The referring facility documents them on the BH PASRR level 1 screening.

(8) The criteria for exempted hospital discharge are:

(a) The nursing facility admits the person directly from a hospital after the person received acute inpatient care;

(b) The person requires nursing facility services for the same condition for which the person received hospital care; and

(c) The person's attending physician certifies on the BH PASRR level 1 screening the person is likely to require nursing facility services for 30 days or fewer.

(9) The nursing facility must decline admission to any person whose BH PASRR determination indicates that the person does not require nursing facility services or that nursing facility placement is otherwise inappropriate.

(10) The nursing facility must coordinate proactively with BH PASRR evaluators to minimize duplicate assessments and to ensure continuity of care for nursing facility residents who have a BH PASRR condition.

NEW SECTION

WAC 182-145-600 Categorical determination. (1) A behavioral health preadmission screening and resident review (BH PASRR) evaluator may categorically determine that specialized services are not needed for the following types of admission:

(a) A protective services stay of seven days or fewer;

(b) Respite in a nursing facility for 30 days or fewer.

(2) A BH PASRR evaluator must make categorical determinations for behavioral health PASRR admissions.

NEW SECTION

WAC 182-145-700 Requirements for behavioral health preadmission screening and resident review (PASRR) level 2 evaluations. As part of a behavioral health preadmission screening and resident review (PASRR) level 2 evaluation, the behavioral health (BH) PASRR evaluator must review the person's medical records and speak with the person and others who have relevant information. The BH PASRR evaluator must determine whether:

(1) The person has a PASRR condition. If the BH PASRR evaluator suspects a person has an intellectual disability or related condition (ID/RC), the referent must submit the PASRR level 1 screening form to the ID/RC team;

(2) Nursing facility admission is appropriate to meet the person's needs; and

(3) The person requires specialized services while at the nursing facility.

NEW SECTION

WAC 182-145-800 Behavioral health preadmission screening and resident review (PASRR) requirements—After admission. (1) Before a person's admission, the nursing facility must ensure the behavioral health (BH) preadmission screening and resident review (PASRR) level 1 screening is complete and accurate.

(2) If the BH PASRR level 1 screening identifies a possible PASRR-eligible condition:

(a) The person's record must include the final BH PASRR determination; and

(b) The nursing facility must ensure that the recommended specialized services, if indicated, are incorporated into the person's care plan.

(3) The nursing facility must complete a new BH PASRR level 1 screening using the department of social and health services' standardized form and submit the form to the regional BH PASRR evaluator point of contact, if needed, based on the person's change in condition, behaviors, or mood, or when indicated by a minimum data set (MDS) review.

NEW SECTION

WAC 182-145-900 Behavioral health preadmission screening and resident review (PASRR) appeals. (1) People who have been evaluated by a behavioral health (BH) preadmission screening and resident review (PASRR) evaluator have the right to an administrative hearing to dispute the following determinations by the BH PASRR evaluator:

(a) Nursing facility placement is not appropriate to meet the person's needs; or

(b) The person does not require specialized services.

(2) Any decision rendered by the office of administrative hearings (OAH) is an initial decision appealable to the authority's board of appeals.

(3) For additional information regarding PASRR appeals, see WAC 388-97-0140.

WSR 26-15-096
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed July 20, 2026, 11:15 a.m., effective October 1, 2026]

Effective Date of Rule: October 1, 2026.

Purpose: The department of social and health services is adopting amendments to WAC 388-400-0010 Who is eligible for state family assistance?, and 388-493-0010 Working family support. These amendments update the state family assistance and working family support programs to support compliance with federal program requirements and the state operating budget. As applicable, these amendments make additional changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations.

Citation of Rules Affected by this Order: Amending WAC 388-400-0010 and 388-493-0010.

Statutory Authority for Adoption: RCW 74.04.005, 74.04.050, 74.04.055, 74.04.057, 74.04.820, 74.08.090, 74.08A.120, and 74.09.035.

Other Authority: Operating budget, ESSB 5998 (chapter 268, Laws of 2026).

Adopted under notice filed as WSR 26-12-062 on June 1, 2026.

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

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: July 20, 2026.

Katherine I. Vasquez
Rules Coordinator

SHS-5138.2

AMENDATORY SECTION (Amending WSR 22-02-014, filed 12/27/21, effective 2/1/22)

WAC 388-400-0010 Who is eligible for state family assistance?

(1) To be eligible for state family assistance (SFA), applicants must meet Washington state residency requirements as listed in WAC 388-468-0005 and immigrant eligibility requirements as listed in WAC 388-424-0015.

(2) You are eligible for SFA if you are not eligible for temporary assistance for needy families (TANF) for the following reasons:

(a) You are a qualified alien and have been in the United States for less than five years as described in WAC 388-424-0006;

(b) You are a nonqualified alien as defined in WAC 388-424-0001, who meets the Washington state residency requirements as listed in WAC 388-468-0005;

(c) You are a 19 or 20 year old student that meets the education requirements of WAC 388-404-0005;

(d) You are a caretaker relative of a 19 or 20 year old student that meets the education requirements of WAC 388-404-0005;

(e) You are a pregnant woman who has been convicted of misrepresenting their residence in order to receive benefits from two or more states at the same time; or

(f) You do not meet citizenship or immigration status requirements in WAC 388-424-0010 and you are a survivor of certain crimes as defined in WAC 388-424-0001(4).

(3) You and the other TANF eligible members of your assistance unit may receive, at the department's discretion, SFA rather than TANF if:

(a) You are otherwise eligible for TANF as a parent; and

(b) Another parent in your assistance unit is eligible for TANF or SFA((~~; and~~

~~(c) One of the following conditions exists:~~

~~(i) You or the other parent in your assistance unit is pregnant; or~~

~~(ii) Your assistance unit includes a child under 12 months of age~~)).

(4) If you apply for SFA, have not received SFA within the past 30 days, and will be a mandatory WorkFirst participant as described in WAC 388-310-0200 once approved, you must complete a WorkFirst orientation before ((~~we approve~~)) the department approves your application.

AMENDATORY SECTION (Amending WSR 22-19-095, filed 9/21/22, effective 10/22/22)

WAC 388-493-0010 Working family support. (1) What is the working family support (WFS) program?

((~~The working family support program~~)) WFS is administered by the department of social and health services ((~~(department)~~)) and provides an additional monthly food benefit to low income families who meet specific criteria. Continuance of the program is contingent on specific legislative funding for ((~~the working family support program~~)) WFS.

(2) The following definitions apply to this program:

(a) "Single-parent" refers to an adult household member with qualifying children in the home and no spouse or co-parent within the home.

(b) "Co-parent" means another adult in your home who is related to your qualifying child through marriage, birth, or adoption.

((~~(b)~~)) (c) "Qualifying child" means a child under the age of 18 who is:

(i) Your child through birth or adoption; or

(ii) Your step-child.

(c) "Work" means subsidized or unsubsidized employment or self-employment. To determine self-employment hours, we divide your net self-employment income by the federal minimum wage.

(3) Who is eligible for ((~~the working family support program~~)) WFS?

You may be eligible for ((~~working family support food assistance~~)) WFS if you meet all of the following:

(a) You receive food assistance through basic food, food assistance program for legal immigrants (FAP), or transitional food assistance (TFA);

(b) Receipt of ((~~working family support food assistance~~)) WFS would not cause your countable food assistance income to exceed the 200 percent federal poverty level (FPL);

(c) No one in your food assistance unit receives temporary assistance for needy families (TANF) or state family assistance (SFA);

(d) You are a single parent;

(e) A qualifying child lives in your home;

((~~(e)~~)) (f) You((~~, your spouse, or co-parent~~)) work a minimum of ((~~35~~)) 30 hours a week((~~, and if you live with your spouse or co-parent, you must be in the same assistance unit~~));

((~~(f)~~)) (g) You provide proof of the number of hours worked; and

((~~(g)~~)) (h) You reside in Washington state as required under WAC 388-468-0005.

(4) How may I apply for ((~~working family support~~)) WFS?

(a) The department will review your eligibility for ((~~the working family support program~~)) WFS:

(i) When you apply for food assistance, or

(ii) At the time of your food assistance eligibility review.

(b) You may request ((~~the working family support benefit~~)) WFS in person, in writing, or by phone at any time.

(5) How long may I receive ((~~working family support~~)) WFS?

(a) You may recertify up to an additional six months for ((~~working family support~~)) WFS if you meet the criteria listed in subsection (3) of this section and provide current proof that you((~~, your spouse, or co-parent works~~)) work a minimum of ((~~35~~)) 30 hours a week.

(b) ((~~Working family support~~)) WFS certification ends when:

(i) You complete either a certification or mid-certification review for food assistance under WAC 388-434-0010 or 388-418-0011, and you do not provide proof of the number of hours that you((~~, your spouse, or your co-parent~~)) work;

(ii) You no longer receive basic food, FAP, or TFA;

(iii) You receive TANF or SFA;

(iv) Your spouse or the co-parent of your child moves into the home;

(v) You ((~~do not~~)) no longer have a qualifying child in your home;

((~~(v)~~)) (vi) You((~~, your spouse, or co-parent~~)) no longer work a minimum of ((~~35~~)) 30 hours a week; or

((~~(vi)~~)) (vii) You are no longer a resident of Washington state.

(6) What benefits will I receive if I am eligible for ((~~the working family support program~~)) WFS?

(a) The assistance unit will receive a separate ((~~$10~~)) $35 monthly food assistance benefit each month.

(b) ((~~Working family support~~)) WFS benefits are not prorated.

(7) ((~~Enrollment in the working family support program is limited to 10,000 households per month~~)) The department may discontinue program benefits issuances during periods of time when state funds appropriated for WFS are exhausted.

WSR 26-15-109
PERMANENT RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 26-05—Filed July 21, 2026, 8:46 a.m., effective August 21, 2026]

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

Purpose: The purpose of this adoption is to incorporate housekeeping updates in several division of occupational safety and health's (DOSH) chapters listed below. Housekeeping edits include typographical errors, updates to resource links, and citation corrections. No requirements were affected during this rule making; changes are only for clarification purposes.

Adopted rule updates:

Chapter 296-78 WAC, Safety standards for sawmills and woodworking operations.

- WAC 296-78-71007 updated outdated reference in subsection (2) regarding walkway requirements. During a previous rule making, language in WAC 296-78-71001(8) was changed to subsection (7).

Chapter 296-115 WAC, Safety requirements for charter boats.

- WAC 296-115-005 updated P.O. Box where all charter boat related correspondence may be submitted.

Chapter 296-801 WAC, Protecting temporary workers.

- WAC 296-801-098 added "23 (construction)" to the list of North American Industry Classification System (NAICS) codes in this section that are covered by the requirements of the chapter. The NAICS code for construction is included in the definitions section as "worksite employer" under the chapter, but was inadvertently left out of the scope section. This change aligns the underlying statute, RCW 49.17.490, that includes NAICS sector 23 as one of the sectors subject to this law.
- WAC 296-801-100 updated the typo in the phone number listed in subsection (4) from 1-800-4BS-SAFE to 1-800-4BE-SAFE.

Chapter 296-809 WAC, Confined spaces.

- WAC 296-809-099 removed outdated links to chapter 296-809 WAC in multiple definitions and notes, to instead invite readers to visit "Find Safety Rules" on the labor and industries (L&I) website. By removing these links, it will reduce the need to update web addresses that can break or change. Also added numbers to all definitions for clarity and ease of referencing, and replaced a few bullets with letters for easier referencing.
- WAC 296-809-100 removed outdated link to chapter 296-809 WAC, to instead invite readers to visit "Find Safety Rules" on the L&I website. Removing these links will reduce the need to update web addresses that can break or change.
- WAC 296-809-20002 removed outdated link to chapter 296-809 WAC in multiple places in this WAC section, to instead invite readers to visit "Find Safety Rules" on the L&I website. Removing these links will reduce the need to update web addresses that can break or change.
- WAC 296-809-30002 removed outdated link to chapter 296-809 WAC, to instead invite readers to visit "Find Safety Rules" on the L&I

website. Removing these links will reduce the need to update web addresses that can break or change.

- WAC 296-809-50014 removed outdated link to Appendix H in chapter 296-809 WAC, to instead invite readers to "See Appendix H - Evaluating Rescue Teams or Services by visiting "Find Safety Rules" on the labor and industries website." Change spelled out number to numerical value.
- WAC 296-809-60002 removed outdated link to chapter 296-809 WAC, to instead invite readers to visit "Find Safety Rules" on the L&I website. Removing these links will reduce the need to update web addresses that can break or change.

Chapter 296-828 WAC, Hazardous chemicals in laboratories.

- WAC 296-828-100 added beryllium, hexavalent chromium, and silica to the list of Washington Industrial Safety and Health Act regulated hazardous chemicals in Table 2. Also, moved benzidine to its own line, as it's a separate chemical from beta-naphthylamine. This section identifies specific requirements under the substantive regulated hazardous chemical rules that apply to laboratory operations under this chapter providing an exemption from the other substantive requirements under those rules.

Chapter 296-856 WAC, Formaldehyde.

- WAC 296-856-20050 updated the note under step 5 with a new website for National Institute for Occupational Safety and Health analytical methods.
- Updated "Respiratory hazards" to "Airborne contaminants." The title of chapter 296-841 WAC was changed during a previous rule making.

Chapter 296-874 WAC, Scaffolds.

- WAC 296-874-200 removed WAC sections listed in the table in this section that were repealed during rule making in 2020.
- WAC 296-874-20008 updated outdated WAC chapters and sections in the reference table to the most current WAC regarding "On walkways within scaffolds," "Erecting or dismantling supported scaffolds," and "Erecting or dismantling suspended scaffolds in construction work."
- WAC 296-874-20030 updated outdated reference at the bottom of the section regarding floor openings and wall openings from chapter 296-155 WAC, Part C-1, to chapter 296-880 WAC, Unified safety standards for fall protection.
- In multiple sections throughout this chapter, updated outdated WAC reference regarding scaffolding fall protection requirements from WAC 296-874-20056 to WAC 296-880-30030. During previous rule making, DOSH incorporated fall protection requirements from multiple rules into one chapter, chapter 296-880 WAC, Unified safety standards for fall protection.
- In multiple sections throughout this chapter, changed spelled out numbers to their numerical value for consistency.
- WAC 296-874-40020 removed outdated references to personal fall arrest system requirements in WAC 296-874-20058, and chapter 296-155 WAC, Safety standards for construction work, Part C-1, and replaced them with chapter 296-880 WAC, Unified safety standards for fall protection.
- WAC 296-874-40034 updated outdated reference regarding anchorage for personal fall arrest systems from WAC 296-874-20058 to WAC

296-880-40020. Also, updated outdated reference to chapter 296-155 WAC, Safety standards for construction work, Part C-1, and replaced it with chapter 296-880 WAC, Unified safety standards for fall protection.

Citation of Rules Affected by this Order: Amending WAC 296-78-71007, 296-115-005, 296-801-098, 296-801-100, 296-809-099, 296-809-100, 296-809-20002, 296-809-30002, 296-809-50014, 296-809-60002, 296-828-100, 296-856-20050, 296-874-200, 296-874-20008, 296-874-20030, 296-874-30032, 296-874-30034, 296-874-30042, 296-874-30044, 296-874-30046, 296-874-40020, 296-874-40026, 296-874-40034, and 296-874-40038.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 26-09-117 on April 21, 2026.

Changes Other than Editing from Proposed to Adopted Version: **WAC 296-874-20008 Make sure platforms are properly planked or decked.** In the Reference table, updated the title of Part J-1 by removing the word "ladders." Requirements related to ladders were moved to chapter 296-876 WAC, Ladders, portable and fixed, during a previous rule making.

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

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

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 24, Repealed 0.

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

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

Date Adopted: July 21, 2026.

Joel Sacks
Director

RDS-6261.2

AMENDATORY SECTION (Amending WSR 17-16-132, filed 8/1/17, effective 9/1/17)

WAC 296-78-71007 Footwalks and passageways. (1) All footwalks and passageways subject to slipping hazards due to peculiarities of conditions or processes of the operation must be provided with nonslip surfaces.

(2) Walkways in accordance with WAC 296-78-71001((~~(8)~~)) (7) must be provided over roll casings, transfer tables, conveyors or other moving parts except when stepping over such equipment is not in connection with usual and necessary traffic.

(3) Walkways alongside of sorting tables must be of sufficient width to provide a safe working area. Such walkways must be evenly

floored and kept in good repair at all times. They must be kept free from obstructions and debris.

(4) When employees are required to clear plug-ups in veneer trays or lumber sorting trays, adequate walkways with standard guardrails must be provided for access to the trays whenever possible. When walkways are not provided, safety belts or harnesses with lanyards, tied off to substantial anchorages, must be provided and used at all times.

(5) Walkways and stairways with standard hand rails must be provided wherever space will permit, for oilers and other employees whose duties require them to go consistently to elevated and hazardous locations.

(a) Where such passageways are over walkways or work areas, standard toeboards must be provided.

(b) Protection, as required by chapter 296-806 WAC, Machine safety, must be provided against contact with transmission machinery or moving conveyors.

RDS-6953.1

AMENDATORY SECTION (Amending WSR 23-09-054, filed 4/18/23, effective 5/22/23)

WAC 296-115-005 Scope and purpose. This chapter generally sets requirements according to chapter 88.04 RCW to protect the safety and health of passengers and crew on board charter boats, and provides penalties for violations of these requirements. Specifically, this chapter:

(1) Applies to vessels for hire that carry seven or more passengers when operated in state waters which are not regulated by the United States Coast Guard.

(2) Does not apply to:

(a) Vessels that are charter boats but are being used by the documented or registered owner exclusively for their own noncommercial or personal pleasure purposes;

(b) Vessels owned by people or corporate entities which are donated and used by people or nonprofit organizations to transport passengers for charitable or noncommercial purposes, regardless of whether consideration is directly or indirectly paid to the owner;

(c) Vessels that are rented, leased, or hired by operators to transport passengers for noncommercial or personal pleasure purposes;

(d) Vessels used exclusively for, or incidental to, educational purposes; or

(e) Bare boat charter boats.

(3) Is intended to be consistent with, and prevails in the event of a conflict with, the rules adopted by the United States Coast Guard under 46 C.F.R. Subchapters K and T, in effect at the time the vessel's keel was laid.

(4) **General information:**

All forms and applications related to charter boat operations may be requested from the department or are available on the website at https://lni.wa.gov/licensing-permits/other-licenses-permits/charter-boats.

All correspondence related to charter boat operations may be submitted to:

Department of Labor and Industries
DOSH-Charter Boats
P.O. Box ((~~44650~~)) 44616
Olympia, WA 98504-((~~4650~~)) 4616; or
Submitted electronically to:
Email: Charterboats@lni.wa.gov

RDS-6262.1

AMENDATORY SECTION (Amending WSR 22-18-080, filed 9/6/22, effective 10/7/22)

WAC 296-801-098 Purpose and scope. Chapter 296-801 WAC provides health and safety requirements for staffing agencies and worksite (or host) employers consistent with RCW 49.17.490 Temporary workers—Safety—Staffing agency and worksite employer duties. The requirements in this chapter are limited to employers classified under the North American Industry Classification System (NAICS) in Sectors 23 (construction), 31 through 33 (manufacturing), and code 561320 (temporary help services).

Notes: 1. The NAICS is maintained by the U.S. Census Bureau (https://www.census.gov/naics/).
2. Washington state employers can typically find their NAICS code, by using the business lookup tool on the Washington state department of revenue's website (https://dor.wa.gov/).

AMENDATORY SECTION (Amending WSR 22-18-080, filed 9/6/22, effective 10/7/22)

WAC 296-801-100 Staffing agency requirements. Before the assignment of an employee to a worksite employer, a staffing agency must:

(1) Inquire about the worksite employer's safety and health practices and hazards at the actual workplace where the employee will be working to assess the safety conditions, workers tasks, and the worksite employer's safety program; these activities are required at the start of any contract to place workers and may include visiting the actual worksite. If, during the inquiry or anytime during the period of the contract, the staffing agency becomes aware of existing job hazards that are not mitigated by the worksite employer, the staffing agency must make the host employer aware, urge the host employer to correct it, and document these efforts, otherwise the staffing agency must remove the temporary workers from the worksite;

(2) Provide training to the employee for general awareness safety training for recognized industry hazards the employee may encounter at the worksite. Industry hazard training must be completed, in the preferred language of the employee, and must be provided at no expense to the employee. The training date and training content must be maintained by the staffing agency and provided to the employee upon request;

(3) Transmit a general description of the training program including topics covered to the worksite employer, whether electronically or on paper, at the start of the contract with the worksite employer;

(4) Provide the department's hotline number (((~~1-800-4BS-SAFE~~)) 1-800-4BE-SAFE, or 1-800-423-7233 and using option 2, then option 2 again to report unsafe working conditions) for the employee to call to report safety hazards and concerns as part of the employment materials provided to the employee; and

(5) Inform the employee who the employee should report safety concerns to at the workplace.

Note: A staffing agency or employee may refuse a new job task at the worksite when the task has not been reviewed or if the employee has not had appropriate training to do the new task.

RDS-6994.1

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-099 Definitions. (1) **Acceptable entry conditions.** The conditions that must exist in a permit-required confined space to allow safe entry and work.

(2) **Alternative methods.** Permit-required confined space using alternative methods. An alternative process for entering a permit space under very specific conditions outlined in WAC 296-809-60002 and 296-809-60004. The employer must complete documentation as required to communicate to the workers the space conditions. For an example, see Appendix J Alternative Method Documentation by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

(3) **Atmospheric hazard.** See definition of hazardous atmosphere.

(4) **Atmospheric testing.** See definition of monitoring or testing.

(5) **Attendant.** An individual stationed outside one or more permit-required confined spaces to monitor the entrants. Attendants must perform the duties required in WAC 296-809-50020.

(6) **Barrier.** A physical obstruction that blocks or limits access.

(7) **Blanking or blinding.** The absolute closure of a pipe, line, or duct by fastening a solid plate (such as a spectacle blind or a skillet blind) that completely covers the bore. It is capable of withstanding the maximum pressure of the pipe, line, or duct with no leakage beyond the plate.

(8) **Calibration.** Checking a direct reading instrument against an accurate standard such as a calibration gas to determine deviation and correct for analytical errors.

(9) **Competent person.** A person capable of identifying existing and predictable hazards in the surroundings or working conditions including those that are unsanitary, hazardous, or dangerous to employees, and has the authorization to take prompt corrective measures to eliminate them. They must be knowledgeable in this chapter.

(10) **Confined space.** A space that is **all** of the following:

(a) Large enough and arranged so an employee could fully enter the space and work.

(b) Has limited or restricted entry or exit. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, excavations, and pits.

(c) Not primarily designed for continuous human occupancy.

Note: See Appendix A Frequently Asked Questions and Examples of Confined Spaces by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

(11) **Control.** The action taken to reduce the level of any hazard inside a confined space using engineering methods (for example, ventilation), and then using these methods effectively to maintain the reduced hazard level. Control also refers to the engineering methods used for this purpose. Personal protective equipment is not a control.

(12) **Controlling contractor (employer).** The employer that has overall responsibility for construction at the worksite. If the controlling contractor (employer) owns or manages the property, then it is both a controlling employer and a host employer.

(13) **Double block and bleed.** The closure of a line, duct, or pipe by closing and locking or tagging two in-line valves and by opening and locking or tagging a drain or vent valve in the line between the two closed valves. See also chapter 296-803 WAC, Lockout/tagout (control of hazardous energy) ((~~http://www.lni.wa.gov/safety/rules/chapter/803/~~)).

(14) **Early-warning system.** The method used to alert authorized entrants and attendants that an engulfment hazard may be developing. Examples of early-warning systems include: Alarms activated by remote sensors; and lookouts with equipment for immediately communicating with the authorized entrants and attendants.

(15) **Emergency.** Any occurrence (including any failure of power, hazard control or monitoring equipment) or event internal or external to the permit-required confined space that could endanger authorized entrants.

(16) **Energy-isolating device.** A mechanical device that physically prevents transmitting or releasing energy. This includes, but is not limited to:

((~~•~~)) (a) Manually operated electrical circuit breakers.

((~~•~~)) (b) Disconnect switches.

((~~•~~)) (c) Manually operated switches that disconnect the conductors of a circuit from all ungrounded supply conductors if no pole of the switch can be operated independently.

((~~•~~)) (d) Line valves.

((~~•~~)) (e) Blocks.

((~~•~~)) (f) Similar devices.

Note: Push buttons, selector switches and other control circuit-type devices are not energy isolating devices.

(17) **Engulfment.** The surrounding and effective capture of a person by a liquid or finely divided (flowable) solid substance that can be inhaled to cause death by filling or plugging the respiratory system or that can exert enough force on the body to cause death by strangulation, constriction, or crushing.

(18) **Enter (entry).** The action where any part of a person's body breaks the plane (passes through an opening) into a confined space. Entry occurs as soon as any part of the entrant's body breaks the plane of the opening into the space whether or not such action is intentional or any work activities are actually performed in the space.

Note: When the opening is large enough for the worker to fully enter the space, a permit is required even for partial body entry. Permits are not required for partial body entry, where the opening is not large enough for full entry, although other rules such as chapter 296-803 WAC, Lockout/tagout (control of hazardous energy), and chapter 296-841 WAC, Airborne contaminants, may apply.

(19) **Entrant.** An employee who is authorized by the employer to enter a permit-required confined space.

(20) **Entry employer.** Any employer who has an employee enter a permit space.

Note: An employer cannot avoid the duties of the standard merely by refusing to decide whether its employees will enter a permit space. DOSH considers the failure to decide as an implicit decision to allow employees to enter those spaces, if they are working in the proximity of the space without the required worker protections.

(21) **Entry permit (permit).** The written or printed document that is provided by you to allow and control entry into a permit-required confined space and that contains the information required in WAC 296-809-500 Permit entry procedures.

(22) **Entry rescue.** Occurs when a rescue service enters a permit space to rescue one or more employees.

(23) **Entry supervisor.** The qualified and trained person (such as the employer, crew leader, or crew chief) responsible for identifying permit-required confined spaces and performing responsibilities and job duties as outlined by WAC 296-809-50018. For example:

(a) Determining if acceptable entry conditions are present at a permit-required confined space where entry is planned;

(b) Authorizing entry and overseeing entry operations; and

(c) Terminating entry as required by this standard.

Note: An entry supervisor also may serve as an attendant or as an authorized entrant, as long as that person is trained and equipped as required by this standard for each role he or she fills. The duties of entry supervisor may be passed from one individual to another during the course of an entry operation.

(24) **Hazard.** A physical hazard or hazardous atmosphere. See definitions below.

(25) **Hazardous atmosphere.** An atmosphere that may expose employees to the risk of death, incapacitation, impair their ability to self-rescue (escape unaided from a permit-required confined space), injury, or acute illness caused by one or more of the following:

(a) Flammable gas, vapor, or mist in excess of ((~~ten~~)) 10 percent of its lower flammable limit (LFL) or lower explosive limit (LEL).

(b) Airborne combustible dust at a concentration that meets or exceeds its LFL. The concentration may be approximated as a condition in which the dust obscures vision at a distance of 5 feet (1.52 m) or less.

(c) Atmospheric oxygen concentration below 19.5 percent or above 23.5 percent[1].

(d) Atmospheric concentration of any substance which may exceed a permissible exposure limit (PEL)[2].

(e) Any other atmospheric condition that is immediately dangerous to life or health[3].

Notes:

[1] 1 percent (%) = 10,000 parts per million (ppm).

[2] For additional information about atmospheric concentration, see chapter 296-62 WAC, General occupational health standards, Parts F, G, and I, and chapter 296-841 WAC, Airborne contaminants.

[3] For immediately dangerous to life or health values see ((~~http://www.cdc.gov/niosh/idlh/idlhintr.html~~)) https://www.cdc.gov/niosh/idlh/default.html.

An airborne concentration of a substance that is not capable of causing death, incapacitation, impairment to self-rescue, injury or acute illness due to its health effects is not covered by this definition.

For air contaminants, that have no WISHA-determined doses or permissible exposure limits (PELs) use other sources of information that can provide guidance in establishing acceptable atmospheric conditions, such as: Safety data sheets required by WAC 296-901-14014, published information and internal documents.

(26) **Hazard elimination.** The temporary or permanent action taken to remove a hazard from the work environment. For confined spaces, this definition includes isolation. It does not include the use of forced air ventilation. For a hazard to be considered eliminated, the conditions that create or cause the hazard must no longer exist within the confined space.

(27) **Host employer.** The employer that owns or manages the property where the work is taking place. In no case will there be more than one host employer.

Note: If the owner of the property on which the construction activity occurs has contracted in writing with an entity for the general management of that property and has in writing transferred to that entity the information specified in WAC 296-809-20006, DOSH will treat the contracted management entity as the host employer for as long as that entity manages the property. Otherwise, DOSH will treat the owner of the property as the host employer.

(28) **Hot work.** Operations capable of providing a source of ignition (for example, riveting, welding, cutting, burning, and heating).

(29) **Hot work permit.** A written authorization to perform hot work operations, for example, riveting, welding, cutting, burning, and heating, that can provide a source of ignition.

(30) **Immediately dangerous to life or health (IDLH).** Any of the following conditions:

(a) An immediate or delayed threat to life.

(b) Anything that would cause irreversible adverse health effects.

(c) Anything that would interfere with an individual's ability to escape unaided from a permit-required confined space.

Notes: Some materials - hydrogen fluoride gas and cadmium vapor, for example - may produce immediate transient effects that, even if severe, may pass without medical attention, but are followed by sudden, possibly fatal collapse ((~~twelve~~)) 12 to ((~~seventy-two~~)) 72 hours after exposure. The victim "feels normal" after recovery from transient effects until collapse. Such materials in hazardous quantities are considered to be "immediately" dangerous to life or health (IDLH).
For immediately dangerous to life or health values see ((~~http://www.cdc.gov/niosh/idlh/idlhintr.html~~)) https://www.cdc.gov/niosh/idlh/default.html.

(31) **Inerting.** The displacement of the atmosphere in a permit-required confined space by a noncombustible gas (such as nitrogen or argon) to such an extent that the resulting atmosphere is noncombustible. Inerting produces an IDLH oxygen-deficient atmosphere.

(32) **Isolation.** The process of removing a permit-required confined space from service and completely protecting the employees against the release of energy and material into the space by:

((~~•~~)) (a) Blanking or blinding;

((~~•~~)) (b) Misaligning or removing sections of lines, pipes, or ducts;

((~~•~~)) (c) Double block and bleed system;

((~~•~~)) (d) Machine guarding;

((~~•~~)) (e) Blocking or disconnecting all mechanical linkages;

((~~•~~)) (f) Placement of barriers to eliminate the potential for employee contact with a physical hazard; or

((~~•~~)) (g) Lockout of all sources of energy.

Note: When using lockout, you must follow all the requirements of chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

(33) **Limited or restricted means of entry or exit.** A condition that has a potential to impede an employee's movement into or out of a confined space. A space has limited or restricted means of entry or exit, if an entrant's ability to escape in an emergency would be hindered. Examples include, but are not limited to, trip hazards, poor illumination, slippery floors, inclining surfaces and ladders.

(34) **Line breaking.** The intentional opening of a pipe, line, or duct that is or has been carrying flammable, corrosive, or toxic material, an inert gas, or any fluid at a volume, pressure, or temperature capable of causing injury.

(35) **Lockout.** Placing a lockout device on an energy-isolating device using an established procedure to make sure the machine or equipment cannot be operated until the lockout device is removed. For more information, see chapter 296-803 WAC, Lockout/tagout (control of hazardous energy).

(36) **Lockout device.** A device that uses a positive means, such as a key or combination lock, to hold an energy-isolating device in the "safe" or "off" position. This includes blank flanges and bolted slip blinds.

(37) **Lower flammable limit (LFL) or lower explosive limit (LEL).** The minimum concentration of a substance in air needed for an ignition source to cause a flame or explosion.

(38) **Mobile worker.** An employee who performs work in multiple locations such as: Customer sites, company offices, private homes, vendor offices, or construction sites.

(39) **Monitor or monitoring (see also testing).** The process used to identify and evaluate a potential hazardous atmosphere after an authorized entrant enters the space. This process checks for atmospheric changes. It is performed in a periodic or continuous manner after the completion of the initial testing or evaluation of that space.

(40) **Nonentry rescue.** Retrieval of an entrant from a permit-required space without entering the permit space.

(41) **Nonpermit confined space.** You will find the requirements for a nonpermit confined space in WAC 296-809-600.

(42) **Oxygen deficient atmosphere.** An atmosphere containing less than 19.5 percent oxygen by volume.

(43) **Oxygen enriched atmosphere.** An atmosphere containing more than 23.5 percent oxygen by volume.

(44) **Permit-required confined space or permit space.** A confined space that has one or more of the following characteristics capable of causing death or serious physical harm:

(a) Contains or has a potential to contain a hazardous atmosphere;

(b) Contains a material with the potential for engulfing someone who enters;

(c) Has an internal configuration that could allow someone entering to be trapped or asphyxiated by inwardly converging walls or by a floor, which slopes downward and tapers to a smaller cross section;

(d) Contains any physical hazard. This includes any recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts;

(e) Contains any other recognized serious safety or health hazard that could either:

(i) Impair the ability to self-rescue; or

(ii) Result in a situation that presents an immediate danger to life or health.

See Appendix B Examples of Permit-Required Confined Space Hazards by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

(45) **Permit-required confined space program (also known as a confined space program).** An overall program for:

(a) Controlling and appropriately protecting employees from permit-required confined space hazards; and

(b) Regulating employee entry into permit-required confined spaces.

(46) **Physical hazard.** An existing or potential hazard that can cause death or serious physical damage. Examples include, but are not limited to: Explosives (as defined by WAC 296-52-60130); mechanical, electrical, hydraulic and pneumatic energy; radiation; temperature extremes; engulfment; noise; and inwardly converging surfaces. Physical hazards also include chemicals that can cause death or serious physical damage through skin or eye contact (rather than through inhalation).

(47) **Potential hazards.** All reasonable anticipated conditions within a space and outside the space that can adversely affect the conditions within the space.

(48) **Program administrator.** The person who has overall responsibility for your program and has sufficient training or experience with permit-required confined space entry to oversee program development, coordinate implementation, and conduct required evaluations of program effectiveness outlined in WAC 296-809-50006.

(49) **Prohibited condition.** Any condition in a permit-required confined space not allowed by the permit during the authorized entry period. For example: A hazardous atmosphere is a prohibited condition unless the employer can demonstrate that personal protective equipment (PPE) will provide effective protection for each employee in the permit space and provides the appropriate PPE to each employee.

(50) **Qualified person.** A person who has successfully demonstrated the ability to solve problems relating to the subject matter, work, or project, either by:

((~~•~~)) (a) Possession of recognized degree, certificate, or professional standing; or

((~~•~~)) (b) Extensive knowledge, training and experience.

(51) **Representative permit space.** A mock-up of a confined space that has entrance openings that are similar to, and is of similar size, configuration, and accessibility to, the permit space that authorized entrants enter.

(52) **Rescue.** Retrieving and providing medical assistance to one or more employees in a permit space.

(53) **Rescue service.** The personnel designated to rescue employees from permit-required confined spaces.

(54) **Retrieval system.** The equipment used for nonentry rescue of persons from permit-required confined spaces including; a retrieval line, chest or full-body harness, wristlets or anklets if appropriate, and a lifting device or anchor.

(55) **Serious physical damage.** An impairment or illness in which a body part is made functionally useless or is substantially reduced in efficiency. Such impairment or illness may be permanent or temporary and includes, but is not limited to, loss of consciousness, disorientation, or other immediate and substantial reduction in mental efficiency. Injuries involving such impairment would usually require treatment by a physician or other licensed health care professional.

(56) **Tagout.**

(a) Placement of a tagout device on a circuit or equipment that has been deenergized, in accordance with an established procedure, to indicate that the circuit or equipment being controlled may not be operated until the tagout device is removed; and

(b) The employer ensures that:

(i) Tagout provides equivalent protection to lockout; or

(ii) Lockout is infeasible and the employer has relieved, disconnected, restrained and otherwise rendered safe stored (residual) energy.

(57) **Testing (see also monitoring).** The process of identifying and evaluating the hazards that entrants may be exposed to in a permit-required confined space. Testing includes specifying the initial atmospheric tests that are to be performed in the permit-required confined space.

Note: Testing allows employers to devise and implement adequate controls to protect entrants during entry, and to determine if acceptable entry conditions are present.

(58) **Ventilate or ventilation.** The process of controlling a hazardous atmosphere using continuous forced-air mechanical systems. Ventilation is a method of hazard control, not hazard elimination.

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-100 Scope. This chapter applies to all confined spaces and provides requirements to protect employees from the hazards of entering and working in confined spaces. This chapter applies in any of the following circumstances:

(1) You have confined spaces in your workplace.

(2) Your employees will enter another employer's confined spaces.

(3) A contractor will enter your confined spaces.

(4) You provide confined space rescue services.

You can use Table 1 to help you decide which requirements to follow for confined spaces.

Table 1
Requirements for Confined Spaces

For confined spaces that are	The requirements in the following sections apply				
	200	300	400	500	600
Permit-required confined spaces.	X	X	X	X	X
Permit-required confined spaces entered by a contractor (or other outside employer).	X	X	X	X	X
Alternative methods.	X	X	X		X
Never entered.	X				
If you only:					
Have a contractor (or outside employer) enter your space, and you never enter yourself.	X				
Are a rescue service provider.		X	X	X	

Note: Requirements in other chapters may apply to your work. You can find a list of these rules in Appendix C Rules in Other Chapters that Cover Confined Spaces by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)). You will find some safety and health requirements addressed on a broad level in this chapter, while being addressed for a specific application in another rule. When this happens, both requirements apply and should not conflict. When a conflict does occur, you need to follow the more specific requirement.

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-20002 Identify permit-required confined spaces. You must identify all permit-required confined spaces in your workplace. Use a person with the knowledge, skills, and abilities, capable of identifying actual and potential hazards related to permit-required confined spaces and with the authority to take prompt corrective action, such as an entry supervisor or competent person.

Important: Identification of Permit-Required Confined Space(s) involves a two-step process.

Step 1: *Identify confined spaces.*

Confined space. *A space that is* ***all*** *of the following:*

• *Large enough and arranged so an employee could fully enter the space and work.*

• Has limited or restricted entry or exit. Examples of spaces with limited or restricted entry are tanks, vessels, silos, storage bins, hoppers, vaults, excavations, and pits.

• Not primarily designed for continuous human occupancy.

See Appendix A Frequently Asked Questions and Examples of Confined Spaces by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

Step 2: *Evaluate the actual and potential hazards of each confined space to identify the permit-required confined space(s).*

Permit-required confined space or permit space. *A confined space that has one or more of the following characteristics capable of causing death or serious physical harm.*

• Contains or has a potential to contain a hazardous atmosphere.

• Contains a material with the potential for engulfing someone who enters.

• Has an internal configuration that could allow someone entering to be trapped or asphyxiated by inwardly converging walls or by a floor, which slopes downward and tapers to a smaller cross section.

• Contains any physical hazard. This includes any recognized health or safety hazards including engulfment in solid or liquid material, electrical shock, or moving parts.

• Contains any other recognized serious safety or health hazard that could either:

(a) Impair the ability to self-rescue; or

(b) Result in a situation that presents an immediate danger to life or health.

See Appendix B Examples of Permit-Required Confined Space Hazards by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-30002 Develop a written permit-required confined space program.

Important:

Identify and evaluate the hazards of permit-required confined spaces and the work performed, to assist you in developing your entry program and entry procedures.

(1) You must develop a written program, before employees enter confined spaces, that describes the means, procedures, and practices you use for the safe entry of permit-required confined spaces as required by this chapter. Include the following:

(a) Documentation of permit entry procedures.[1]

(b) Designation of employees that have active roles, including; attendants, competent persons, entrants, entry supervisors, rescuers, program administrator, or those who test or monitor the atmosphere in a permit-required space.

(c) Identification of each designated employee's duties.

(d) Training employees on their designated roles.

(e) How to identify and evaluate hazards.

(f) Use and maintenance of equipment.

(g) How to prevent unauthorized entry.

(h) How to coordinate entry with another employer.

(i) How to rescue entrants.

(j) If you intend to enter using alternative methods for entry, the procedures must address all measures used before entry to isolate and eliminate hazards from the space and control potential atmospheric hazards.

(i) Identify the entry supervisor who authorizes the use of the alternative methods and has the responsibility for ensuring safe entry conditions.

(ii) The hazards of the space.

(iii) The methods used to eliminate hazards including verification.

(iv) The methods used to ensure that the hazards are eliminated.

(v) The methods used to test and monitor the atmosphere within the space, where applicable, for all atmospheric hazards.

(vi) The methods used to determine if unsafe conditions arise before or during entry.

(vii) The criteria and conditions for evacuating the space during entry (like monitoring and test data).

(viii) Methods for training employees in these procedures.

(ix) The methods used to ensure employees follow these procedures.

(x) Documentation required. For examples of documentation, see Appendix J Alternative Method Documentation by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

(2) You must consult with affected employees and their authorized representatives when developing and implementing all aspects of your program.

(3) You must make the written program available to employees and their authorized representatives.

(4) You must update your written program as necessary when you have identified deficiencies. Revise your program and entry procedures before allowing subsequent entries.

(5) You must designate a confined space program administrator who has overall responsibility for your program and has sufficient training or experience with permit-required confined space entry to oversee program development, coordinate implementation, and conduct required evaluations of program effectiveness outlined in WAC 296-809-50006.

Note: [1] Examples of safe work procedures include. but are not limited to: Communication, hazard identification, monitoring and testing, energy control (lockout), ventilation (purging, flushing, use of local exhaust), inerting, engulfment control, equipment use, equipment maintenance, coordination with another employer, emergency evacuation, rescue, and hazard elimination procedures.
If you have multiple spaces assigned to one attendant, include the procedures necessary to enable the attendant to fulfill their required responsibilities and respond to an emergency. See WAC 296-809-50010, Table 2.

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-50014 Make sure you have adequate rescue and emergency services available. (1) You must make sure you have adequate rescue and emergency services available during your permit-required confined space entry operations.[1]

(a) Evaluate and select rescue teams or services who can:

(i) Respond to a rescue call in a timely manner.[2] Timeliness is based on the identified hazards. Rescuers must have the capability to

reach potential victims within an appropriate time frame based on the identified permit space hazards.

(ii) Proficiently rescue employees from a permit-required confined space in your workplace. Rescuers must have the appropriate equipment for the type of rescue.

(iii) Agree to notify you immediately in the event that the rescue service becomes unavailable.

(b) Make sure that at least one member of the rescue team or service holds a current certification in first aid and cardiopulmonary resuscitation (CPR).

(c) Inform each rescue team or service about the hazards they may confront when called to perform rescue.

(d) Provide the rescue team or service with access to all permit spaces from which rescue may be necessary. This will allow them to develop appropriate rescue plans and to practice rescue operations.

(2) You must provide employees assigned to provide permit-required confined space rescue and emergency services, at no cost to the employee, with:

(a) Personal protective equipment (PPE) needed for safe entry.

(b) Other equipment required to conduct rescues safely.

(c) Training so they are:

(i) Proficient in the use of the PPE and other equipment.

(ii) Proficient as an entrant of permit-required confined spaces.

(iii) Able to safely perform assigned rescue and emergency duties.

(iv) Knowledgeable in basic first aid and cardiopulmonary resuscitation (CPR).

(d) Practice sessions for permit-required confined space rescues **at least** once every ((~~twelve~~)) 12 months where dummies, manikins, or actual persons are removed from either:

(i) The actual permit spaces; or

(ii) Representative permit spaces that simulate the opening size, configuration, and accessibility, of permit spaces where rescue will be performed.

(3) You must establish procedures for:

(a) Contacting rescue and emergency services.

(b) Rescuing entrants from permit-required confined spaces.

(c) Providing necessary emergency services to rescued entrants.

(d) Preventing unauthorized persons from attempting a rescue.

Notes: [1] The following is not considered to be adequate rescue and emergency services:
• Planning to rely on a rescue service and posting a contact number (like "911") without contacting them and completing an evaluation in advance to ensure they meet the criteria of this standard.
[2] Timely rescue will vary according to the specific hazards involved in each entry. For example, chapter 296-842 WAC, Respirators, requires that employers provide a standby person or persons capable of immediate action to rescue employee(s) for work areas considered to contain an IDLH atmosphere.

Note: See Appendix H - Evaluating Rescue Teams or Services by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

AMENDATORY SECTION (Amending WSR 18-02-071, filed 1/2/18, effective 2/5/18)

WAC 296-809-60002 Make sure the following conditions are met if using alternative methods. (1) You may enter permit-required confined spaces without a permit using alternative methods when you have monitoring and inspection data that supports the following:

(a) You have eliminated all the hazards[1]; or

(b) You have eliminated all of the physical hazards[1,2], and continuous forced air ventilation controls the actual or potential hazardous atmosphere. You must also have monitoring data that demonstrates the use of continuous forced air ventilation will maintain the permit-required confined space for safe entry. In the event the ventilation system stops working, entrants can exit the space safely.

(2) You must have written documentation for the entrants before each entry that includes the following information:

(a) The location of the space;

(b) Date of the entry;

(c) Duration of the entry;

(d) The hazards of the space and the work;

(e) The specific measures used to eliminate the hazards[1];

(f) The ventilation system used to control atmospheric hazards, when applicable, direct reading instruments used to test the atmosphere, and results of the atmospheric testing that demonstrate the absence of a hazardous atmosphere;[1,2]

(g) All conditions that required evacuation of the space[3]; and

(h) The name, title, and signature of the entry supervisor ensuring safe entry procedures.

(3) You must make sure all documentation produced is available to each affected employee and their authorized representative.

(4) You must make sure all monitoring and inspection data is documented and available to each affected employee and their authorized representative.

(5) If you must enter prior to the completion of the hazard elimination, you must perform the entry according to WAC 296-809-500 Permit entry procedures. For example - To collect monitoring inspection data or to apply hazard elimination measures.

Notes:

[1] For the purposes of this section, energy control procedures must isolate the space and result in the elimination of the hazards including applicable stored energy. Evaluate your energy control procedures (lockout) to ensure they fully eliminate the hazards when used. See chapter 296-803 WAC, Lockout/tagout (control of hazardous energy). Tagout is an example of a method not considered to eliminate hazards.

[2] Controlling atmospheric hazards through forced air ventilation does not eliminate the hazards.

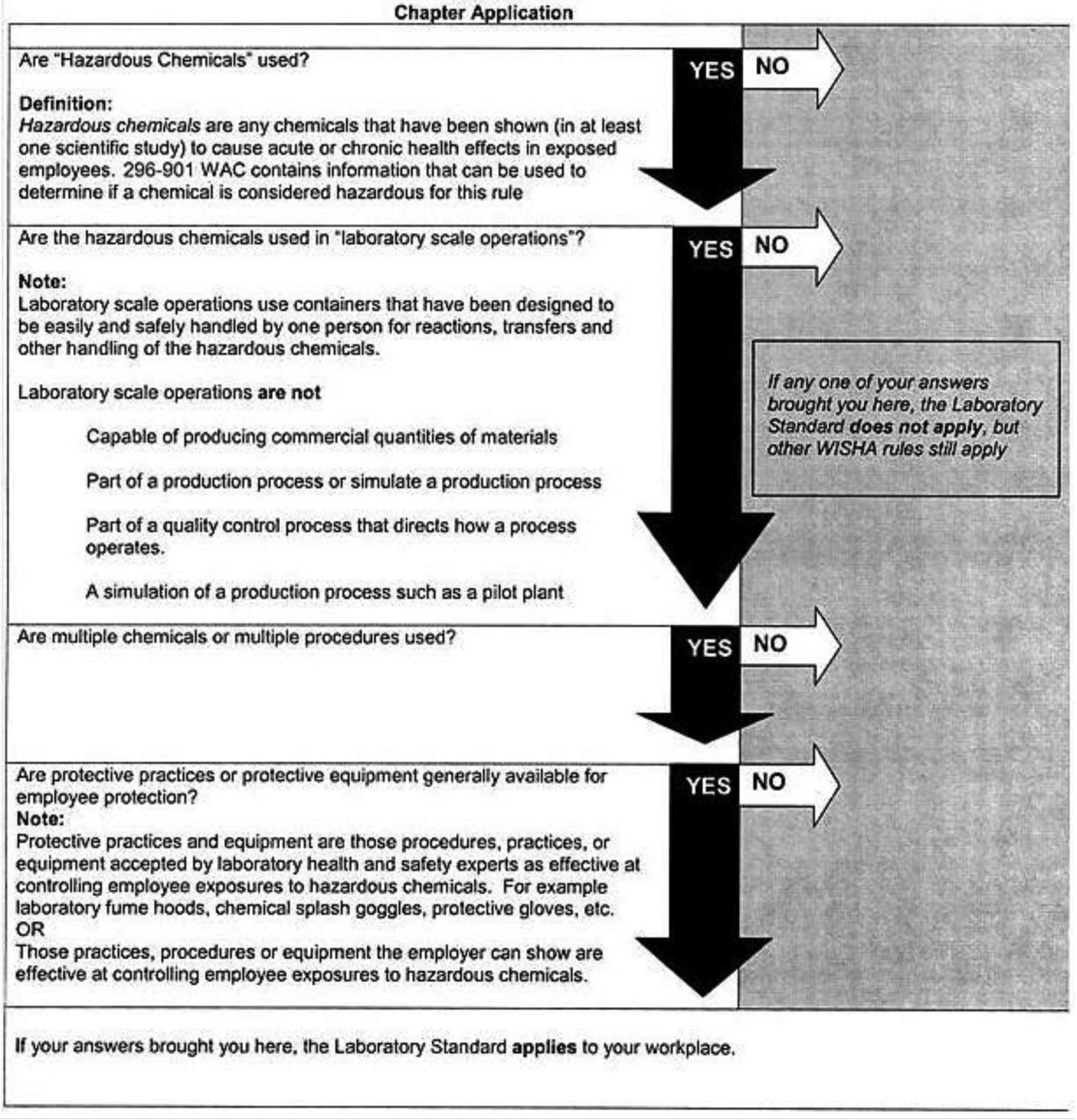
[3] Do not use alternative methods to enter a continuous system unless you can do the following:
• Completely isolate the area entered from the rest of the space;
• Demonstrate that the conditions that caused the hazard or potential hazard no longer exist within the system for the duration of the entry including engulfment; and
• You have sufficient quantities of continuous ventilation to control the atmospheric hazard.
See Appendix J for Alternative Methods Documentation by visiting "Find Safety Rules" on the labor and industries website ((~~at http://www.lni.wa.gov/safety/rules/chapter/809/~~)).

RDS-6264.3

AMENDATORY SECTION (Amending WSR 15-24-102, filed 12/1/15, effective 1/5/16)

WAC 296-828-100 Scope. This chapter applies to the laboratory use of hazardous chemicals. To determine if this chapter applies to your workplace, use Table 1.

Table 1
Chapter Application



Important:

1. When your laboratory operation is covered by this chapter, and you use any of the substances in Table 2, the following applies with the exception of formaldehyde use in histology, pathology, and anatomy laboratories. In histology, pathology, and anatomy laboratories you must follow the requirements in chapter 296-856 WAC, Formaldehyde. This chapter applies to all other formaldehyde laboratory uses as defined in Table 1:

a. The exposure limits and any requirement protecting employees from skin and eye contact in the rules listed in Table 2 will still apply.

b. Where the action level (or where no action level exists, the permissible exposure limit) is exceeded for a substance listed in Table 2, the exposure evaluation and medical surveillance requirements in the substance rule will still apply.

c. You are not required to meet other requirements of the substance rule.

2. To get the permissible exposure limits (PELs) for hazardous chemicals used in your laboratory, see chapter 296-841 WAC, Airborne contaminants.

Table 2
WISHA Regulated Hazardous Chemicals

Acrylonitrile
Arsenic (inorganic)
Asbestos
Benzene
Beryllium
Butadiene
Cadmium
Coke ovens
Cotton dust
1, 2-Dibromo-3-chloropropane
Ethylene oxide
Formaldehyde
Hexavalent Chromium
Lead
Methylene chloride
Methylenedianiline
Silica
Vinyl chloride
Ionizing radiation
4-Nitrobiphenyl
Alpha-Naphthylamine
4,4' Methylene bis (2 - chloroaniline)
Methyl chloromethyl ether
3,3'-Dichlorobenzidine (and its salts)
Acrylonitrile
Bis-Chloromethyl ether
Beta-Naphthylamine ((~~benzidine~~))
Benzidine
4-Aminodiphenyl
Ethyleneimine
Beta-Propiolactone
2-Acetylaminofluorene
4-Dimethylaminoazobenzene
N-Nitrosodimethylamine

RDS-6265.4

AMENDATORY SECTION (Amending WSR 18-22-116, filed 11/6/18, effective 12/7/18)

WAC 296-856-20050 Exposure evaluations.

IMPORTANT:

• This section applies when there is a potential for an employee to be exposed to airborne formaldehyde in your workplace.

• When you conduct an exposure evaluation in a workplace where an employee uses a respirator, the protection provided by the respirator is not considered.

• Following this section will fulfill the requirements to identify and evaluate respiratory hazards found in a separate chapter, ((~~Respiratory hazards~~)) Airborne contaminants, chapter 296-841 WAC.

(1) You must conduct an employee exposure evaluation to accurately determine airborne concentrations of formaldehyde by completing Steps 1 through 7 of the exposure evaluation process, each time any of the following apply:

(a) No evaluation has been conducted.

(b) Changes have occurred in any of the following areas that may result in new or increased employee exposures:

(i) Production.

(ii) Processes.

(iii) Exposure controls, such as ventilation systems or work practices.

(iv) Personnel.

(v) Equipment.

(c) You have any reason to suspect new or increased employee exposure may occur.

(d) You receive a report of employee developing signs and symptoms associated with formaldehyde exposure.

(2) You must provide affected employees or their designated representatives an opportunity to observe exposure monitoring required by this chapter.

(3) You must make sure observers entering areas with formaldehyde exposure:

(a) Are provided with and use the same protective clothing, respirators, and other personal protective equipment (PPE) that employees working in the area are required to use;

AND

(b) Follow any safety and health requirements that apply.

Exposure evaluation process:

Exemption:

• Exposure monitoring is not necessary if you have documentation conclusively demonstrating that employee exposure for a particular material and the operation where it is used, cannot exceed the action level (AL) or short-term exposure limit (STEL) during any conditions reasonably anticipated.

• Such documentation can be based on observations, data, calculations, and previous air monitoring results. Previous air monitoring results:

– Must meet the accuracy required by Step 5.

– Must be based on data that represents conditions being evaluated in your workplace.

– May be from outside sources, such as industry or labor studies.

Step 1: Identify all employees who have potential exposure to airborne formaldehyde in your workplace.

Step 2: Identify operations where employee exposures could exceed the 15-minute short-term exposure limit (STEL) for formaldehyde of 2 parts per million (ppm).

Note: You may use monitoring devices such as colorimetric indicator tubes or real-time monitors to screen for activities where employee exposures could exceed the STEL.

Step 3: Select employees from those working in the operations you identified in Step 2 who will have their 15-minute exposures monitored.

Step 4: Select employees from those identified in Step 1 who will have their 8-hour exposures monitored.
- Make sure the exposures of the employees selected represent 8-hour exposures for all employees identified in Step 1, including each job activity, work area, and shift.
■ If you expect exposures to be **below** the action level (AL), you may limit your selection to those employees reasonably believed to have the highest exposures.
■ If you find any of those employees' exposure to be **above** the AL, then you need to repeat monitoring to include each job activity, work area, and shift.

Reference: A written description of the procedure used for obtaining representative employee exposure monitoring results needs to be kept as part of your exposure records, as required by Exposure records, WAC 296-856-20070.

- This description can be created while completing Steps 3 through 6 of this exposure evaluation process.

Step 5: Determine how you will obtain accurate employee exposure monitoring results. Select and use an air monitoring method with a confidence level of 95 percent, that is accurate to:
- ±25 percent when concentrations are potentially above the TWA of 0.75 parts per million (ppm).
- ±25 percent when concentrations are potentially above the STEL of 2 ppm.
- ±35 percent when concentrations are potentially above the AL.

Note:
• Here are examples of air monitoring methods that meet this accuracy requirement:
– OSHA Method 52 found at http://www.osha.gov/dts/sltc/methods/toc.html.
– NIOSH methods: 2016, 2514, 3500, 2539, and 5700, found at ((~~http://www.cdc.gov/niosh/homepage.html and linking to~~)) http://www.cdc.gov/niosh and select the NIOSH Manual of Analytical Methods.
– Direct reading methods found at http://www.osha.gov/SLTC/formaldehyde/index.html

Step 6: Obtain employee exposure monitoring results by collecting air samples to accurately determine the formaldehyde exposure of employees identified in Steps 3 and 4.
- Make sure samples are collected from each selected employee's breathing zone.

Note:
• You may use any sampling method that meets the accuracy specified in Step 5. Examples of these methods include:
– Real-time monitors that provide immediate exposure monitoring results.
– Equipment that collects samples that are sent to a laboratory for analysis.
• The following are examples of methods for collecting samples representative of 8-hour exposures.
– Collect one or more continuous samples, such as a single 8-hour sample or four 2-hour samples.
– Take a minimum of 5 brief samples, such as five 15-minute samples, during the work shift at randomly selected times.
• For work shifts longer than 8 hours, monitor the continuous 8-hour portion of the shift expected to have the highest average exposure concentration.

Step 7: Have the samples you collected analyzed to obtain employee exposure monitoring results for 8-hour and short-term exposure limits (STEL) exposures.
- Determine if employee exposure monitoring results are above or below the following values:
■ 8-hour action level (AL) of 0.5 ppm.
■ 8-hour time-weighted average (TWA_8) of 0.75 ppm.

■ 15-minute short-term exposure limit (STEL) of 2 ppm.

Reference: To use the monitoring results to determine which additional chapter sections apply to employee exposure in your workplace, turn to the Scope, WAC 296-856-100, and follow Table 1 in that section.

Note:
- You may contact your local WISHA consultant for help with:
  – Interpreting data or other information.
  – Determining 8-hour employee exposure monitoring results.
- To contact a WISHA consultant:
  – Go to the safety and health core rules, chapter 296-800 WAC; and
  – Find the resources section, and under "other resources," find service locations for labor and industries.

RDS-6266.4

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-200 General requirements for scaffolds. Section contents:

Your responsibility:

To make sure all scaffolds meet these requirements.

You must meet the requirements …	in this section:
Make sure scaffolds are properly designed and constructed	WAC 296-874-20002
Make sure scaffolds are erected, moved, altered, or dismantled by ((~~appropriate~~)) qualified persons	WAC 296-874-20004
Maintain structural integrity when intermixing scaffold components	WAC 296-874-20006
Make sure platforms are properly planked or decked	WAC 296-874-20008
Make sure platforms meet minimum width requirements	WAC 296-874-20010
Meet these requirements when using shorter platforms to create a longer platform	WAC 296-874-20012
Lay platform planks properly when the platform changes direction	WAC 296-874-20014
Stabilize the ends of platforms	WAC 296-874-20016
Keep platform sag within acceptable limits	WAC 296-874-20018
Provide safe access to scaffolds	WAC 296-874-20020
Make sure portable, hook-on, and attachable ladders meet these requirements	WAC 296-874-20022

You must meet the requirements …	in this section:
Make sure stairway-type ladders meet these requirements	WAC 296-874-20024
Make sure stair towers meet these requirements	WAC 296-874-20026
Make sure stair rails and handrails meet these requirements	WAC 296-874-20028
Make sure ramps and walkways used to access scaffolds meet these requirements	WAC 296-874-20030
Make sure surfaces used to access scaffolds are close enough to use safely	WAC 296-874-20032
Inspect scaffolds and scaffold components	WAC 296-874-20034
Make sure damaged or weakened scaffolds meet minimum strength requirements	WAC 296-874-20036
Make sure scaffolds are properly loaded	WAC 296-874-20038
Protect employees when moving scaffolds	WAC 296-874-20040
Increase employee working level height on scaffolds safely	WAC 296-874-20042
Control loads being hoisted near scaffolds	WAC 296-874-20044
Protect employees from energized power lines	WAC 296-874-20046
Protect employees from weather hazards	WAC 296-874-20048
Protect employees from slipping and tripping hazards	WAC 296-874-20050
Provide fall protection for employees on scaffolds	WAC 296-874-20052
((~~Provide fall protection if the scaffold is too far from the work face~~	~~WAC 296-874-20054~~
~~Provide specific fall protection for specific types of scaffolds~~	~~WAC 296-874-20056~~
~~Make sure personal fall arrest systems meet these requirements~~	~~WAC 296-874-20058~~
~~Make sure vertical lifelines used with personal fall arrest systems meet these requirements~~	~~WAC 296-874-20060~~
~~Make sure horizontal lifelines used with personal fall arrest systems meet these requirements~~	~~WAC 296-874-20062~~

You must meet the requirements …	in this section:
~~Make sure guardrail systems meet these requirements~~	~~WAC 296-874-20064~~))
Provide falling object protection	WAC 296-874-20066
Provide additional support lines on suspended scaffolds using a canopy for falling object protection	WAC 296-874-20068
Make sure toeboards meet these requirements	WAC 296-874-20070
Train employees who work on scaffolds	WAC 296-874-20072
Train employees who erect, dismantle, operate or maintain scaffolds	WAC 296-874-20074
Retrain employees when necessary	WAC 296-874-20076

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-20008 Make sure platforms are properly planked or decked. (1) You must fully plank or deck each platform between the front uprights and the guardrail supports on all working levels of a scaffold so that there is no more than one inch (2.5 cm):

(a) Between adjacent units; and

(b) Between the platform and the uprights.

EXEMPTION: 1. There may be more than one inch between platform units if all of the following are met:
a. You can demonstrate that a wider space is necessary, such as to fit around uprights when side brackets are used to extend the platform width;
b. The platform is planked or decked as fully as possible;
c. The open space between the platform and the guardrail supports is nine and one-half inches (24.1 cm) or less.
2. Platforms used solely as walkways or only by employees erecting or dismantling scaffolds do not have to be fully decked or planked if:
a. The planking provided makes for safe working conditions; and
b. Employees on those platforms are protected from falling.

REFERENCE		
Fall protection requirements for employees:	Are located in the following chapters:	In the following sections:
On walkways within scaffolds	Chapter ((~~296-874 WAC, Scaffolds~~)) 296-880 WAC, Unified safety standards for fall protection	WAC ((~~296-874-20056~~)) 296-880-30030
Erecting or dismantling supported scaffolds	Chapter ((~~296-874 WAC, Scaffolds~~)) 296-880 WAC, Unified safety standards for fall protection	WAC ((~~296-874-40010~~)) 296-880-30030

REFERENCE		
Fall protection requirements for employees:	Are located in the following chapters:	In the following sections:
Erecting or dismantling suspended scaffolds in general industry	Chapter 296-24 WAC, General safety and health standards	Part J-1 Working surfaces, guarding floors and wall openings((~~, ladders~~)) AND Part J-3 Powered platforms
Erecting or dismantling suspended scaffolds in construction work	((~~Chapter 296-155 WAC, Safety standards for construction work~~)) Chapter 296-880 WAC, Unified safety standards for fall protection	((~~Part C-1 Fall protection requirements for construction~~)) WAC 296-880-30030, Scaffolds

(2) You must make sure wood platforms are not covered with an opaque finish.

EXEMPTION: Platform edges may be covered or marked for identification.

Note: Platforms may be coated periodically with wood preservatives, fire-retardant finishes, or slip-resistant finishes if the coating does not obscure the top or bottom wood surfaces.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-20030 Make sure ramps and walkways used to access scaffolds meet these requirements. (1) You must make sure ramps and walkways are not inclined at a slope steeper than one vertical in three horizontal (1:3 or ((~~twenty~~)) 20 degrees from the horizontal).

(2) You must make sure ramps and walkways that are inclined at a slope steeper than one vertical in eight horizontal (1:8) have cleats to provide footing which are:

(a) Securely fastened to the planks; and

(b) Spaced not more than ((~~fourteen~~)) 14 inches (35 cm) apart.

Reference: Ramps and walkways that are four feet (1.2 m) or more above a lower level need to have a guardrail system. Those requirements are found in other chapters.
1. For general industry activities, go to working surfaces, guarding floors and wall openings, Part J-1, in the general safety and health standards, chapter 296-24 WAC;
2. For construction activities, go to floor openings, wall openings, and stairways, ((~~Parts C-1 and~~)) Part J, in the safety standards for construction work, chapters 296-155 and 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-30032 Meet these requirements when using catenary scaffolds. (1) You must make sure catenary scaffolds have:

(a) No more than one platform between consecutive vertical pick-ups; and

(b) No more than two platforms per scaffold.

(2) You must make sure any platform that's supported by wire ropes has hook-shaped stops placed at each end of the platform that will prevent it from falling if one of the horizontal wire ropes breaks.

(3) You must make sure wire ropes are:

(a) Continuous and without splices between anchors; and

(b) Not tightened to the point that putting a load on the scaffold will overstress them.

Reference: For specific fall protection requirements for employees on catenary scaffolds, go to WAC ((~~296-874-20056~~)) 296-880-30030.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-30034 Meet these requirements when using float (ship) scaffolds. (1) You must support the platform with at least two bearers.

(2) You must make sure each bearer:

(a) Projects at least six inches (15.2 cm) beyond the platform on both sides; and

(b) Is securely fastened to the platform.

(3) You must make sure rope connections won't allow the platform to shift or slip.

(4) You must make sure scaffolds that only have two ropes used with each float meet all of the following:

(a) There are four rope ends that are securely fastened to overhead supports;

(b) Each supporting rope is hitched around one end of the bearer, passed under the platform to the other end of the bearer, and hitched again;

(c) There is enough rope at each end for the supporting ties.

Reference: For specific fall protection requirements for employees on float (ship) scaffolds, go to WAC ((~~296-874-20056~~)) 296-880-30030.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-30042 Meet these requirements when using needle beam scaffolds. (1) You must install scaffold support beams on edge.

(2) You must use ropes or hangers for scaffold supports. One end of a needle beam scaffold may be supported by a permanent structural member.

(3) You must securely attach ropes to the needle beams.

(4) You must arrange the support connection to prevent the needle beam from rolling or becoming displaced.

(5) You must securely attach platform units to the needle beams with bolts or equivalent means.

Note: Cleats and overhang are not adequate means of attachment.

Reference: For specific fall protection requirements for employees on needle beam scaffolds, go to WAC ((~~296-874-20056~~)) 296-880-30030.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-30044 Meet these requirements when using single-point adjustable suspension scaffolds. (1) You must make sure two scaffolds that have been combined to form a two-point adjustable suspension scaffold meet the requirements of the section. Make sure two-

point adjustable suspension scaffolds (swing stages) meet these requirements, WAC 296-874-30046.

(2) You must make sure scaffolds, where the suspension rope between the scaffold and the suspension device is not vertical, meet all of the following:

(a) The rigging has been designed by a qualified person;

(b) The scaffold is accessible to rescuers;

(c) The suspension rope is protected from chafing at any point where it changes direction;

(d) The scaffold is positioned so that swinging cannot bring the scaffold into contact with another surface.

(3) You must make sure boatswain's chair tackle meets all of the following:

(a) It consists of correct size ball bearing blocks or bushed blocks.

(b) The blocks contain safety hooks.

(c) The rope is properly eye spliced.

(d) The rope is either:

(i) First-grade manila rope that has a diameter of at least five-eighths inch (1.6 cm); or

(ii) Other rope that has equivalent characteristics, such as strength and durability.

(4) You must make sure boatswain's chair seat slings meet all of the following:

(a) Are reeved through four corner holes in the seat.

(b) Cross each other on the underside of the seat.

(c) Are rigged to prevent slipping which could cause the seat to become out-of-level.

(d) Are made from fiber, synthetic, or other rope which have:

(i) A diameter of at least five-eighths inch (1.6 cm); and

(ii) Characteristics equivalent to first grade manila rope, such as strength, slip resistance, and durability.

(5) You must make sure the seat sling of boatswain's chairs used when a heat-producing process, such as gas or arc welding, is being conducted is at least three-eighths inch (1.0 cm) wire rope.

(6) You must securely fasten cleats to the underside of noncross-laminated wood boatswain's chairs to prevent the board from splitting.

Reference: For specific fall protection requirements for employees on single-point adjustable suspension scaffolds, go to WAC ((~~296-874-20056~~)) 296-880-30030.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-30046 Meet these requirements when using two-point adjustable suspension scaffolds (swing stages).

Important:

This section does not apply to two-point adjustable suspension scaffolds used as masons' or stonesetters' scaffolds.

Reference: For requirements for masons' or stonesetters' scaffolds, go to WAC 296-874-30040.

(1) You must make sure platforms more than ((~~thirty-six~~)) 36 inches (0.9 m) wide have been designed by a qualified person to prevent unstable conditions.

(2) You must make sure platforms are one of the following:

(a) Ladder-type;

(b) Plank-type;

(c) Beam-type;
(d) Light-metal type.
(3) You must make sure the design of light-metal type platforms have been tested and listed by a nationally recognized testing laboratory if they:
(a) Have a rated capacity of ((~~seven hundred fifty~~)) 750 pounds or less; or
(b) Have a length of ((~~forty~~)) 40 feet (12.2 m) or less.
(4) You must securely fasten the platform to the hangers (stirrups) using U-bolts or other means that satisfy the section titled, Make sure suspended scaffolds and scaffold components meet these strength requirements, WAC 296-874-30002.
(5) You must make sure fiber or synthetic ropes are used with blocks that:
(a) Consist of at least one double and one single block and;
(b) Have sheaves that fit the size of the rope used.
(6) You must make sure employees move from one platform to another only when all of the following are met:
(a) The platforms are at the same height;
(b) The platforms are abutting;
(c) Walk-through stirrups are used that have been specifically designed to allow employee passage.
(7) You must make sure two-point scaffolds that are bridged or otherwise connected together when being raised or lowered meet both of the following:
(a) The bridge connections are articulated;
(b) The hoists are properly sized.

Reference: For specific fall protection requirements for employees on two-point adjustable suspension scaffolds, go to WAC ((~~296-874-20056~~)) 296-880-30030.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-40020 Meet these requirements when using integral prefabricated scaffold access frames. (1) You must make sure integral prefabricated scaffold access frames meet all of the following:
(a) Have been specifically designed and constructed to be used as ladder rungs;
(b) Have a rung length of at least eight inches (20 cm);
(c) Have a maximum spacing between rungs of sixteen and three quarters inches (43 cm);
(d) Are uniformly spaced within each frame section;
(e) Have rest platforms at least every ((~~twenty~~)) 20 feet (6.1 m) on all supported scaffolds more than ((~~twenty-four~~)) 24 feet (7.3 m) high.

Note: Nonuniform rung spacing caused by joining end frames together is allowed, provided the resulting spacing does not exceed sixteen and three quarters inches (43 cm).

(2) You must make sure, when panels with rungs that are less than eleven and one-half inches long are used as work platforms, that employees use either:
(a) A positioning device; or
(b) A personal fall arrest system.

Reference: ((~~1. For personal fall arrest system requirements in this chapter, go to WAC 296-874-20058.~~
~~2. For construction activities, go to Part C-1, in safety standards for construction work, chapter 296-155 WAC.~~))
For personal fall arrest system requirements and construction activities, go to chapter 296-880 WAC, Unified safety standards for fall protection.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-40026 Meet these requirements when using ladder jack scaffolds. (1) You must make sure the platform height is not higher than ((~~twenty~~)) 20 feet (6.1 m).

(2) You must make sure ladder jacks are designed and constructed so they rest:

(a) On the side rails and ladder rungs together; or

(b) Only on the rungs.

(3) You must make sure ladder jacks that rest on rungs only have a bearing area that includes a length of at least ((~~ten~~)) 10 inches (25.4 cm) on each rung.

(4) You must make sure ladders used to support ladder jacks are:

(a) Type I (((~~two hundred fifty~~)) 250 pound rated capacity) or Type IA (300 pound rated capacity); and

(b) Are placed, fastened, or equipped with devices to prevent slipping.

Note: Ladders with a duty rating or weight capacity greater than a Type I ladder (250 pounds) satisfy the requirement to use a Type I or Type IA ladder.

(5) You must make sure job-made ladders are not used to support ladder jack scaffolds.

(6) You must make sure scaffold platforms are not bridged together.

Reference: 1. There are specific fall protection requirements for employees using ladder jack scaffolds. Go to WAC ((~~296-874-20056~~)) 296-880-30030.
2. Requirements for portable and fixed ladders are found in chapter 296-876 WAC, Ladders, portable and fixed.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-40034 Meet these requirements when using repair bracket scaffolds. (1) You must make sure brackets are all of the following:

(a) Secured in place by at least one wire rope that's at least one-half inch (1.27 cm) in diameter;

(b) Attached to the securing wire rope by a positive locking device, or equivalent, that will prevent the bracket from being unintentionally detached from the rope;

(c) Provided with a shoe, heel block, foot, or a combination that:

(i) Is located at the contact point between the supporting structure and the bottom of the bracket; and

(ii) Will prevent lateral movement of the bracket.

(2) You must secure the platforms to the brackets in a way that prevents:

(a) The platforms from separating from the brackets; and

(b) The platforms or brackets from moving on a completed scaffold.

(3) You must make sure wire rope placed around the structure to provide a safe anchorage for personal fall arrest systems used by employees erecting or dismantling scaffolds:

(a) Is at least five-sixteenths inch (0.8 cm) in diameter;

(b) Provides an anchorage that meets the requirements of WAC ((~~296-874-20058~~)) 296-880-40020;

(c) For construction activities, go to ((~~Part C-1, in the safety standards for construction work, chapter 296-155 WAC~~)) chapter 296-880 WAC, Unified safety standards for fall protection.

(4) You must make sure each wire rope used for securing brackets in place or as an anchorage for personal fall arrest systems is all of the following:

(a) Protected from damage due to contact with edges, corners, protrusions, or other parts of the supporting structure or scaffold components;

(b) Tensioned by a turnbuckle or equivalent means. Turnbuckles must be:

(i) At least one inch (2.54 cm) in diameter; and

(ii) Connected to the other end of its rope by an eye splice thimble that's sized appropriate to the turnbuckle.

(c) **Not** used with U-bolt wire rope clips.

(5) You must make sure materials are not dropped to the outside of the supporting structure.

(6) You must erect the scaffold by progressing around the structure in only one direction.

AMENDATORY SECTION (Amending WSR 15-23-086, filed 11/17/15, effective 12/18/15)

WAC 296-874-40038 Meet these requirements when using step, platform and trestle ladder scaffolds. (1) You must make sure ladders used to support step, platform, and trestle ladder scaffolds are:

(a) Type I (250 pound rated capacity) or Type IA (300 pound rated capacity); and

(b) Placed, fastened, or equipped with devices to prevent slipping.

Note: Ladders with a duty rating or weight capacity greater than a Type I ladder (250 pounds) satisfy the requirement to use a Type I or Type IA ladder.

(2) You must make sure job-made ladders are not used to support step, platform, and trestle ladder scaffolds.

Reference: 1. There are specific fall protection requirements for employees using ((~~ladder jack scaffolds~~)) step, platform, and trestle ladder scaffolds. Go to WAC ((~~296-874-20056~~)) 296-880-30030.
2. Requirements for portable and fixed ladders are found in chapter 296-876 WAC, Ladders, portable and fixed.

(3) You must make sure scaffold platforms are not placed higher than the second highest rung or step of the ladder supporting the platform.

(4) You must make sure scaffold platforms are not bridged together.

WSR 26-15-112
PERMANENT RULES
DEPARTMENT OF COMMERCE
[Filed July 21, 2026, 9:43 a.m., effective August 21, 2026]

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

Purpose: Implementation of 2025 legislation (SHB 1543, 69th legislature, 2025 regular session) authorizing the department of commerce to adopt additional compliance pathways, expand exemption criteria, and approve extensions for covered buildings to comply with the clean buildings performance standard (chapter 19.27A RCW). SHB 1543 enables broader compliance with the clean buildings performance standard by reducing financial barriers and increasing flexibility for building owners. This flexibility will enable more building owners to plan and manage building upgrades that will help Washington's built environment stay on pace with economy-wide carbon emissions reductions required in statute. These rules are necessary to align the clean buildings performance standard rules with, and to implement, the new statutory changes.

Citation of Rules Affected by this Order: Amending WAC 194-50-001, 194-50-030, 194-50-040, 194-50-050, 194-50-060, 194-50-070, 194-50-080, 194-50-090, 194-50-130, 194-50-140, 194-50-150, 194-50-160, 194-50-170, and 194-50-180.

Statutory Authority for Adoption: RCW 19.27A.210 and 19.27A.250.

Adopted under notice filed as WSR 26-09-045 on April 9, 2026.

Changes Other than Editing from Proposed to Adopted Version: **Definitions**:

Authorized representative, new definition for authorized representative.

Expected useful life (EUL), capitalization of document title.

Party wall, definition deleted for clarity.

Performance period, new definition for the 12-month consecutive benchmarking period used for compliance.

4.2.1.3 Grouped Buildings, reworded for clarity "for grouped buildings."

4.2.1.4 Grouped Buildings, reworded for clarity "for grouped buildings."

4.2.2.3 Grouped Buildings, reworded for clarity "for grouped buildings."

4.2.2.4 Grouped Buildings, reworded for clarity "for grouped buildings."

4.3.1.1 Measured Energy Use Intensity (EUI), reworded for clarity "The QP or QEM."

4.3.1.2 Developed Energy Use Intensity Target (EUI_t), reworded for clarity "The QP or QEM."

4.3.2.1 Building Does not Meet the Energy Use Intensity Target (EUI_t), reworded for clarity, added the word "For."

4.3.3 Investment Criteria, revised for clarity and consistency "optimized bundle projected energy savings."

4.3.3.1 Energy Audit to Identify Optimized Bundle of EEMs, revised for clarity, added "a."

4.3.3.2 Implement EEMs, revised for clarity to align with investment criteria options: Optimized bundle alternatives - all identified energy efficiency measures (EEM), no identified EEMs, or a custom bundle of EEMs in accordance with Annex X.

Exceptions to 4.3.3.2, revised for clarity, separating regular investment criteria compliance and conditional compliance eligibility.

4.3.3.3 Verification of Compliance (Investment Criteria for Buildings with Building Energy Monitoring in Compliance with Section 5.2), revised for clarity and consistency "optimized bundle projected energy savings."

4.3.3.5 Verification of Compliance (Investment Criteria through Conditional Compliance), revised for clarity and consistency "optimized bundle projected energy savings."

4.3.3.5 - #1, revised for clarity and consistency "optimized bundle projected energy savings."

7.2.1.2 Additional Target for More Recently Built Buildings, [revised] for clarity and simplification.

8.2.4 Investment Criteria - Energy Audit Overall Process, changed "competency" to "competence" to correct syntax.

9.2.2 Verification of Implemented EEMs - Investment Criteria, revised for clarity and consistency "energy savings" projected in optimized bundle or energy audit.

9.2.2 Note, for consistency, added "of compliance."

B2.3.1 Investment Criteria - Optimized Bundle, revised for clarity and consistency "optimized bundle projected energy savings."

B2.3.2 Investment Criteria - All EEMs, revised for clarity and consistency "energy savings" projected in energy audit.

B2.3.3 Investment Criteria - No EEMs, revised for clarity and consistency "energy savings" projected in energy audit and list required documentation for when no EEMs are identified.

B2.3.4 Investment Criteria - Custom Bundle, revised for clarity and consistency "optimized bundle projected energy savings."

Exceptions to X2.1 Optimized Bundle, reworded for clarity and consistency: "Buildings using exceptions are not required to implement an optimized bundle" and "optimized bundle projected energy savings."

Exceptions to Y3.2: Extension #2 Change of Ownership, added for clarity "… in an arm's length transaction …" to ensure change of ownership is legitimate and not the result of gamesmanship.

Exceptions to Y3.2: Extension #4 New Construction, changed threshold from 25 percent to 10 percent. This provides extension relief for larger facilities.

Y4.1(2) Exemptions, changed stacking from (a through f) to (a through d). This eliminates agricultural and demolition as part of stacking because 100 percent of gross floor area (GFA) is presumed.

Y4.1 (2)(h) National Security, added for specificity regarding national security exemption.

Y6.2 Form B, added language to align with Form C (Y6.3) changes providing guidance for connected building level.

Exception to Y6.3 Form C, reworded for clarity, providing specificity for benchmark requirements at the connected building level.

Exceptions to Z3.2: Extension #2 Change of Ownership, added for clarity "… in an arm's length transaction …" to ensure change of ownership is legitimate and not the result of gamesmanship.

Exceptions to Z3.2: Extension #4 New Construction, changed threshold from 25 percent to 10 percent. This provides extension relief for larger facilities.

Z4.1(2) Exemptions, changed stacking from (a through f) to (a through d). This eliminates agricultural and demolition as part of stacking because 100 percent of GFA is presumed.

Z4.1 (2)(h) National Security, added for specificity regarding national security exemption.

Z4.1 (2)(i)(ii) Significant Loss in Assessed Value, added for specificity to document significant loss in assessed value and demonstrate how loss prevents securing capital for EEM investment.

Z6.2 Form B, added language to align with Form C (Z6.3) changes providing guidance for connected building level.

Exception to Z6.3 Form C, reworded for clarity, providing specificity for benchmark requirements at the connected building level.

Z6.9 (2)(b)(iv) First Bullet Form E, included fossil fuel in allowable auxiliary or back-up heating types.

Z6.9 (3)(c) Form E, for clarity, added to Form E the documentation requirement for building activity types that must confirm space heating energy savings are greater than 10 EUI.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 14, Repealed 0.

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

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

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

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

Date Adopted: July 21, 2026.

Amanda Hathaway
Rules Coordinator

RDS-7083.3

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

ANSI/ASHRAE/IES Standard 100-2018 Energy Efficiency in Existing Buildings is adopted by the Washington state department of commerce pursuant to RCW 19.27A.200, 19.27A.210, and 19.27A.220. This standard has been adopted by reference and modified to implement the requirements for *covered buildings* as directed by the Washington state legislature. The legislature delegated the responsibility of adoption and amendment of this standard to the Washington state department of commerce. The department may adopt by rule subsequent versions of Standard 100 as its model for standard development and the department may also develop targets for alternative metrics related to energy use and

greenhouse gas emissions. The department must update the standard by July 1, 2029, and every five years thereafter. By July 1, 2029, the department must evaluate benchmarking data to determine energy use and greenhouse gas emissions averages by building activity type. By December 31, 2030, the department must adopt rules for Tier 2 covered buildings performance standards.

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

The Washington state administrative requirements for this standard are included in Normative Annex Z for *Tier 1 covered buildings*, Normative Annex Y for *Tier 2 covered buildings*, and Normative Annex W for *district energy system decarbonization plans*. For *building owners* that must comply with this standard, reading Normative Annex Z, Normative Annex Y, or Normative Annex W first allows the owner to put the rest of the standard in context. Multiple compliance options are available and should be reviewed prior to beginning implementation of this standard.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

3.1 General

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

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

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

Authorized representative: The *building owner* designated individual who is authorized to communicate with commerce and sign documents and agreements related to clean buildings performance standard compliance, on behalf of the legal owner. This signatory can be an authorized employee of the owner organization, contractually obligated contractor, contractually obligated tenant, or the legal owner themselves. *Building owners* are not excused from compliance due to the existence of an *authorized representative*. The *building owner* shall be responsible for meeting the requirements of this standard.

Baseline: Except when referring to "*baseline WNEUI*," or in context of Section 8.4.6, *baseline* means the first-year *energy use intensity* for the *building* at the beginning of the compliance determination process.

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

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

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

Campus: A collection of *buildings* served by a district heating, cooling, water reuse or power system.

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

(a) A single entity;

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

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

Capital management plan: A financial plan to set aside capital to replace or upgrade *building* systems at the end of their *useful life* (or *remaining useful life*) and/or to improve performance and energy efficiency.

Certified commissioning (~~***professional***~~) ***provider***: A person who is certified by an ANSI/ISO/IEC 17024:2012 accredited organization to lead, plan, coordinate, and manage commissioning teams and implement the commissioning process and with experience commissioning at least two projects of similar size and of similar equipment to the current project, and at least one in the last three years. This experience includes the writing and execution of verification checks and functional test plans.

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

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

~~(b) For *Tier 2 covered buildings* used by *building owners* that demonstrates the owner has benchmarked the *building* energy use in accordance with the standard, and provides an additional 180 days for *building owner* to demonstrate full compliance with the energy manage-~~

~~ment plan (*EMP*) and operations and maintenance (*O&M*) program documentation.~~))

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

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

Contiguous property: Adjoining property under sole ownership.

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

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

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

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

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

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

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

Energy target (EUI_t): ((~~Not adopted. See *energy use intensity target (EUI_t)*~~)) The building activity site *energy target* value in Table 7-2a for the appropriate building activity types/activities and climate zone.

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

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

Expected useful life (EUL): Also known as "measure life" is the average amount of time in years that an item, component, or system is estimated to function when installed new and assuming routine maintenance is practiced. To determine the *expected useful life* of *EEMs*, code minimum, and in-kind replacement equipment for CBPS, see the building owners and managers association (BOMA) BOMA Preventative Maintenance Guidebook building systems useful life table.

Gross floor area (GFA): The total number of square feet measured between the exterior surfaces of the enclosing fixed walls of a *building*, including all supporting functions such as offices, lobbies,

restrooms, equipment, storage areas, mechanical rooms, break rooms, and elevator shafts. *Gross floor area* does not include outside bays or docks.

Gross floor area for nonresidential buildings: Not adopted.

Gross floor area for residential buildings: Not adopted.

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

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

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

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

Net energy use: The sum of the metered and bulk fuel energy entering the *building*, minus the sum of metered energy leaving the *building* or ((~~campus. Renewable energy produced on a campus that is not attached to a *covered building* may be included~~)) site. The same applies to portions of *buildings* with submetering. Bulk fuels are included using the equation in Section 5.2.2.1. *Building* or on-site renewable energy production does not need to be metered if used within the *building*.

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

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

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

Performance target: The performance objective requirements of meeting the energy use intensity target (EUI_t), investment criteria, minimum energy use reduction, or space heating electrification compliance pathways for a *Tier 1 covered building* that must comply with this standard. See Sections 4.3.2, 4.3.3, 4.3.4, and 4.3.5.

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

Public hospital district: A municipal corporation established under chapter 70.44 RCW.

Qualified commissioning authority: Not adopted.

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

(a) A licensed professional architect or engineer;

(b) A building energy assessment professional (BEAP) certified by the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE);

(c) A certified energy auditor (CEA) certified by the Association of Energy Engineers (*AEE*).

(d) A certified energy manager (CEM) in current standing, certified by the Association of Energy Engineers (AEE).

(e) An energy management professional (EMP) certified by the Energy Management Association (EMA).

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

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

(a) Has ((~~two years of experience, including educational and/or professional experience, with commercial *building* operations and/or *building* energy management in addition to successful completion of clean buildings tier 2 training program as specified by the *AHJ*; or~~)) successfully completed the clean *buildings* Tier 2 training program as specified by the *AHJ*, and meets a minimum of one of the following:

(i) Two years of experience, including educational and/or professional experience, with commercial *building* operations and/or *building* energy management;

(ii) An individual participating in a full-time fellowship or internship specializing in energy efficiency in the built environment while supervised or mentored by a *QEM*, *QP*, or *QEA* for at least six months and has produced a successful compliance application with their supervisor or mentor; or

(iii) A person with Building Operator Certification (BOC) Level I by Building Potential;

(b) Meets the definition of a *qualified person*.

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

(a) A licensed professional architect or engineer in the state of Washington;

(b) A person with Building Operator Certification (BOC) Level II by Building Potential;

(c) A building commissioning ((~~professional~~)) provider certified by an ANSI/ISO/IEC 17024:2012 accredited organization;

(d) A *qualified energy auditor*;

(e) A certified energy manager (CEM) in current standing, certified by the Association of Energy Engineers (AEE);

(f) An energy management professional (EMP) certified by the Energy Management Association (EMA);

(g) A person with South Seattle College Sustainable Building Science Technology Bachelor of Applied Science degree, or as approved as equivalent by the *AHJ*.

The *AHJ* may prescribe additional certifications and training to meet the minimum qualifications of a *qualified person*. When the *AHJ* prescribes such additional qualifications, it will provide notice of

the determination on the agency website and will periodically update these rules to reflect additional qualifications of *qualified persons*.

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

Remaining useful life (RUL): Is an estimate of the number of remaining years that an existing item, component, or system can function in accordance with its intended purpose, before warranting replacement. The *RUL* is estimated by the *qualified energy auditor* (*QEA*) during the energy audit or by the *energy manager* or inspector during routine preventative maintenance based upon observations, average estimates of similar items, components, or systems, or a combination thereof.

Renewable natural gas: A gas consisting largely of methane and other hydrocarbons derived from the decomposition of organic material in landfills, wastewater treatment facilities, or anaerobic digesters and that is fully interchangeable with conventional natural gas.

Residential building: Not adopted.

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

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

(a) Is heated but not cooled, and has an installed heating system output capacity greater than or equal to 3.4 Btu/(h-ft^2) but not greater than 8 Btu/(h-ft^2);

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

Service life: See *useful life*.

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

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

(a) The state of Washington; or

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

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

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

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

Useful life: The expected *service life* of *building* systems or equipment as published by the *AHJ*. For *EEMs* not included, the *qualified energy auditor* will be responsible for determining *useful life*. For *building* systems or equipment newly installed see *expected useful life (EUL)*. Or for existing *building* systems or equipment see *remaining useful life (RUL)*. Used interchangeably with *service life*.

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

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

3.2 Common abbreviations and acronyms

AEE Association of Energy Engineers.
AHJ *authority having jurisdiction.*
DDC *direct digital control.*
EEM *energy efficiency measure.*
EM *energy manager.*
EMP energy management plan.
EUI *energy use intensity.*
EUI_t *energy use intensity target.*
EUL *expected useful life.*
GFA gross floor area.
IRR *internal rate of return.*
LCCA life-cycle cost analysis.
O&M operations and maintenance.
QEA *qualified energy auditor.*
QEM *qualified energy manager.*
QP *qualified person.*
RUL *remaining useful life.*
WSEC *Washington State Energy Code.*
WNEUI *Weather normalized energy use intensity.*

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

4.1 Building type requirements.

4.1.1 Nonresidential building.

4.1.1.1 A *covered building* or *complex* of *covered buildings* ((~~whose majority of *gross floor area* has activities in Table 7-1~~)), except a *building* demonstrating compliance through exemption, shall comply with the requirements of Sections 4.2 and ((~~4.3~~)) 4.3.1.

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

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

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

3. Meet requirements of one of the following Sections 4.3.2, 4.3.3, 4.3.4, or 4.3.5; and

4. Submit forms as specified in Normative Annex Z to the *AHJ*.

4.1.1.3 ((~~For~~)) Tier 2 covered buildings((~~,~~)). The *qualified energy manager* submitting compliance documents shall:

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

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

3. Submit forms as specified in Normative Annex Y to the *AHJ*.

4.1.2 Residential building.

4.1.2.1 A *multifamily residential building* or *complex* of *multifamily residential buildings*, except a *building* demonstrating compliance through exemption, shall comply with the requirements of Sections 4.2 and ((~~4.3~~)) 4.3.1.

4.1.2.2 ((~~For~~)) Tier 2 covered buildings((~~,~~)). The *qualified energy manager* submitting compliance documents shall:

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

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

3. Submit forms as specified in Normative Annex Y to the *AHJ*.

4.1.3 Buildings with residential and nonresidential activities - Not adopted.

4.1.4 District energy systems decarbonization.

4.1.4.1 *Participating campuses* shall comply with the requirements of Sections 4.2 and ((~~4.3~~)) 4.3.1.

4.1.4.2 ((~~For~~)) Participating campuses((~~,~~)). The *qualified person* determining compliance shall:

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

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

3. Meet requirements of Section 4.3.2 or 4.3.3;

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

((~~4.~~)) 5. Submit *decarbonization plan* as specified in Normative Annex W to the *AHJ*.

4.2 Energy management plan and operations and maintenance program.

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

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

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

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

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

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

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

4.2.1.3 ((~~For~~)) Grouped buildings((~~,~~)). The *qualified person* determining compliance for *grouped buildings*, or the *qualified energy manager* submitting compliance documents for Tier 2 covered group buildings, shall state in writing on Form J, that the operating and maintenance requirements of Section 6 have been met. When using the graduated group compliance dates, the O&M program shall be implemented by *building* size cohort in accordance with:

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

~~a.~~)) Section Z3.2 for *Tier 1 covered buildings*;

((~~b.~~)) 2. Section Y3.2 for *Tier 2 covered buildings*; and

((~~c.~~)) 3. For *participating campuses* ((~~only~~)) by July 1, 2030, for *buildings* not covered((~~,~~)) and connected to the *district energy system*.

((~~2. For previously compliant *grouped buildings*, since the previous validation of compliance.~~))

4.2.1.4 ((~~For~~)) Grouped buildings((~~,~~)). The *qualified person* determining compliance for *grouped buildings*, or the *qualified energy manager* submitting compliance documents for Tier 2 covered group buildings, may submit a single O&M program. The O&M program implemented for *participating campuses* through a *decarbonization plan* shall include all *campus buildings*. The O&M program implemented at a *connected building* or campus-level shall include all *covered buildings*.

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

4.2.2.1 ((~~For~~)) Tier 1 covered buildings((~~,~~)). The *qualified person* determining compliance shall state in writing on Form A that the EMP

described in Section 5 has been developed and is being maintained as of the date on Form A.

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

4.2.2.3 ((~~For~~)) Grouped buildings((~~,~~)). The *qualified person* determining compliance for *grouped buildings*, or the *qualified energy manager* submitting compliance documents for Tier 2 covered group buildings, shall state in writing on Form J, that the EMP described in Section 5 has been developed and is being maintained as of the date on Form J.

4.2.2.4 ((~~For~~)) Grouped buildings((~~,~~)). The *qualified person* determining compliance for *grouped buildings*, or the *qualified energy manager* submitting compliance documents for Tier 2 covered group buildings, may submit a single EMP. The EMP implemented for *participating campuses* through a *decarbonization plan* shall include all *campus buildings*. The EMP implemented at a *connected building* or campus-level shall include all *covered buildings*.

4.3 Building ((~~energy use~~)) performance.

4.3.1 Measured EUI and developed EUI_t.

4.3.1.1 ((~~For *Tier 1 covered buildings*, the *qualified person* shall calculate the *building's* measured *energy use intensity* (*EUI*) by completing Form C according to Section 5.2~~)) Measured energy use intensity (EUI). The *qualified person* for *Tier 1 covered buildings*, or the *qualified energy manager* for *Tier 2 covered buildings*, shall calculate the *building's* measured *energy use intensity* (*EUI*) by completing Form C in accordance with Section 5.2. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2.2 in the energy management plan.

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

4.3.1.3 ((~~For *grouped buildings*, the *qualified person* submitting compliance documents shall calculate the *grouped buildings'* measured *energy use intensity* (*EUI*) by completing Form C according to Section 5.2~~)) Developed energy use intensity target (EUI_t). The *qualified person* for *Tier 1 covered buildings*, or the *qualified energy manager* for *Tier 2 covered buildings*, shall develop the *building's energy use intensity target* (EUI_t) by completing Form B in accordance with Section 7.2. *Buildings* unable to meet Section 7.2, and develop the EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report Energy Star portfolio manager national median site *EUI*.

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

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

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

4.3.2.2 Tier 1 covered)) Building does not meet the energy use intensity target (EUI_t). For *Tier 1 covered building's* pursuing compliance with Section 4.3.2, if the measured *WNEUI* is greater than the *EUI_t*, a *qualified energy auditor* shall complete an energy audit according to Section 8, and *EEMs* that will reduce energy use to meet the ((~~energy target~~)) *EUI_t* shall be implemented according to Section 9. ((~~Upon completion of the implementation of all required *EEMs*, a *building* shall be granted *conditional compliance*.~~))

Exceptions to ((~~4.3.2.2~~)) 4.3.2.1:

1. ((~~*More recently built buildings:*~~)) **More recently built buildings.** For *buildings* that exceed the ((~~target~~)) *energy use intensity target (EUI_t)* developed in accordance with Section ((~~7.2.1.1,~~)) 7.2.1.2, "Additional target for more recently built buildings," but do not exceed the ((~~target~~)) *EUI_t* developed in accordance with Section ((~~7.2.1,~~)) 7.2.1.1, "Energy use intensity target (EUI_t)," the owner may demonstrate compliance by *recommissioning* the *building* using the existing-building commissioning process. The commissioning process consists of the following:

a. A *certified commissioning ((~~professional~~)) provider* shall implement the building commissioning process specified by the most recent edition of the Washington State Energy Code (WSEC). The ((~~energy code~~)) WSEC commissioning process shall be modified by the *certified commissioning ((~~professional~~)) provider* for *recommissioning* purposes as described in ASHRAE Guideline 0.2-2015 Commissioning Process for Existing Systems and Assemblies and ASHRAE Guideline 1.2-2019 Technical Requirements for the Commissioning Process for Existing HVAC&R Systems and Assemblies. *Buildings* receiving certificate of occupancy from a local jurisdiction within two years prior to the compliance date may submit the commissioning report approved by the local code official for the purpose of WSEC compliance requirements in lieu of *recommissioning*.

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

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

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

e. *Buildings* seeking compliance by *recommissioning* shall submit a *recommissioning* report as specified by the *AHJ*. The WSEC commissioning report approved by a local code official within two years prior to the compliance date will suffice for the documentation of *recommissioning*.

2. **Historical buildings.** No individual requirement need be met that would compromise the historical integrity of a *building* or part

of a *building* designated by a government body for long-term preservation in its existing state, such as historical monuments. *EEMs* that can be implemented without modifying historical parts of the *building* shall be implemented as required by this standard. Documentation of historic significance must be provided to the *AHJ* by submitting Form G in accordance with Normative Annex Z.

3. **Newly constructed buildings.** *Buildings* built within five years prior to the compliance date, which complete the commissioning requirements of Section 4.3.2.1, Exception 1.

4.3.2.2 Meeting the EUI_t through conditional compliance. Upon completion of all required *EEMs* implementation, completion of the energy management plan (EMP), and implementation of the operations and maintenance (O&M) program, in accordance with Section Z4.4, a *building* shall be eligible for *conditional compliance* which provides delayed verification of compliance.

4.3.2.3 Verification of compliance (meeting the EUI_t through conditional compliance). Within 15 months after the completion of Section ((~~4.3.2.2~~)) 4.3.2.1, the *weather normalized energy use intensity* (*WNEUI*) shall be recalculated by the *energy manager* (*EM*) from 12 consecutive months of measured energy use, and Form A shall be resubmitted to the *AHJ*. If the *building*'s measured post-implementation ((~~measured *EUI*~~)) *WNEUI* is less than or equal to the *energy use intensity target* (EUI_t), the *building* complies with the standard. If the *building*'s measured post-implementation ((~~measured *EUI*~~)) *WNEUI* is greater than the ((~~energy target (~~))EUI_t((~~)~~)), the *building* does not comply with the standard and the *conditional compliance* is suspended until either of the following:

a. ((~~Additional *EEMs* have been~~)) Submit annual report, in accordance with Section Z4.6 documenting the intent to comply and identifying the additional *EEMs* implemented that will reduce the subsequently measured ((~~*EUI* to below the energy target (EUI_t) and a new Form A is submitted to the *AHJ*~~)) *WNEUI* to less than or equal to the EUI_t; or

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

4.3.3 ((~~Buildings without energy targets.~~

~~Exception to 4.3.3:~~ ~~*Tier 2 covered buildings*~~)) **Investment criteria.** If the *Tier 1 covered building's* energy savings, as measured after *energy efficiency measures* (*EEM*) implementation, meets or exceeds 75 percent of the *optimized bundle* projected energy savings, aligning with the energy audit report, the *building* complies.

4.3.3.1 Energy audit to identify optimized bundle of EEMs. *Tier 1 covered building's* pursuing compliance with Section 4.3.3, a *qualified energy auditor* shall conduct an energy audit according to Section 8, and the *optimized bundle* of *EEMs* shall be identified according to Section 9.1.1.1.

Exception to 4.3.3.1: *Buildings* built within five years prior to the compliance date, which complete the commissioning requirements of Section 4.3.2.1, Exception 1.

4.3.3.2 Implement EEMs. The entire *optimized bundle* of *EEMs* identified ((~~shall be implemented. Upon completion of the implementation of the *optimized bundle* of *EEMs* and the energy management plan, including the operations and maintenance program, is in place as directed by Section Z4.5, a *building* shall be granted *conditional compliance* in accordance~~

~~with Section 9.1.1.2~~)), all *EEMs* identified with a simple payback, or custom bundle of *EEMs* shall be implemented, and verification of compliance shall be completed. *Buildings* with no *energy efficiency measures* (*EEMs*) identified in the Level 2 energy audit which have a *simple payback* period less than or equal to the *EEM's expected useful life* shall document the *simple payback* calculation in Form D - Audit Template (and in the EMP), provide a reason statement in application submittal.

Exceptions to 4.3.3.2:

1. **Conditional compliance.** If verification of compliance is not achieved in accordance with Section 4.3.3.3 or 4.3.3.4 by the compliance date, upon completion of the *EEM* implementation in accordance with Section 9.1.1.1, completion of the energy management plan (EMP), and implementation of the operations and maintenance (O&M) program, in accordance with Section Z4.5, a *building* shall be eligible for *conditional compliance* delaying verification of compliance in accordance with Section 4.3.3.5.

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

4.3.3.3 Verification of compliance (investment criteria for buildings with building energy monitoring in compliance with Section 5.2). If the *building* complies with Section 4.2 prior to the compliance date, ((~~then within 15 months following the~~)) after completion ((~~of implementation~~)) of the ((~~*optimized bundle of EEMs*~~)) *EEM* implementation, *building owners* ((~~with *conditional compliance*~~)) or the *qualified person* representing the *building owner* shall submit verification that the energy savings, as measured ((~~post-implementation energy savings meet or exceed~~)) after *EEM* implementation, meets or exceeds 75 percent of the *optimized bundle* projected energy savings ((~~projected in~~)), aligning with the energy audit report, and submitted to the *AHJ* in accordance with Section Z4.3. Energy savings shall be compared at the whole-*building* consumption level in common units for electricity, fossil fuels, and other sources.

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

4.3.3.5 Verification of compliance (investment criteria through conditional compliance). If the *building* complies with Section 4.2, then within 15 months following the completion of the *EEM* implementation, *building owners* with *conditional compliance* or the *qualified person* representing the *building owner* may submit verification that the energy savings, as measured after *EEM* implementation, meets or exceeds 75 percent of the *optimized bundle* projected energy savings aligning with the energy audit report, and submitted to the *AHJ* in accordance with Section Z4.5. Energy savings shall be compared at the whole-*building*

consumption level in common units for electricity, fossil fuels, and other sources. If the energy savings, as measured ((~~post-implementation~~)) after *EEM* implementation do not meet or exceed 75 percent of the *optimized bundle* projected energy savings ((~~of the package of *EEMs* do not meet or exceed 75 percent of the energy savings projected in~~)), or align with the energy audit, the *conditional compliance* is suspended until one of the following:

((~~a.~~)) 1. Submit annual report, in accordance with Section Z4.6 documenting the intent to comply and identifying the additional cost-effective *EEMs* ((~~are~~)) implemented that will reduce the subsequently measured energy savings of the package of *EEMs* so that it meets or exceeds 75 percent of the *optimized bundle* projected energy savings ((~~projected in~~)), aligning with the energy audit; or

((~~b.~~)) 2. Demonstrate compliance by *recommissioning* the *building* using the existing building commissioning process. The commissioning process consists of the following:

a. A *certified commissioning provider* shall implement the building commissioning process specified by the most recent edition of the Washington State Energy Code (WSEC). The WSEC commissioning process shall be modified by the *certified commissioning provider* for *recommissioning* purposes as described in ASHRAE Guideline 0.2-2015, *Commissioning Process for Existing Systems and Assemblies*, and ASHRAE Guideline 1.2-2019, *Technical Requirements for the Commissioning Process for Existing HVAC&R Systems and Assemblies*. *Buildings* receiving certificate of occupancy from a local jurisdiction within two years prior to the compliance date may submit a commissioning report approved by a local code official in lieu of *recommissioning*.

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

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

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

e. *Buildings* seeking compliance by *recommissioning* shall submit a *recommissioning* report as specified by the *AHJ*. The WSEC commissioning report approved by a local code official within two years prior to the compliance date will suffice for the documentation of *recommissioning*.

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

((~~c.~~)) 4. The *AHJ* revokes *conditional compliance*.

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

~~repeated to assure savings estimated in the original audit are realized.~~)) **4.3.4 Minimum energy use reduction.** If a *Tier 1 covered building's* measured *weather normalized energy use intensity* (*WNEUI*) is reduced a minimum of 15 percent from the *baseline WNEUI*, the *building* complies:

1. For the first compliance schedule outlined in Section Z3.2, a *building's baseline WNEUI* shall be measured from 12 consecutive months of data monitored in a period not to exceed five years prior to the *building's* scheduled compliance date.

2. For subsequent compliance cycles, the measured *WNEUI* on Form A from the *building's* most recent approved compliance application, or other documentation as approved by the *AHJ*, shall serve as the *baseline WNEUI*.

3. For *buildings* with a change of building activity type since the previous compliance cycle, baseline *WNEUI* shall be measured from 12 consecutive months of data monitored in a period within the updated building activity types.

4.3.4.1 A *qualified energy auditor* shall conduct an energy audit according to Section 8, and *EEMs* that will reduce energy use to meet the *performance target* shall be implemented according to Section 9.

Note: Compliance through Section 4.3.4 expires after the 2046 - 2048 compliance cycle.

4.3.5 Space heating electrification. If a *Tier 1 covered building* replaces existing fossil fuel consuming space conditioning equipment with electric heat pump equipment, within five years prior to the *building's* compliance date, the *building* complies:

1. A *qualified person* shall demonstrate the space heating electrification *performance target* has been met in accordance with Form E.

2. Space heating heat pump(s) shall, at minimum, be designed to meet 90 percent of the *building's* annual space heating demand.

3. Fossil fuel or electric resistance space heating sources may accommodate for emergency and supplemental space heating for a maximum of 10 percent of the *building's* annual space heating demand.

4.3.5.1 *Buildings* that implement space heating electrification are not required to perform an energy audit.

Note: Use of Section 4.3.5 compliance pathway is valid for only one compliance cycle. The space heating electrification compliance pathway is not valid for the following building activity types as referenced in Table 7-1: #96 Supermarket/Grocery Store, #100 Data Center, and #113 Cold Storage/Refrigerated Warehouse, unless the estimated energy savings directly attributed to space heating electrification is projected to be greater than 10 EUI.

4.4 General.

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

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

4.4.2 Alternative energy targets (EUI_t) - Not adopted.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

Exception to 5.1.1 - Not adopted.

5.1.2.1 Energy accounting in accordance with Section 5.2.

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

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

5.1.2.4 Annual comparison of the net *WNEUI* and *EUI* to the ((~~energy target~~)) *EUI*$_t$.

5.1.2.5 Documentation of original, current, and changes in number of occupants, weekly operating hours, or time of day scheduled for occupancy, production rates, and energy using equipment that would have caused change in the measured *WNEUI* and *EUI*.

Exceptions to 5.1.2.12:

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

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

Exceptions to 5.1.2.13:

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

5.1.2.14 Operations and Maintenance Plan including:

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

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

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

Building net energy use = (1a + 1b + 1c + 1d) - (3a + 3b + 3c + 3d + 3e)

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

Table 5-1 Energy Flow Definitions

Energy Delivered to Building	Building Renewable Energy Production	Energy Exported from Building for Beneficial Use
1a. Electrical	2a. Electrical	3a. Excess solar thermal
1b. Gas	2b. Thermal	3b. Excess solar or wind electrical
1c. Steam/hot-water (HW)/chilled and hot water (CHW)	2c. Waste heat	3c. Excess or recovered thermal energy
1d. Bulk fuel (coal/biomass/propane/oil)		3d. Excess co-gen electrical
		3e. Excess co-gen thermal

Table 5-2 Campus Energy Flow Definitions

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

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

1. Electric vehicle charging equipment that transfers electricity to batteries or other energy storage devices in electric vehicles.

2. Electric loads related to broadcast antennas, on-site cell phone towers or other communications equipment that is unrelated to the primary purpose of the *building*.

3. The *AHJ* may add additional end use deductions ((~~based on technological advancements~~)) where energy use does not support *building* functions.

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

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

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

5.2.1.3 Campuses. *Campuses* with *district energy systems* use the *campus net energy use* outlined in Table 5-2. Provide measured *net energy use* data for the *campus* including all forms of imported and exported energy from at least 12 consecutive months of data monitored in a period not to exceed two years prior to the efficiency audit. Provide meas-

ured energy on the input side of the *district energy system* and include *net energy use* data for each *covered building. Campus net energy use* is calculated as follows:

Campus net energy use = (1a + 1b + 1c + 2a + 2b + 2c) - (4a + 4b + 4c + 4d + 4e)

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

5.2.2 Energy use data for each type of energy imported into and exported from the *building* shall be collected from utility or energy delivery bills (that must include the quantity of energy or fuel delivered) or by monitoring local energy meters (either utility or owner-provided meters). Upon the written authorization or secure electronic authorization of a *building owner* or operator, a utility shall either upload the energy consumption data or provide consumption data in an electronic document formatted for direct upload to Energy Star portfolio manager. For any *covered building* with tenants, an electric or gas utility must, upon request of the *building owner*, provide the *building owner* with the energy consumption data or aggregated monthly energy consumption data without requiring prior consent from tenants. For more information, see RCW 19.27A.170. Owner-provided energy meters shall meet the metering accuracy, tolerances and testing requirements of Title 480 WAC or WAC 51-11C-40904 (Section C409.4 of the *WSEC*).

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

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

5.2.4.1 - Not adopted.

5.2.4.2 - Not adopted.

5.2.4.3 - Not adopted.

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

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

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

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

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

stringent than applicable utility programs, local government programs shall be selected over utility programs.

6.5 Tenant improvements. The *energy manager* (*EM*) shall consider implementing a formal process to ensure that any tenant improvements involving a change in space use or the relocation of partitions (including partial height partitions) do not change the annual *net energy use* except to the extent that the annual *net energy use* change (increase or decrease) is consistent with any change in the *building's energy use intensity target* (EUI_t).

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

Exception to 6.6.1 - Not adopted.

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

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

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

7.1 Building activity type and energy targets.

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

7.1.2 Energy targets. *Energy targets* for each building activity type are listed in Table 7.2a, Normative Annex Z. These *energy targets* will be periodically reevaluated and may be modified for future compliance cycles.

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

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

7.2.1.1 Energy use intensity target (EUI_t). The *energy use intensity target* (EUI_t) shall be determined according to Section 7.2.2 for single-type/activity *buildings* and Section 7.2.3 for mixed-use *buildings*, and submitted on Form B.

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

Exceptions to ((~~7.2.1~~)) 7.2.1.1:

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

2. EUI_t programs developed and implemented by the *building's* local government and approved as equivalent or more stringent by the *AHJ* may be used as an alternative to the requirement in Section ((~~7.2.1~~)) 7.2.1.1.

((~~7.2.1.1~~)) 7.2.1.2 Additional target for more recently built buildings: ((~~In addition to the requirements of section 7.2.1, *more recently built buildings* shall create a second EUI_t that is 15 percent less than the target developed for compliance with section 7.2.1~~)) The EUI_t values for a *more recently built building* (or addition), calculated in accordance with Section 7.2.1, shall be reduced by 15 percent for all floor area meeting the definition of *more recently built buildings*. This shall be the *building* EUI_t and shall be included on Form B.

7.2.2 ((~~Energy targets~~)) **Single building activity type.** *Energy use intensity targets (EUI_t)* for *buildings* with a single activity shall be calculated as follows:

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

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

7.2.3 ((~~Energy targets~~)) **Mixed-use building activity type.** *Energy use intensity targets (EUI_t)* for *buildings* with multiple activities shall be determined using weighted averages of building activity energy target for each area with a single activity, per the following equation, and reported on Normative Annex C Form B:

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

Where:

$(A)_i$ = percentage of the *gross floor area* with single building activity *i*

$(EUI_{t1})_i$ = building activity *energy target* from Table 7-2a for space *i*

$(S)_i$ = operating shifts normalization factor from Table 7-3 for space *i*

$(A \times S \times EUI_{t1})_i$ = the weighted space *EUI* target for space *i*

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

floor area or the *building* tier designation as it applies to ((~~Normative Annex Z, Section Z3.1~~)) *Tier 1 covered buildings* in Section Z3.2 Compliance schedule or *Tier 2 covered building* in Y3.2 Compliance schedule.

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

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

3. **Nontarget spaces 10 percent:** *Nontarget spaces* in *buildings* with multiple activities can be excluded from *building* energy target calculations if the *nontarget spaces* total combined area $\Sigma A_{nontarget}$ comprise less than 10 percent of the *building gross floor area* A_{gross} and both:

a. Energy use of such space is metered separately.

b. *Nontarget spaces* comply with ((~~Sections 4.1 and 4.2~~)) Section 4.1 Building type requirements and Section 4.2 Energy management plan and operations and maintenance program.

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

4. **Nontarget spaces 50 percent:** *Nontarget spaces* in *buildings* with multiple activities can be excluded from *building* ((~~energy target~~)) EUI_t calculations if the *nontarget spaces* total combined area $\Sigma A_{nontarget}$ comprise less than 50 percent of the *building gross floor area* A_{gross} and both:

a. Energy use of such space is metered separately.

b. *Nontarget spaces* comply with ((~~Sections 4.1, 4.2, 4.3.1, and 4.3.3~~)) Section 4.1 Building type requirements, Section 4.2 Energy management plan and operations and maintenance program, Section 4.3.1.1 Measured energy use intensity (*EUI*), and one of the following: Section 4.3.3 Investment criteria, Section 4.3.4 Minimum energy use reduction, or Section 4.3.5 Space heating electrification.

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

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

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

b. *Nontarget buildings* shall comply with ((~~Sections 4.1, 4.2, 4.3.1, and 4.3.3~~)) Section 4.1 Building type requirements, Section 4.2 Energy management plan and operations and maintenance program, Section

4.3.1.1 Measured energy use intensity (*EUI*), and one of the following: Section 4.3.3 Investment criteria, Section 4.3.4 Minimum energy use reduction, or Section 4.3.5 Space heating electrification. Or separately from the group, the *nontarget building* may comply through exemption, in accordance with Section Z4.1 Documentation of compliance through exemption, as applicable.

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

7.2.4 Energy targets for vacant and partially vacant buildings.

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

7.2.4.1 Vacant space - use unchanged: The ((~~energy target~~)) *energy use intensity target* (EUI_t) for vacant spaces shall be based on its prevacancy building activity type *energy target* if the intended use of the *building* will be unchanged.

7.2.4.2 Vacant space - unconditioned: ((~~If~~)) The total floor area of a nonheated, noncooled, and nonilluminated vacant part of a *building* ((~~is smaller than 50 percent of the *gross floor area*, then it~~)) shall be excluded from the *gross floor area*((~~, and the energy target shall be determined~~)) in the EUI_t calculation. The EUI_t is based on the ((~~remainder of the~~)) building activity type of the remaining square footage as described in Section 7.2.3. This allowance may not be used to change the total *gross floor area* as it applies to Normative Annex Z, ((~~Z3.1~~)) Section Z3.2 Compliance schedule.

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

Table 7-1 Building Activity Types/Activities

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

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

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

Table 7-2a Building Activity Site Energy Targets (EUI_{t1}) (SI Units) - Not adopted

Table 7-2b Building Activity Source Energy Targets (EUI_{t1}) (I-P Units) - Not adopted

Table 7-2b Building Activity Source Energy Targets (EUI_{t1}) (SI Units) - Not adopted

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

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

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

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

Table 7-3 Building Operating Shifts Normalization Factor

Table 7-3 adopted as modified in Section Z7

Table 7-4 Building Activity Type Definitions Table

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

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

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

8.1.1 The following end uses are not included in this standard:

- *Industrial processes;*
- Agricultural processes;
- Irrigation.

8.1.2 Following the completion of the energy audit, the *building owner* will select and implement *EEMs* per the requirements of Section 9.

8.2 Energy audit requirements for buildings ((~~without energy targets~~)).

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

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

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

- ~~Envelope;~~
- ~~Lighting;~~
- ~~Cooling;~~
- ~~Heating;~~
- ~~Ventilation and exhaust systems;~~

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

~~8.3.2 Buildings that do not meet their energy targets~~)) **Meeting the energy use intensity targets (EUI_t).** *Buildings* complying through Section 4.3.2 Meeting the energy use intensity target (EUI_t) that meet their *energy use intensity targets* (*EUI_t*) under Section 7 are not required to perform an energy audit.

8.2.2 Building does not meet the energy use intensity target (EUI_t) - Energy audit overall process. An energy audit shall be conducted, and an associated energy audit report shall be provided, for all *buildings* that do not meet ((~~their energy target~~)) the *EUI_t* complying through Section 4.3.2.1 Building does not meet the energy use intensity target (EUI_t). The energy audit shall be completed by a *qualified energy auditor* practicing within their field of competency. The energy audit shall be at an audit level specified by the *qualified energy auditor* to be sufficient to identify and evaluate the *EEMs* that, if implemented, would result in the *building* meeting its ((~~energy target~~)) *EUI_t*. The *qualified energy auditor* may refer to the list of potential *EEMs* in Informative Annex E.

After the completion of the audit and the selection of *EEMs* to be implemented, the applicant must calculate an adjusted *energy use intensity* (*EUI*) for the *building* based on the estimated energy savings from the selected *EEMs* and the historical energy use of the *building*. This adjusted *EUI* is then compared to the ((~~energy target~~)) *EUI_t* for the *building*. *Buildings* complying through Section 4.3.2.1 Building does not meet the energy use intensity target (EUI_t) if the adjusted *EUI* is less than or equal to the ((~~energy target~~)) EUI_t, the applicant shall proceed with implementation as specified in Section 9. If the adjusted *EUI* is greater than the ((~~energy target~~)) *EUI_t*, a more rigorous energy audit investigation is required to identify additional *EEMs*. This process is repeated until the *building's* adjusted *EUI* is less than or equal to its ((~~energy target~~)) *EUI_t*.

Calculation of the adjusted *EUI* for buildings complying through Section 4.3.2 Building meets the energy use intensity target (EUI_t) is shown in the following equation:

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

Where:

Energy_{hist}	=	Historical annual energy use, kBtu
Energy_{saved}	=	Estimated annual energy savings, kBtu
GFA	=	*Gross floor area*, ft^2

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

Exception to ((~~8.3.2~~)) 8.2.2: *Buildings* may use energy audits completed within five years prior to the *building's* compliance date, provided that the scope of the energy audit meets the requirements of this section and there have been minimal changes to the systems within the audit scope. In this case, the same comparison of adjusted *EUI* to ((~~energy target~~)) EUI_t shall be made by the applicant. If the *EEMs* identified in the audit are still applicable, have not been implemented, and if implemented would result in the *building* meeting its ((~~energy target~~)) EUI_t, these measures shall be implemented by the facility, and the project shall follow the procedures in Section 9. If the identified *EEMs* do not result in an adjusted *EUI* less than or equal to the ((~~energy target~~)) EUI_t, a new energy audit shall be conducted as described in Section ((~~8.3.2~~)) 8.2.2.

((~~8.4.1~~)) 8.2.3 Investment criteria - Energy audit overall process. A Level 2 energy audit (as defined in Section 8.3.2 Level 2 audit) shall be conducted for all *Tier 1 covered buildings* complying through Section 4.3.3 Investment criteria. The energy audit, Form D - Audit Template, and the associated energy audit report shall be completed by a *qualified energy auditor* practicing within their field of competence.

Exception to 8.2.3: *Buildings* may use energy audits completed within five years prior to the *building's* compliance date, provided that the scope of the energy audit meets the requirements of this section and that there have been minimal changes to the systems within the audit scope. The energy audit must be evaluated consistent with the investment criteria in Normative Annex X.

8.2.3.1 Investment criteria - Energy audit scope. The scope of the energy audit shall include the following required end uses as applicable to the *building*:

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

8.2.4 Minimum energy use reduction - Energy audit overall process. An energy audit shall be conducted, and an associated energy audit report shall be provided, for all *buildings* complying through Section 4.3.4 Minimum energy use reduction. The energy audit shall be completed by a *qualified energy auditor* practicing within their field of competence. The energy audit shall be at an audit level specified by the *qualified energy auditor* to be sufficient to identify and evaluate the *EEMs* that, if implemented, would result in the *building* meeting its minimum

energy use reduction. The *qualified energy auditor* may refer to the list of potential *EEMs* in Informative Annex E.

After the completion of the energy audit and the selection of *EEMs* to be implemented, the applicant must calculate an adjusted *energy use intensity* (*EUI*) for the *building* based on the estimated energy savings from the selected *EEMs* and the historical energy use of the *building*. This adjusted *EUI* is then compared to the EUI_t for the *building*.

Buildings complying through Section 4.3.4 Minimum energy use reduction if the adjusted *EUI* is 15 percent lower than the *baseline WNEUI*, the applicant shall proceed with implementation as specified in Section 9. If the adjusted *EUI* does not achieve the 15 percent reduction required, a more rigorous energy audit investigation is required to identify additional *EEMs*. This process is repeated until the *building's* adjusted *EUI* is 15 percent less than its *baseline WNEUI*.

Calculation of the adjusted *EUI* for *buildings* complying through Section 4.3.4 Minimum energy use reduction is shown in the following equation:

$$EUI_{adj} = ((baseline\ WNEUI \times GFA) - Energy_{saved})/GFA$$

Where:

baseline WNEUI = Historical annual energy use, *WNEUI*

Note: *Baseline WNEUI* measured from 12 consecutive months of data monitored in a period not to exceed five years prior to the *building's* compliance date. The *building's baseline WNEUI* in subsequent compliance cycles will be the compliance *WNEUI* from the previous compliance cycle.

$Energy_{saved}$ = Estimated annual energy savings, kBtu

GFA = *Gross floor area*, ft^2

Exception to 8.2.4 *Buildings* may use energy audits completed within five years prior to the *building's* compliance date, provided that the scope of the energy audit meets the requirements of this section and there have been minimal changes to the systems within the audit scope. In this case, the same comparison of adjusted *EUI* to minimum energy reduction shall be made by the applicant. If the *EEMs* identified in the audit are still applicable, have not been implemented, and if implemented would result in the *building* meeting its minimum energy reduction, these measures shall be implemented by the facility, and the project shall follow the procedures in Section 9. If the identified *EEMs* do not result in an adjusted *EUI* less than or equal to the minimum energy reduction, a new energy audit shall be conducted as described in Section 8.2.4.

8.2.5 Space heating electrification - Energy audit not required. *Buildings* that implement space heating electrification are not required to perform an energy audit.

8.3 Energy audit levels. This section outlines the requirements for Level 1 and Level 2 energy audits for *buildings*.

8.3.1 Level 1 audit. *Buildings* shall perform a Level 1 audit (walk-through analysis) as defined in ANSI/ASHRAE/ACCA Standard 211-2018 Standard for Commercial Building Energy Audits, Section 5.3[12].

((~~8.4.2~~)) 8.3.2 Level 2 audit. *Buildings* shall perform a Level 2 audit (energy survey and engineering analysis) as defined in *ANSI/ASHRAE/*

ACCA Standard 211-2018 Standard for Commercial Building Energy Audits, Section 5.4[12].

((~~8.5.1~~)) 8.4 Energy audit report. This section prescribes the overall approaches and methods to be used in the energy audit report for audits completed under Sections 8.3.1 or 8.3.2.

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

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

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

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

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

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

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

((~~8.5.2~~)) 8.4.2 Interactive effects. Energy savings analysis shall include *interactive effects* of all selected *EEMs*. When considering multiple *EEMs* with *interactive effects*, the order of analysis shall start with load reduction measures and proceed through distribution systems and associated equipment efficiencies and then plant and heat-rejection systems. Any *interactive effects* on equipment sizing and part load performance of equipment shall be accounted for due to reduced loads on subsequent systems.

((~~8.5.4.1~~)) 8.4.3 Optimized bundling. The *EEMs* recommended in the energy audit report shall consist of an *optimized bundle* of *EEMs*.

8.4.4 Financial analysis. Financial analysis shall be made using current utility rate charges for the site. For customers who are charged based on time-of-use or peak demand (kW), cost analysis of those *EEMs* shall include appropriate treatment of the costs savings associated with the measures and reflect peak demand or time-of-use cost savings.

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

((~~8.5.4.2~~)) 8.4.4.2 U.S. federal facilities - Not adopted.

((~~8.5.5~~)) 8.4.5 End-use analysis. The energy audit shall include an end-use analysis that compares the estimated energy use of the facility after implementation of all selected *EEMs* to historical utility consumption. The intent of this requirement is to ensure that estimates of the base-case end-use energy estimates and potential energy-savings estimates in the energy audit report are reasonable.

***Informative Note*:** For example, if the audit identifies lighting retrofit opportunities, the *qualified energy auditor* shall compare the identified energy savings for those opportunities with the base-case

energy use of the facility and demonstrate that they make up a reasonable fraction of the historical electricity consumption at the site.

((~~8.5.5.2~~)) 8.4.5.2 Requirements for Level 2 audits. The *qualified energy auditor* is required to estimate the energy use of all end uses that individually comprise more than five percent of total historical *building* energy use. The energy estimates for these end uses shall be summed and compared to historical energy consumption for the facility. The sum of the base-case end-use energy estimates must be between 90 percent and 100 percent of the historical energy use at the site.

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

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

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

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

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

8.4.6 Baseline. The *baseline* for energy- and cost-savings estimates shall be taken to be the condition of the existing *building* at the time of the initial comparison with the *building's performance target* or at the time of the initial required audit. The energy-savings estimates shall be calculated as the difference between the energy use of proposed systems and the *baseline* energy use estimates of those systems.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

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

9.1.1.1 ((Buildings with energy targets. ~~For *buildings* having energy targets,~~)) **Implementation of energy efficiency measures.** *Energy efficiency measures* (*EEMs*) identified from the energy audit shall be implemented in order to meet the *building's* ((~~energy~~)) *performance target*. Develop a written plan for maintaining the *building's energy*

((~~use intensity (EUI) at or below the energy target~~)) performance once the *performance target* has been met.

Exceptions to Section 9.1.1.1:

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

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

~~3.~~)) **Space heating electrification:** *Buildings* complying through Section 4.3.5 Space heating electrification are not required to perform an energy audit.

2. **Grouped buildings EEMs:** Except for *buildings* complying through Section 4.3.3 Investment criteria, implementation of *EEMs* to non-*Tier 1 covered buildings* complying at the *grouped buildings* level is acceptable, provided the energy audit demonstrates the energy savings from the *EEMs* implemented at the *grouped buildings* level will result in a *WNEUI* ((~~at or below the energy~~)) which meets the *performance target* of the *grouped buildings*.

((~~4.~~)) 3. **Tier 2 covered buildings:** *Tier 2 covered buildings.*

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

~~Exceptions to 9.1.1.2:~~

~~1. **District energy system EEMs:** Implementation of *EEMs* to *district energy system(s)* in lieu of or in combination with *EEMs* implemented directly to *campus buildings* is acceptable, provided the energy audit demonstrates the energy savings from the *district energy system EEMs* will be equal to or greater than the energy saved from the *EEMs* identified for the *buildings*. Energy savings shall be measured as a reduction in Btu per year.~~

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

~~9.1.1.2.1 -~~ ~~Not adopted.~~

~~9.1.1.2.2 -~~ ~~Not adopted.~~)) 4. **District energy system EEMs:** Implementation of *EEMs* to *district energy system*(s) in lieu of or in combination with *EEMs* implemented directly to *campus buildings* is acceptable, provided the energy audit demonstrates the energy savings from the *district energy system EEMs* will be equal to or greater than the energy saved from the *EEMs* identified for the *buildings*. Energy savings shall be measured as a reduction in Btu per year.

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

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

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

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

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

9.2.1 Verification of implemented EEMs - Meeting the EUI_t. Upon implementation and commissioning of *EEMs* for *buildings* complying through Section 4.3.2.1 Building does not meet the energy use intensity target (EUI_t), the *building's EUI* shall be monitored until one full year's data demonstrates that the *WNEUI* is less than or equal to its EUI_t.

9.2.2 Verification of implemented EEMs ((~~for Buildings without Energy Targets~~)) - Investment criteria. Upon implementation ((~~of *EEMs*, the affected end-use systems shall be monitored for one year to verify *EEM* energy savings~~)) and commissioning of *EEMs*, for *buildings* complying through Section 4.3.3 Investment criteria, the *building's* energy consumption shall be monitored until one full year's energy savings, as measured after implementation, meets or exceeds 75 percent of the *optimized bundle* projected energy savings, aligning with the energy audit report. Or, if all identified *EEMs* with simple payback are implemented, the energy savings, as measured after *EEM* implementation, shall meet or exceed 75 percent of the energy savings projected in the energy audit. The *qualified energy auditor* or *qualified person* shall review the results of the ((~~*EEM*~~)) energy monitoring and certify that the energy savings ((~~of the package of *EEMs*~~)) meets or exceeds 75 percent of the energy savings projected in the *optimized bundle* or in the energy audit, as required. ((~~For *buildings* unable to meet the requirements of Section 5.2 Building energy monitoring, the *qualified energy auditor* or *qualified person* shall provide verification using the methods of the *International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I*[11] options A through D.~~))

Note: For *buildings* unable to demonstrate energy savings at the whole-building consumption level, the *qualified energy auditor* or *qualified person* shall provide verification of compliance using the methods of the *International Performance Measurement & Verification Protocol, Concepts and Options for Determining Energy and Water Savings Volume I*[11] options A through D.

9.2.3 Verification of implemented EEMs - Minimum energy use reduction. Upon implementation and commissioning of *EEMs* for *buildings* complying through Section 4.3.4 Minimum energy use reduction, the *building's EUI* shall be monitored until one full year's data demonstrates the *WNEUI* is a minimum of 15 percent below the *baseline WNEUI*.

9.2.4 Verification of implemented EEMs - Space heating electrification. Upon implementation and commissioning of the electric heat pump equipment replacing the fossil fuel consuming space conditioning equipment for *buildings* complying through Section 4.3.5 Space heating electrification, the *qualified person* shall provide verification using Form E - Space Heating Electrification Report, in accordance with Section Z4.8.

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

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

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

WAC 194-50-130 Normative Annex L—Operations and maintenance implementation.

L1 Responsible party. The *building owner* shall be responsible for meeting the requirements of this standard. The owner may designate other parties as its authorized representative to speak on its behalf with respect to individual *buildings*. *Building owners* are not excused from compliance due to the existence of an authorized representative.

L2 Operations and maintenance program.

Each *building* system shall have an O&M program that, at a minimum, preserves the condition of the system and its elements in a manner that enables the system to provide the intended thermal and visual comfort, energy efficiency, and helps to achieve the intended indoor environmental quality required for the *building*.

At a minimum, the O&M program shall contain an inventory of equipment, systems and controls to be inspected and *maintained* and a maintenance plan describing the goals, objectives, and execution of the systems maintenance program.

L2.2.3 Inspection and maintenance tasks. Inspection and maintenance tasks for inventoried equipment, systems and controls shall be established. Inspection shall include the physical assessment of system components and may include measurement of operating parameters and data provided by sensors or a *building* management system (BMS). Maintenance tasks shall include adjustment, service, or replacement of inventoried equipment and systems. Control systems settings including, but not limited to, set points, schedules, and sequence of operations shall be inspected and *maintained*.

L2.2.4 Inspection and maintenance task frequencies. Frequency of inspection and maintenance tasks for inventoried equipment, systems, and controls shall be established. If unacceptable condition indicators or unacceptable performance is found during two consecutive inspections, the owner or owner's designated representative shall investigate and analyze possible causes. At a minimum, the following possible causes shall be investigated:

• *Poor field practices.* Review inspection documentation and/or technician execution to ensure maintenance tasks are performed correctly.

• *Insufficient time budgeted for tasks.* Review time budgeted to the technician to ensure that reasonable time has been given to perform the tasks.

• *Component repairs noted/pending/not made.* Inspect documentation to determine that repair or component replacement has been undertaken.

• *Design issues.* Determine whether underlying design issues are causing successive failures.

• *Obsolete equipment or components.* Determine whether the equipment or component has been in service beyond its *expected useful life* and is no longer functioning.

• *Conditions outside of the building system causing failure.* Investigate whether water leaks, vandalism, a problem in the *building* envelope, a problem with the power supplied to the *building*, or some other external factor is causing the problem.

Based on the analysis, the inspection frequency or the maintenance task shall be modified to resolve the deficiency.

If acceptable condition indicators or acceptable performance is found during three successive inspections, the inspection frequency for that task may be reduced from the existing frequency. The reduced frequency shall be based on the specific findings and shall be documented.

Frequency may be adjusted for climate related or operational reasons. Each adjusted frequency shall be documented, including the reason for the adjustment.

Informative Note: Examples include the following:

• **Cooling tower shutdown during the winter.** Inspection and maintenance may be suspended during the shutdown period.

• **A new chiller is installed and the old chiller is retained as a backup.** Inspection and maintenance of the backup unit may be adjusted to reflect fewer operating hours.

• **A new lighting fixture and lamp is installed with a much longer life expectancy.** Inspection and *lamp* replacement frequency may be extended to reflect the new device.

L2.2.5 Documentation. A minimum inspection and maintenance documentation package shall consist of the following items:

1. Listings of *building* systems and system components with associated performance criteria pertinent to the facility.

2. Inspection and maintenance tasks and the method of tracking (automated or manual).

3. Identify building systems or components operating beyond their *expected useful life* and whether or not they are functioning.

4. Sufficient record detail and verification (written or electronic) to demonstrate implementation of the maintenance plan.

The inspection and maintenance document directory shall provide easy access and be well organized and clearly identified. Emergency information shall be immediately available and shall include emergency staff and/or agency notification procedures.

Informative Annex M Guidance on Building Type Definitions - Not adopted.

Informative Annex N Addenda Description Information - Not adopted.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

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

X1 Demonstrating compliance with the investment criteria. *Buildings* seeking compliance ((~~using the exception to Section 9.1.1.1 or 9.1.1.2~~)) through Section 4.3.3 Investment criteria shall demonstrate compliance with the financial investment criteria of this annex. The investment criteria shall be documented using a level 2 energy audit and by performing the life-cycle cost analysis (*LCCA*) as per X2.2.

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

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

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

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

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

X2 Energy audits and investment criteria pathway.

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

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

Exceptions to X2.1: *Buildings* which meet one of the following exceptions are not required to implement an *optimized bundle*:

1. **Implement all EEMs.** *Buildings* pursuing investment criteria compliance by implementing all identified *EEMs* determined to have a

simple payback period that is less than or equal to the *EEMs' expected useful life* are not required to complete the LCCA. However, *buildings* are required to complete and submit the Level 2 energy audit, and verify energy savings, as measured after all identified *EEM* implementation, meets or exceeds 75 percent of the energy savings projected in the energy audit report, submitted to the *AHJ*.

2. **No identified EEMs with simple payback.** *Buildings* pursuing the investment criteria with no *energy efficiency measures* (*EEMs*) identified in the Level 2 energy audit which have a *simple payback* period less than or equal to the *EEM's expected useful life* shall document the *simple payback* calculation in Form D - Audit Template (and in the EMP), provide a reason statement in application submittal.

3. **Custom bundle.** *Buildings* pursuing investment criteria compliance by implementing a custom bundle equal to or greater than the *optimized bundle* projected energy savings, are required to complete and submit the LCCA and the Level 2 energy audit. *Buildings* shall identify the *optimized bundle* of *energy efficiency measures* (*EEMs*), confirm the energy savings, as measured after the custom bundle *EEM* implementation, meets or exceeds 75 percent of the *optimized bundle* projected energy savings, aligning with the energy audit report, and demonstrating that the custom bundle equivalent achieves the same or more energy savings.

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

X2.3 Investment criteria chronological process.

X2.3.1 Level 2 audit. Evaluate a comprehensive list of individual *EEMs* using *simple payback* as a screening criteria. Individual *EEMs* determined to have a *simple payback* that is greater than the *EEMs expected useful life* may be excluded from further consideration. When no *EEMs* pass the *simple payback* screening criteria and all *EEMs* are excluded, a Form F - LCCA is not required. If no *EEMs* are implemented, the *simple payback* calculation shall be documented in Form D - Audit Template (and in the EMP) and a reason statement is required in application submittal.

Note: The *simple payback* calculation shall be in accordance with NIST Handbook 135, Section 6.4.4, Equation 6-13.

X2.3.2 Life cycle cost assessment. Identify an *optimized bundle* of *EEMs* that provides maximum energy savings without resulting in a *savings-to-investment ratio* of less than one. The *optimized bundle* of measures shall be implemented based on the schedule established within the energy management plan.

X2.3.2.1 Life cycle cost assessment on individual measures. Individual measures that do not meet the life cycle cost test may be excluded from the implementation plan if they are not integral to the implementation of other cost-effective measures in the bundle.

X2.3.2.2 Phased implementation. The *LCCA* and energy management plan may include phased implementation such that the *building owner* is not required to replace a system or equipment before the end of the system's or equipment's *useful life*.

X2.3.3 Verification of implemented EEMs. *Buildings* complying through the investment criteria of Annex X shall verify compliance with energy savings of the implemented *EEMs* in accordance with Section 9.2.2 Verification of implemented EEMs - Investment criteria.

X3 Included LCCA costs and savings.

X3.1 The costs and savings to be included within the life-cycle cost analysis shall be based on ANSI/ASHRAE/ACCA Standard 211 Sections 5.4.8.1, 5.5.2 and 5.5.3 as modified by the following:

X3.1.1 Cost for implementation of EEM, as required by Section 9.

1. **Estimate EEM Costs** (based on Standard 211 Sections 5.4.8).

2. **Estimate the total expected cost of implementation for each practical measure.** Cost estimates shall include the following factors, as applicable:

a. Material costs;
b. Labor costs, contracted or executed by employees;
c. Design fees;
d. Construction management, contracted or executed by employees;
e. Site-specific installation factors;
f. Permits;
g. Temporary services;
h. Testing, adjusting, and balancing;
i. Utility service upgrades;
j. Verification, as required in Section 9.2.2 only;
k. Commissioning;
l. Taxes;
m. Profit;
n. Any additional adjustments that significantly impact the cost estimate of the *EEM*.

***Informative Note*:** Multiple measures affecting the same *building* systems or end uses may be combined and their costs estimated as a group. Combining costs may improve the cost-effectiveness of combined measures.

3. **Hazardous material abatement** (based on standard 211, 5.4.8.2). Estimation of hazardous material abatement costs is not required. If the possible presence of hazardous materials is apparent at the site, either through observation or as reported by others, the possible presence of the hazardous material shall be included in the report (see Standard 211 Section 6.2.5) as potentially affecting health and safety and installation costs.

4. **Cost and cost savings of recommended EEMs** (based on standard 211 Section 5.5.2).

Estimate the initial and recurring costs, *energy cost* savings, and nonenergy cost savings of each measure and each integrated group of measures. Cost estimates shall either be:

a. Obtained from a vendor at the quoted price; or
b. Based on quotations of similar projects within the last year; or
c. Based on labor cost estimates for employee labor.

5. **Life-cycle cost analysis (LCCA)** (based on standard 211 section 5.5.2). *LCCA* 7,8,9,10 of each recommended *EEM* shall be conducted for a time frame that spans, at a minimum, the life of the measure with the longest service *expected useful life* and shall include the following:

a. Initial costs (per Standard 211 Section 5.4.8.1);
b. Financing costs;

c. Annual *energy costs*;

d. Escalation rates as published by the *AHJ* citing the source within the energy audit report;

e. Discount rates as published by the *AHJ* citing the source within the energy audit report;

f. Tax credits and deductions;

g. Cash incentives, grants, and rebates;

h. Expected periodic replacements;

i. Estimated recurring nonenergy costs (maintenance, etc.), of each measure or set of measures. Such costs include annual maintenance and service labor costs, routine replacement of worn parts, or annual warranty fees from manufacturers;

j. Contingency funds not to exceed ((~~5~~)) five percent of estimated *EEM* implementation cost; and

k. Water & sewer savings from *EEM*. *EEMs* that provide water and/or wastewater savings shall include the operations and maintenance savings resulting from implementation of the *EEM*.

X4 Life-cycle cost analysis methodology, form and key variables.

X4.1 Life-cycle cost analysis completed for *buildings* qualifying under the investment criteria shall follow the *National Institute of Standards and Technology (NIST) Handbook 135, Life-Cycle Costing Manual for the Federal Energy Management Program* except as specified in this standard in Table X-1.

Table X-1 Life-Cycle Cost Analysis Variables Independent Of NIST Handbook - 135 Methodology.

Public owner discount rate	A fixed annual rate based on the cost of borrowing through the Washington state treasurer, certificate of participation programs, the local program and the state lease-purchase program.
Private owner discount rate	Shall be the published *Wall Street Journal Prime Rate* for based on the average of the previous twelve months.
Financing	Applicants with documented costs of borrowing assuming one hundred percent of the *EEM* implementation costs are financed at an actual cost of borrowing and stated terms when the property being improved is listed as loan collateral.
Rate of inflation	A fixed annual rate, as published annually by the Washington state office of financial management.
Fuel escalation rate	Based on the most recent edition of *NIST Handbook - 135 Annual Supplement - Fuel Escalation Rates.*
Study period	Equal to the *expected useful life* of the longest-lived *EEM* within an *optimized bundle*. (STD 211, 5.5.3)

X4.2 Publication of analysis variables. The *AHJ* shall on an annual basis publish the public owner discount rate, private owner discount rate, rate of inflation and fuel escalation rates on the agency website.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

WAC 194-50-150 Normative Annex Z—Washington state Tier 1 covered buildings reporting requirements—This is a normative annex and is part of the Tier 1 covered building requirements of this standard.

Z1 Building owner notifications by the AHJ.

Z1.1 Notification to building owners of covered buildings by the AHJ. Based on records obtained from each county assessor and other available information sources, the *AHJ* must create a database of *covered buildings* and *building owners* required to comply with the standard established in accordance with this section. The database may include *buildings* and *building complexes* presumed to meet the definition of *covered building* and multifamily *buildings* greater than 50,000 square feet in floor area.

Z1.1.1 The database will contain information about *buildings* that may be subject to compliance, their owners, and information about *multifamily residential buildings* eligible for incentives. The database will also contain information to assist tracking and reporting on *building owner* compliance, and incentive application and distribution. Commerce will create a method for tracking *building owner* notification responses. Each *building* or *building complex* will be assigned a unique *building* identifier.

Z1.2 By July 1, 2021, the *AHJ* must provide the owners of *covered buildings* with notification of compliance requirements. Notifications will be mailed to the mailing addresses county assessors have on file.

Z1.3 Failure by the *AHJ* to provide the notification in Z1.2 does not release the *building owner* of the legal obligation to comply with this law. When a *covered building* undergoes a change of ownership, it is the buyer's responsibility to contact the *AHJ* and update the *covered building's* profile.

Z1.4 By July 1, 2021, the *AHJ* must provide notifications to the *building owners* of *multifamily residential building* where the floor area exceeds 50,000 gross square feet, excluding the parking garage area.

Z2 Building owner response to notifications.

Z2.1 Correction of errors. *Building owners* are responsible for reviewing the property and *building* information provided by the *AHJ* through notification including, but not limited to, *building* or *building complex* ownership details, *gross floor area*, and other information as identified by the *building owner*.

Z2.1.1 Correction of errors documentation form. *Building owners* who are notified in error may submit a correction form to the *AHJ*. The correction form will be used to document *gross floor area* (conditioned and unconditioned) and/or *building* type. *Building owners* that submit the correction form must also submit the documentation required to demonstrate an exception as required in Section Z4.1 prior to the compliance date if applicable.

Z3 Washington state reporting requirements for building owners.

Z3.1 General compliance. The *building owner* of a *covered building* must report compliance with the standard to the *AHJ* in accordance with the compliance schedule established under Section Z3.1 and every five years thereafter. For each reporting date, the *building owner* must submit documentation to demonstrate that:

1. The ((~~*weather normalized energy use intensity of the*~~)) *covered building* meets the *performance target* as measured in a period not to exceed two years prior to the compliance ((~~deadline~~)) date specified in ((~~Normative Annex Z3.1 is less than or equal to the *energy use intensity target* (*buildings* that meet their energy targets)~~)) Section Z3.2 Compliance schedule; or

2. ((~~The *covered building* has met the measurement and verification requirements of Section 4.3.3.3 or Section 4.3.3.4 of the investment criteria; or~~

~~3.~~)) The *covered building* has received *conditional compliance* from the *AHJ* based on energy efficiency actions prescribed by the standard; or

((~~4.~~)) 3. The *covered building* is exempt from the standard by demonstrating that the *building* meets one of the criteria for an exemption.

4. The *covered building* has received an extension in accordance with Exceptions to Section Z3.2 Extension.

Z3.2 Compliance schedule. The *building owner* of a *covered building* must report the *building owner's* compliance with the standard to the *AHJ* in accordance with the appropriate initial compliance date as follows and every five years thereafter.

1. **Compliance date.**

a. For a *building* with more than 220,000 gross square feet, June 1, 2026;

((~~2.~~)) b. For a *building* with more than 90,000 gross square feet but less than 220,001 gross square feet, June 1, 2027; and

((~~3.~~)) c. For a *building* with more than 50,000 gross square feet but less than 90,001 gross square feet, June 1, 2028.

((~~4.~~)) 2. **Graduated group compliance dates.** *Covered buildings* complying at a *grouped building* level shall use the earliest applicable compliance date, compliance schedule ((~~representing the largest covered building~~)) for the group, or the compliance schedule can be graduated through *conditional compliance* provisions of the standard in accordance with individual *covered building* size cohort compliance schedules of Sections Z3.2, Y3.2, and W3.2. Notify the *AHJ* a minimum of 180 days prior to the ((~~largest~~)) *covered building's* earliest compliance date when complying at a *grouped building* level to update the *covered building* profile(s) and when applicable, to apply for *conditional compliance* in accordance with Section Z4.4 or Z4.5.

Exceptions to Z3.2: Extension. *Covered buildings* are eligible for a two-year compliance date extension if the *building owner* or its authorized representative submits an extension application to the *AHJ*, no sooner than six months prior to and up to six months after the applicable compliance date. The application to request an extension must include documentation supporting the reason for the extension, and meet at least one of the following criteria:

1. **Beyond control.** *Building owner* experiences conditions beyond their control, the effects of which could not have been avoided by exercising reasonable diligence, which substantially interfere with compliance efforts or schedule, including:

a. Natural disasters declared by appropriate governmental officials;

b. Goods and services shortages causing delays;

c. Price changes which affect EEM cost-effectiveness of compliance with the investment criteria; or

d. *EEM* implementation completed, but less than 12 months prior to compliance date.

e. *Buildings* where building activity types have changed preventing *benchmarking* data collection for a consecutive 12-month period within two years prior to the compliance date.

2. **Change of ownership.** *Building owner* purchases *building* in an arm's length transaction, with a date of purchase within 12 months prior to or on the exact compliance date.

3. **Financial restrictions.** *Building owner* has financial restrictions requiring additional time to demonstrate full compliance.

a. Financial hardship in accordance with Annex Z, Section Z4.1 (2)(g), affecting cash flow; or

b. Existing capital improvement plan has a schedule to meet the *performance target* of the standard by the extension deadline.

4. **New construction.** *Building owner* has active or recent construction with a valid building/demolition permit limiting the ability to obtain 12 consecutive months of measured energy use prior to the *building* compliance date. New construction includes addition, remodel, or demolition modifying at least 10 percent of the square footage and affecting conditions of compliance which require additional time to demonstrate full compliance.

5. **Performance target.** The *qualified person* or *qualified energy manager* complies with the requirements of the standard for *benchmarking*, EMP, and O&M program requirements (Section 5.2 Building energy monitoring, Section 7.2.1 Determining energy use intensity target (EUI_t), and Section 4.2 Energy management plan and operations and maintenance program) and then the *building owner* or its authorized representative can receive an extension to install *EEMs* and comply with the *performance target*. Where energy use is not monitored at the *covered building* level, *benchmarking* shall be performed at the *connected building* level. *Covered buildings* applying for an extension at a *grouped building* level shall use the earliest applicable compliance schedule for the group implementation of *benchmarking*, EMP, and O&M program.

6. **EMP and O&M.** *Building owner* complies with the *performance target* and then the *building owner* or its *authorized representative* can receive an extension to comply with the EMP and O&M program requirements (Section 4.2, Energy management plan and operations and maintenance program).

An extension granted pursuant to this subsection is valid for two years beyond the *covered building's* compliance date. Upon expiration of the two-year extension, the *building owner* or its authorized representative must submit an application to the *AHJ* for a one-time extension renewal, for an exemption, or to demonstrate compliance prior to the extension deadline, or will be subject to potential penalties. To renew an extension, *building* owners shall comply with Section Z3.2, Exception 5. Performance target to qualify for a second extension. In the case where Exception 5 was used for the first extension, to qualify for a performance target extension renewal, all *EEMs*, required to meet the *performance target*, shall be implemented, and the renewal will provide an extended period to verify *performance target* compliance.

Z3.2.1 Early compliance option. *Building owners* may submit for compliance to the *AHJ* beginning July 1, 2023. Energy use data for developing the net energy consumption of the *covered building* shall be measured in a period not to exceed two years prior to the submission of compliance documentation. This section expires June 1, 2028.

Z3.2.2 Application for conditional compliance. Applications for *conditional compliance* must be submitted to the *AHJ* no later than 180 days

prior to the compliance date to receive *conditional compliance* approval prior to the compliance date.

Z3.2.3 Application for exemption. *Building owners* submitting an application for exemption as specified in Section Z4.1 must submit to the *AHJ* no sooner than three years prior and no later than 180 days prior to the compliance date to receive exemption approval prior to the compliance date.

Z4 Documentation of compliance with the standard. Documentation of compliance shall be submitted to the *AHJ* demonstrating the *building owner* has complied with the standard through submission of documentation in accordance with Section Z4.1, Z4.2, Z4.3, Z4.4 ((~~or~~)), Z4.5, Z4.7, or Z4.8. Additional requirements for continued reporting may be required as specified in Z4.6.

Z4.1 Documentation of compliance through exemption. *Building owners* seeking approval of exemption shall submit to the *AHJ* the Z6.7 Form H, "Application for exemption certificate," documenting the following:

1. **Exemption conditions.** Exemptions are applied at the building-level. Exemptions shall not be applied at the *grouped building* level. The *building* qualifies for one of the exemptions listed in Z4.1(2), and:

a. **Exemption verification.** Compliance with the exemption must be verified by the owner based on the *building* as it is to be occupied and operating on the compliance date;

b. **Exemption application time frame.** Applications for exemptions may be submitted no sooner than three years prior to the compliance date and submitted to the *AHJ* no later than 180 days prior to the compliance date;

c. **Exemption certificate validity.** Exemptions certificates are only valid for the current compliance review cycle.

d. **Exemption recertification.** Within six months before the compliance date, *building owners* who have received exemption approval must certify that the *building* still meets the eligibility qualifications for the exemption and that there have been no material changes to qualifying conditions. A template for acceptable declarations will be made available by the *AHJ* on the agency website.

2. **Exemptions.** *Covered buildings* are not eligible for exemption from the standards unless they meet ((~~at least~~)) one or a combination of multiple exemptions (a through d) affecting more than 50 percent of the *building's* square footage, of the following criteria:

a. **Certificate of occupancy.** The *building* did not have a certificate of occupancy or temporary certificate of occupancy for a consecutive 12-month period within two years prior to the compliance date;

b. **Physical occupancy.** The *building* did not have *physical occupancy* by owner or tenant for at least 50 percent of the *conditioned floor area* throughout the consecutive 12-month period prior to the *building* compliance date. ((~~*Buildings* approved for this exemption that have a *gross floor area* with greater than 20,000 square feet of occupied floor area shall comply with *Tier 2 covered building* requirements for the occupied floor area~~))

If using the *physical occupancy* exemption in combination with other exemptions, the portion of the conditioned floor area without *physical occupancy* (unoccupied, not leased, or otherwise vacant) combined with the floor area of other exempt spaces must be more than 50 percent of the *building's* square footage;

c. **Unconditioned and semi-heated space.** The sum of the *building's gross floor area* (*GFA*) minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, is less than 50,000 square feet. The requirements of Annex Z, Section Z4.1 (2)(i) apply to nonexempt space greater than 20,000 square feet and must be reported in accordance with Section Z3.2 Compliance schedule using the *building* size cohort of the total *building GFA*, for the following:

i. *Buildings* approved for this exemption ((~~with *gross floor area* minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, greater than 20,000 square feet shall comply with *Tier 2 covered building* requirements of this standard~~)); or

ii. *Buildings* using this exemption in combination with other exemptions in accordance with Annex Z, Section Z4.1(2);

d. **Manufacturing or industrial.** More than 50 percent of the *gross floor area* of the *building* is used for manufacturing or other industrial purposes, as defined under the following use designations of the Washington state edition of the *International Building Code*:

i. Factory group F; or

ii. High hazard group H.

((~~Aggregate *gross floor area* of spaces with nonexempt occupancy classification greater than 20,000 square feet shall comply with *Tier 2 covered building* requirements.~~)) Include within the manufacturing or industrial primary use floor area, the spaces with nonexempt occupancy classifications that are within the *building* and are directly supporting the manufacturing or industrial space use. Do not include within the primary use floor area tenant spaces that are not associated with the primary manufacturing or industrial use of the *building*.

If using the manufacturing or industrial exemption in combination with other exemptions, the portion of the manufacturing or industrial use combined with the floor area of other exempt spaces must be more than 50 percent of the *building's* square footage;

e. **Agricultural.** The *building* is an *agricultural structure*;

f. **Demolition.** The *building* is pending demolition; or

g. **Financial hardship.** The *building* meets at least one of the following conditions of financial hardship:

i. **Taxes or charges.** The *building* had arrears of property taxes or water or wastewater charges that resulted in the *building's* inclusion, within the prior two years, on a city's or county's annual tax lien sale list;

ii. **Receivership.** The *building* has a court appointed receiver in control of the asset due to financial distress;

iii. **Foreclosure.** The *building* is owned by a financial institution through default by a borrower;

iv. **Conveyance in lieu of foreclosure.** The *building* has been acquired by a deed in lieu of foreclosure within the previous 24 months;

v. **Senior mortgage default.** The *building* has a senior mortgage subject to a notice of default;

vi. **K-12 school.** The *building* is a K-12 school *building* in a school district or a private school that has financial hardships related to capital construction or improvements including, but not limited to, a failed bond and/or levy, limited school district debt capacity, and/or the *building* is actively correcting a violation of state board of health rules.

vii. **Hospital.** The *building* is a public hospital in a *public hospital district* that lacks the debt capacity to cover the cost of compliance.

viii. **Heavy and immediate financial need.** The *building owner* has an immediate and heavy financial need ((~~which cannot be satisfied from other reasonable available resources and which are~~)) caused by events that are beyond their control, lacks the debt capacity to cover the cost of compliance, and has exhausted all other reasonable available resources.

h. **National security.** *Buildings* for which meeting the standard would impair national security interests, when all or a portion of the *building* has the primary purpose of providing products or services to a federal agency that is considered "classified" under Executive Order No. 12356, or as directed by the *AHJ*.

i. **Compliance light.** The following extenuating conditions will exempt *buildings* from complying with the *performance target*. *Buildings* with the following extenuating conditions require *benchmarking*, EMP, and O&M program. Where energy use is not monitored at the *covered building* level, *benchmarking* shall be performed at the *connected building* level.

i. **Historic integrity.** *Buildings* for which meeting the standard would impair the historic integrity of the *building* including, but not limited to, properties listed in the national register of historic places, the Washington heritage register (DAHP), or local municipalities registers of historic places. Document and explain how meeting the *performance target* would impair the preservation of the historic *building*.

ii. **Significant loss in assessed value.** *Buildings* that have had significant losses in assessed value since March 2020, which prevents *building owners* from securing capital in the form of loans against equity in the *covered building*. Document significant loss in assessed value with the most recent tax assessment from the local government tax assessor and the *building owner* demonstrates how this loss prevents securing the capital needed, lacks the debt capacity to cover the cost of compliance, and has exhausted all other reasonable available resources.

iii. **Nonexempt space.** *Buildings* which receive a partial unconditioned and semi-heated space exemption because the nonexempt space is greater than 20,000 square feet. The compliance light requirements can be applied at the building-level or for the nonexempt space alone. See Section Z4.1 (2)(c).

3. **Notification of exemption approved or denied.** After documents have been submitted and reviewed, the *AHJ* will send notification of approval or denial.

a. If the exemption is approved the *AHJ* shall notify the applicant stating the application has been approved and update the *AHJ* records for the *building*.

b. If the exemption is denied the *AHJ* shall notify the applicant stating the application has been denied and update the *AHJ* records for the *building*.

4. **Compliance required when exemption denied.** When an application for exemption is denied the *building owner* must proceed with the process to demonstrate compliance with one of the compliance options in Washington state reporting requirements for *building owners*, Z4.2-Z4.5.

Z4.2 ((~~Buildings that meet~~)) Documentation of compliance for meeting the EUI$_t$. *Building owners* must provide the following documentation to verify that the *building ((~~weather normalized EUI~~))* *WNEUI* is less than or equal to the *building EUI$_t$* and that the energy management plan

(EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~)) must be implemented.

((~~• Form A;~~
~~• Form B;~~
~~• Form C.~~)) 1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations.

Z4.3 ((~~Buildings that will meet the building~~)) Documentation of compliance for investment criteria ((~~prior to the compliance date~~)). *Building owners* must provide the following documentation to verify that the *building* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The energy management plan (EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~)) must be implemented and all *EEMs* must be installed and commissioned prior to the compliance date.

((~~• Form A;~~
~~• Form B;~~
~~• Form C, except *buildings* unable to meet Section 5.2, Building energy monitoring;~~
~~• Form D;~~
~~• Form F, except *buildings* using the exception to Section X2.1.~~)) 1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations completed for pre (*baseline EUI*) and post (final compliance *EUI*), except *buildings* unable to meet Section 5.2 Building energy monitoring. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2.2 in the *building* energy management plan;
8. Form D - Audit Template energy audit form;
9. ASHRAE Level 2 energy audit report developed by the *qualified energy auditor*;
10. Form F - Life-cycle cost analysis (LCCA), except *buildings* using the Exception to Section X2.1(1).

Z4.4 ((~~Buildings that will meet~~)) Documentation of compliance for meeting the EUI_t through conditional compliance. *Building owners* must provide the following documentation to verify that the *building* ((~~*weather normalized EUI*~~)) *WNEUI* is projected to be less than the *building* EUI_t at the end of the ((~~measurement and~~)) verification of compliance period and that the energy management plan (EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~))

must be implemented. *EEMs* required to meet the EUI_t must be installed and commissioned prior to the compliance date. Verification and completion shall be documented as required in Section Z4.6.

((~~• Form A;~~
~~• Form B;~~
~~• Form C;~~
~~• Form D.~~
~~• Continued reporting until completion as specified in Section Z4.6.~~)) 1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations;
8. Form D - Audit Template energy audit form;
9. ASHRAE Level 1 energy audit report or ASHRAE Level 2 energy audit report;
10. Continued reporting until completion as specified in Section Z4.6.

Z4.5 ((~~Buildings that will meet the building~~)) Documentation of compliance for investment criteria through conditional compliance. *Building owners* must provide the following documentation to verify that the *building* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The energy management plan (EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~)) must be implemented and all *EEMs* must be installed and commissioned prior to the compliance date. Verification and completion shall be documented as required in Section Z4.6.

((~~• Form A;~~
~~• Form B;~~
~~• Form C, except *buildings* unable to meet Section 5.2 Building Energy Monitoring;~~
~~• Form D;~~
~~• Form F, except *buildings* using the exception to Section X2.1.~~
~~• Continued reporting until completion as specified in Section Z4.6.~~)) 1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations completed for pre (*baseline EUI*) and post (final compliance *EUI*), except *buildings* unable to meet Section 5.2 Building energy monitoring. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2.2 in the *building* energy management plan;
8. Form D - Audit Template energy audit form;

9. ASHRAE Level 2 energy audit report developed by the *qualified energy auditor*;

10. Form F - Life-cycle cost analysis (LCCA), except *buildings* using the Exception to Section X2.1(1);

11. Continued reporting until completion as specified in Section Z4.6.

Z4.5.1 Phased implementation for investment criteria through conditional compliance. The *building owner* may include phased implementation of *EEMs* such that the *building owner* is not required to replace a system or equipment before the end of the system or equipment's *remaining useful life*, within the current compliance cycle. If the *RUL* is longer than the five-year compliance cycle, the *EEM* is not required to be included in the *optimized bundle*. System or equipment fitting this description shall be included in the energy audit and Normative Annex X - Investment criteria submission with a schedule for replacement. Phased implementation shall be documented in the energy management plan (EMP) and *capital management plan* required in Section 5.

Z4.6 Continued reporting until completion. Continued reporting is required as specified in Sections Z4.6.1 and Z4.6.2 until completion when:

((~~a) measurement and~~)) 1. Verification of compliance extends one year or more beyond the compliance date, or

((~~b)~~)) 2. Implementation is extended phased implementation.

Z4.6.1 Annual reporting. The following up to date reports shall be submitted to the *AHJ* annually, (date specific).

((~~• Form A;~~

~~• Form B;~~

~~• Form C, except *buildings* unable to meet Section 5.2, Building energy.~~)) 1. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);

2. Form B - Building activity and energy use intensity target (EUI_t);

3. Form C - Energy Star portfolio manager energy use intensity calculations, except *buildings* unable to meet Section 5.2 Building energy monitoring.

Z4.6.2 Completion reporting. The following up to date reports shall be submitted to the *AHJ* when all conditions of compliance have been verified and documented:

((~~• Form A;~~

~~• Form B;~~

~~• Form C, except *buildings* unable to meet Section 5.2, Building energy monitoring. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2.2 in the *building* energy management plan.~~)) 1. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);

2. Form B - Building activity and energy use intensity target (EUI_t);

3. Form C - Energy Star portfolio manager energy use intensity calculations, except *buildings* unable to meet Section 5.2 Building energy monitoring. *Buildings* unable to meet Section 5.2 shall include the verification specified in Section 9.2 Verification of implemented EEMs in the *building* energy management plan.

Z4.7 Documentation of compliance for minimum energy use reduction. *Building owners* must provide the following documentation to verify

that the *Tier 1 covered building's* measured *weather normalized energy use intensity* (*WNEUI*) is reduced a minimum of 15 percent from the *baseline WNEUI.* The energy management plan (EMP) must be completed and the operations and maintenance (O&M) program must be implemented, and all *EEMs* must be installed and commissioned, prior to the compliance date.

1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations completed for pre (*baseline EUI*) and post (final compliance *EUI*).

Z4.8 Documentation of compliance for space heating electrification. *Building owners* must provide the following documentation to verify that the *Tier 1 covered building* replaced existing fossil fuel consuming space conditioning equipment with electric heat pump equipment. The energy management plan (EMP) must be completed and the operations and maintenance (O&M) program must be implemented, and all *EEMs* must be installed and commissioned, prior to the compliance date.

1. Energy management plan (EMP);
2. EMP reporting tool;
3. Operations and maintenance (O&M) program;
4. O&M reporting tool;
5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);
6. Form B - Building activity and energy use intensity target (EUI_t);
7. Form C - Energy Star portfolio manager energy use intensity calculations completed for pre (*baseline EUI*) and post (final compliance *EUI*);
8. Form E - Space heating electrification report, as specified by the *AHJ.*

Z5 Violations, assessment of administrative penalties, mitigation and review of penalty decisions.

Z5.1 Authorization. The *AHJ* is authorized to impose administrative penalties upon *building owners* for failing to submit documentation demonstrating compliance with the requirements of this standard.

Failure to submit documentation demonstrating compliance by the scheduled reporting date will result in progressive penalties by legal notice.

Z5.2 Notice of violation and opportunity to correct (NOVC) (first notice).

Z5.2.1 Notifying owner of failure to demonstrate compliance. The *AHJ* may issue a NOVC when a *building owner* has failed to submit documentation that demonstrates compliance with this standard by the scheduled reporting date.

Z5.2.2 Issuing NOVC. A NOVC may be issued for failure to meet the requirements of the standard for any of the following reasons:

1. Failure to submit a compliance report in the form and manner prescribed by the *AHJ*;

2. ((~~Failure to meet an *energy use intensity target* or failure to receive *conditional compliance* approval;~~

~~3.~~)) Failure to provide accurate reporting consistent with the requirements of the standard; and

((~~4.~~)) 3. Failure to provide a valid exemption certificate;

4. Failure to receive extension approval.

Z5.2.3 Identifying failure to demonstrate compliance. The *AHJ* will identify in the NOVC which section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance.

Z5.2.4 Specifying time frame to remedy. The NOVC will specify the time by which the *building owner* must cure the violation by submitting documentation that demonstrates compliance with the identified section(s) of law, code, or the standard. The *AHJ* will give the *building owner* at least seven calendar days to submit such documentation.

Z5.2.5 Missing NOVC response deadline. If sufficient documentation is not submitted by the date specified in the NOVC, the *AHJ* will issue a notice of violation and intent to assess administrative penalties (NOVI) and the *building owner* will be subject to administrative penalties.

Z5.3 Notice of violation and intent to assess administrative penalties (NOVI) (second notice).

Z5.3.1 Issuing NOVI. If a *building owner* fails to respond to a NOVC by submitting documentation demonstrating compliance by the date specified in the NOVC, the *AHJ* will issue a NOVI.

Z5.3.2 Identifying failure to demonstrate compliance and assessing penalties. The *AHJ* will identify in the NOVI which section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance. The NOVI will also include a description of how the penalties the *AHJ* intends to assess will be calculated.

Z5.3.3 Responding to NOVI. *Building owners* must respond to a NOVI within 30 days by either:

1. Submitting an application for extension in accordance with exceptions to Section Z3.2, if applicable;

2. Submitting an application for exemption in accordance with Section Z4.1 if applicable;

((~~2.~~)) 3. Submitting a noncompliance mitigation plan in accordance with Z5.7;

((~~3.~~)) 4. Submitting its intent to pay the penalties by using the form provided by the *AHJ*; or

((~~4.~~)) 5. Submitting a request for an administrative proceeding to challenge or mitigate the penalty.

Z5.3.4 Missing NOVI response deadline. If the *building owner* does not ((~~timely~~)) request a hearing or submit an application ((~~for exemption~~)) within 30 days, the *building owner* waives its right to a hearing and the *director* or their designee may issue a final order assessing the penalties described in the NOVI. If the *building owner* has submitted a mitigation plan, the final order will only assess penalties from the scheduled compliance date until the date of an approval of compliance or *conditional compliance*.

Z5.3.5 Requesting hearing for denied ((~~exemption~~)) application. *Building owners* who submit an application ((~~for exemption~~)) that is denied may ((~~request a hearing by submitting~~)) submit a request for a hearing within 30 days of issuance of the decision denying its application ((~~for exemption~~)). If the *building owner* does not request a hearing within 30 days, the *building owner* waives its right to a hearing and the *director* or their designee may issue a final order assessing the penalties described in the NOVI.

Z5.4 Assessment of administrative penalties.

Z5.4.1 Penalties for building owners. Failure to submit documentation demonstrating compliance with the standard by the date specified in a NOVC will result in the issuance of a NOVI and the assessment of administrative penalties at an amount not to exceed $5,000 plus an amount based on the duration of any continuing violation. The additional amount for a continuing violation may not exceed a daily amount equal to one dollar per square foot of *gross floor area* per year.

a. Penalties are assessed for each compliance period.

b. The *AHJ* may by rule increase the penalty rates to adjust for the effects of inflation.

c. Penalties may not be passed along to tenants, per RCW 19.27A.210 and 19.27A.250 so long as tenants are providing access to utility usage data, physical spaces in the *buildings*, and being responsive to needs from *building owners* to facilitate compliance with the standard. The inability for tenants and *building owners* to find a mutually agreeable time is not being unresponsive. *Building owners* seeking relief through an exemption or exception must provide documentation of how the tenant is being unresponsive.

Z5.4.1.1 Submit a noncompliance mitigation plan. For *building owners* subject to a NOVI who respond within 30 days by submitting a noncompliance mitigation plan (Z5.7), fines shall be assessed on an annual basis or when the *building owner* achieves compliance or *conditional compliance*.

a. **With completion documentation.** For applicants that submit a noncompliance mitigation plan and who submit documentation demonstrating completion, daily penalties will be assessed from the scheduled compliance date to the date of approval of compliance or *conditional compliance*. The penalty will be assessed at an amount not to exceed 30 percent of $5,000 plus a daily amount equal to 20 cents per square foot of *gross floor area* per year.

b. **Without completion documentation.** For applicants that submit a noncompliance mitigation plan but have not submitted documentation demonstrating completion, if the *building* does not comply with the standard by the next compliance date, the *building owner* will be assessed the maximum penalty of $5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year not to exceed a value greater than 18 months of accrued penalty.

Z5.4.1.2 Choose to pay the fine rather than pursuing compliance. *Building owners* may choose to respond to the NOVI by paying the maximum penalty. The *building owner* will be assessed the maximum penalty of $5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year not to exceed a value greater than 18 months of accrued penalty.

Z5.4.2 Late fees. When assessed penalties are not paid within 180 days of the date of a final order assessing penalties, the *AHJ* may assess

((~~further penalties. Total penalties assessed for *Tier 1 covered buildings*~~)) late fees in addition to the maximum penalty. The penalties plus the late fees will not exceed $5,000 plus a daily amount equal to one dollar per square foot of *gross floor area* per year, for the entire compliance cycle (60 months).

Z5.4.3 Interest. Interest will accrue on civil penalties pursuant to RCW 43.17.240 if and when the debt becomes past due.

Z5.5 Due date and collection of penalties.

Z5.5.1 Penalties due. Penalties shall become due and payable on the later of:

1. Thirty days after receipt of the final order imposing the penalty; or

2. The date specified in the final order imposing the penalty.

Z5.5.2 Debt collection. If a penalty has not been paid by the due date, the *AHJ* may assign the debt to a collection agency as authorized by RCW 19.16.500 or take other action to pursue collection as authorized by law. If referred to a collection agency, the *AHJ* may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee.

Z5.5.3 Accumulated daily fine. For *building owners* that are implementing a noncompliance mitigation plan but have not yet complied, the *AHJ* may assess the accumulated daily fine on June 1st of each year or shortly thereafter.

Z5.6 Payment of administrative penalties.

A check or money order payable in U.S. funds to the Washington state department of commerce can be mailed to:

Washington State Department of Commerce
Re: Clean Buildings Initiative, Energy Division
P.O. Box 42525
Olympia, WA 98504-2525

Z5.7 Noncompliance mitigation plan. Owners of *covered buildings* that are out of compliance by the scheduled compliance date and have not corrected the violation by the date noted in a NOVC may reduce possible penalties by demonstrating that they are taking action to achieve compliance with the standard. To begin the process of mitigating noncompliance, a *building owner* must submit to the *AHJ* the noncompliance mitigation plan form selecting one of the following actions within 30 days of the date of a NOVI to avoid immediate issuance of penalty in accordance with Z5.4.1.

1. Compliance with the standard in accordance with Z4.2.

2. *Conditional compliance* with the standard in accordance with Z4.4.

3. *Conditional compliance* with the standard in accordance with Z4.5.

Z5.7.1 Mitigation completion. To demonstrate completion, the *building owner* shall complete all of the requirements of this standard and submit documentation as required by Section Z4.2, Z4.4 or Z4.5. After the *building owner* has demonstrated completion, the *AHJ* shall issue a final order assessing the reduced penalty as specified by Z5.4.1.1(a).

Z5.8 Administrative hearings.

Z5.8.1 Requesting a hearing. A *building owner* may request an administrative hearing after receiving an NOVI ((~~or after the denial of its application for an exemption~~)) by submitting a request within 30 days of the date of a NOVI ((~~or the denial of a timely application for exemption~~)). All requests must be made in writing and filed at the address specified on the NOVI. For convenience, the *AHJ* will attach a form titled request for hearing to the NOVI that may be used to request an administrative hearing.

Requests for hearing must be accompanied by the following:

1. Washington state *building* ID;
2. Submit Annex Z Forms A, B, and C.

Z5.8.2 Hearing process. The *AHJ* may refer matters to the office of administrative hearings (OAH). Administrative hearings will be conducted in accordance with chapter 34.05 WAC, Administrative Procedure Act, chapter 10-08 WAC, Model rules of procedure, and the procedural rules adopted in this chapter. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this section, the procedural rules adopted in this section take precedence.

Z5.8.3 Initial orders to become final orders. Initial orders issued by the presiding officer will become final without further agency action unless, within 20 days:

1. The *director* determines that the initial order should be reviewed; or

2. A party to the proceeding files a petition for administrative review of the initial order. Upon occurrence of either event, notice shall be given to all parties to the proceeding.

Z5.8.4. Judicial review. A final order entered pursuant to this section is subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.

Z5.8.5 Collected penalties. Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030.

Z6 Compliance forms. The following section replace Normative Annex C Forms in Standard 100 and provide additional forms specified by rule *Building owners* are required to submit the applicable forms and the required supporting information to demonstrate compliance with the standard. These forms replace all referenced forms in this standard. The *AHJ* will make these forms available in an electronic format for submission to the *AHJ*.

Z6.1 Compliance with Standard 100 (Form A)

Note: For *grouped buildings*, use Grouped Buildings Compliance with Standard 100 (Form J), instead of Form A.

1. *Building* identification:

a. Washington state *building* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State; and

k. Postal code.
2. Contact information:
a. *Building owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/Province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Qualified person*:
a. *Qualified person* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State;
f. Postal code;
g. Telephone number;
h. Email address;
i. Licensed, certified (select all that apply):
i. Licensure; or
ii. Certifying authority.
4. *Energy manager* (if different than the *qualified person*):
a. *Energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/Province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address.
5. This compliance report is for:
a. *Building* that meets the EUI_t;
b. *Building* that meets the *building* investment criteria prior to the compliance date;
c. *Building* that will meet the EUI_t through *conditional compliance*;
i. Annual reporting;
ii. Completion reporting;
d. *Building* that will meet the *building* investment criteria through *conditional compliance*;
((~~e.~~)) i. Annual reporting;
((~~f.~~)) ii. Completion reporting;
e. *Building* that meets minimum energy use reduction;
f. *Building* that meets space heating electrification.
6. Summary data:
a. **EUI_t** *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on ((~~completed~~)) Section Z6.2 Form B;

Note: ((~~*Baseline WNEUI* for *buildings* that will meet investment criteria through *conditional compliance*.~~)) *Building* without an *energy target* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 shall report:
• National median site *EUI* (kBtu/ft^2) as calculated by the Energy Star portfolio manager account on Form C.

b. **EUI.** Measured site *energy use intensity* (*EUI*) (kBtu/ft^2) for the *building's* compliance year ((~~for this *building*~~)) based on Section Z6.3 Form C;

((~~c. *Building* without an energy target;~~

Note: ~~Predicted site *EUI* for *buildings* that will meet the *EUI$_t$* or investment criteria through *conditional compliance*.~~

Note: ~~*Buildings* unable to develop *EUI$_t$* in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.~~

~~d. Measured *weather normalized* site *EUI* (kBtu/ft^2) for the compliance year based on Z6.3 Form C;~~

~~e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *building* from Z6.3 Form C;~~

~~f. *Buildings* applying for *conditional compliance* through meeting the *EUI$_t$* shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline EUI;*~~

~~• Projected *EUI;*~~

~~g. *Buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline* total kBtu;~~

~~• Projected total kBtu;~~

~~• Projected savings total kBtu;~~

~~h. *Buildings* unable to comply with Section 5.2, Building energy monitoring and complete Z6.3 Form C shall provide a reason statement.~~))

Notes:
1. *Buildings* unable to comply with Section 5.2 Building energy monitoring, and complete Section Z6.3 Form C, shall report:
• Reason statement why *EUI* cannot be measured.
2. *Buildings* that will meet the *EUI$_t$* through *conditional compliance* shall report the following based on Section Z6.4 Form D:
• *Baseline EUI.*
• Projected *EUI.*
3. *Buildings* that will meet investment criteria through *conditional compliance* shall report the following based on Section Z6.4 Form D:
• *Baseline EUI* and total kBtu.
• Projected *EUI* and total kBtu.
• Projected savings total kBtu.

c. **WNEUI.** Measured *weather normalized site energy use intensity* (*WNEUI*) (kBtu/ft^2) for the *building's* compliance year based on Section Z6.3 Form C.

Note: In addition to the compliance year *WNEUI*, *baseline WNEUI* is also required for *buildings* that will meet:
1. Investment criteria with a measurable *EUI.*
2. Investment criteria through *conditional compliance.*
3. Minimum energy use reduction.
4. Space heating electrification (unless it is without measurable *EUI*).

d. **Date range.** List the months/year of the collected data (mm/yyyy - mm/yyyy) for the *building's* compliance year from Section Z6.3 Form C.

Note: In addition to the compliance year date range, *baseline* date range is also required for *buildings* that will meet:
1. Investment criteria with a measurable *EUI.*
2. Investment criteria through *conditional compliance.*
3. Minimum energy use reduction.
4. Space heating electrification (unless it is without measurable *EUI*).

7. Have the energy management requirements of Section 5 been met? [ ] Yes [ ] No

• Upload energy management plan as specified by the *AHJ.*

8. Have the operation and maintenance requirements of Section 6 been met? [ ] Yes [ ] No

• Upload operation and maintenance implementation documentation as specified by the *AHJ.*

9. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Z6.4 Form D.

10. Have all *EEMs* required by Section 8 been implemented? [ ] Yes [ ] No

11. Have the requirements of Section 9 been completed? [ ] Yes [ ] No

12. We state that this *building* complies with ANSI/ASHRAE/IES Standard 100 as amended by the *AHJ* to conform with RCW 19.27A.210:

a. Signature of *building owner*:

• Date:

b. Signature of *qualified person*:

• Date:

c. Signature of *energy manager*:

• Date:

d. Signature of *authority having jurisdiction*:

• Conditional or final compliance:

• Date:

Z6.2 Building activity and energy use intensity target (EUI_t) (Form B). - Complete form provided by the AHJ with the following information:

1. *Building* identification:

a. Washington state *building* ID;

b. County;

c. County parcel number(s);

d. Portfolio manager property ID number;

e. Property name;

f. Parent property name;

g. Address 1 (street);

h. Address 2;

i. City;

j. State; and

k. Postal code.

2. List the *building* location climate zone, 4C or 5B. Determine the climate zone using ASHRAE climate zone as found on the map in Informative Annex G.

a. *Buildings* located in Climate Zone 5C shall use Climate Zone 4C.

b. *Buildings* located in Climate Zone 6B shall use Climate Zone 5B.

3. The *gross floor area* in square feet shall be reported as defined in Section 3.

a. *Buildings* unable to comply with Section 5.2, Building energy monitoring, at the *covered building* level and complying at the *connected buildings* level, shall use a group application to calculate the EUI_t for all *buildings* in the group.

4. If entire *building* is a *nontarget building*, a single building activity type not listed in Table 7-1, it should be listed as "*building* without target" on Z6.1 Form A. List "energy target" as "N/A" on Z6.2 Form B and Z6.2 Form B is considered complete.

5. Fill in fraction of *gross floor area* $(A)i$ for each activity. For single-activity *buildings* this is 1.0.

6. Fill in the operating shifts normalization factor $(S)i$ from Table 7-3 for each activity.

7. Fill in the activity energy target (EUI_{t1})i from Table 7-2 (or table from *AHJ*) for each activity.

8. Calculate weighted space *EUI* target $(A \times S \times EUI_{t1})i$ for each activity.

9. Add up fraction of floor area and enter sum in "Total fraction of floor area with target," and add up all weighted space ((~~*EUI targets*~~)) *energy use intensity targets* (EUI_t) and enter sum as the ((~~"energy target"~~)) "EUI_t" on Z6.2 and Z6.1 Forms B and A.

10. If more than 50 percent of *gross floor area* has no target, it should be listed as "*building* without target" on Z6.1 Form A. List "energy target" as "N/A" on Z6.2 Form B.

For single-activity *buildings* this is 1.0.

Z6.3 Energy Use Intensity Calculations (Form C). *Energy Use Intensity* Calculations shall be reported via the U.S. EPA's ((~~ENERGY STAR~~)) Energy Star Portfolio Manager (www.energystar.gov/benchmark). The *energy manager* is responsible for creating Energy Star portfolio manager record for each *building*.

Exception to Z6.3: *Buildings* unable to comply with Section 5.2, Building energy monitoring shall ((~~comply~~)) monitor *building* energy at the *covered building* level and shall report benchmarking at the *connected buildings* level or demonstrate compliance through Z4.3 or Z4.5.

The Energy Star portfolio manager *building* record shall be identical to the building activity/type, fraction floor area, operating shifts (hours of operation) and *gross floor area* of the *building* as reported on Form B. All inputs shall be up to date prior to reporting as required in Section Z4 and annually as required in Section 5.1.2.3, Annual updates of the *net energy use* and *EUI*.

Prior to submitting reports run the Energy Star portfolio manager data quality checker and make all corrections required to complete the report.

The *energy manager* shall use the EPA's Energy Star portfolio manager share properties feature and share the property data with the *AHJ* by enabling the read only access and exchange data feature.

For each report submitted under Section Z4, the *energy manager* shall create and submit a report documenting the required data fields listed (below) and other fields deemed necessary by the *AHJ* for the reporting period.

Report fields shall include:

- Portfolio manager property ID;
- Portfolio manager parent property ID;
- Property name;
- Parent property name;
- Address 1;
- Address 2;
- City;
- County;
- State/Province;
- Postal Code;
- Primary property type - Self-selected;
- Primary property type - EPA calculated;
- List of all property use types at property;
- Property GFA - Self-reported (ft^2);
- Property GFA - EPA calculated (*buildings* and parking) (ft^2);
- Property GFA - EPA calculated (*buildings*) (ft^2);
- Property GFA - EPA calculated (parking) (ft^2);
- Largest property use type;
- Largest property use type - *Gross floor area* (ft^2);
- 2nd Largest property use type;

- 2nd Largest property use - *Gross floor area* (ft^2);
- 3rd Largest property use type;
- 3rd Largest property use type - *Gross floor area* (ft^2);
- Year built;
- Occupancy;
- Property notes;
- Property data administrator;
- Property data administrator - Email;
- Last modified date - Property;
- Last modified date - Electric meters;
- Last modified date - Gas meters;
- Last modified date - Nonelectric nongas energy meters;
- Local standard ID(s) Washington state building standard;
- Data center - Energy estimates applied;
- Electricity use - Grid purchase and generated from on-site renewable systems (kWh);
- Electricity use - Grid purchase (kWh);
- Electricity use - Generated from on-site renewable systems and used on-site (kWh);
- Natural gas use (therms);
- Fuel oil #1 use (kBtu);
- Fuel oil #2 use (kBtu);
- Fuel oil #4 use (kBtu);
- Fuel oil #5 and 6 use (kBtu);
- Diesel #2 use (kBtu);
- Kerosene use (kBtu);
- Propane use (kBtu);
- District steam use (kBtu);
- District hot water use (kBtu);
- District chilled water use (kBtu);
- Coal - Anthracite use (kBtu);
- Coal - Bituminous use (kBtu);
- Coke use (kBtu);
- Wood use (kBtu);
- Other use (kBtu);
- Default values;
- Temporary values;
- Estimated data flag - Electricity (grid purchase);
- Estimated data flag - Natural gas;
- Alert - Data center does not have an IT meter;
- Alert - *Gross floor area* is 0 ft^2;
- Alert - Property has no uses;
- Data quality checker - Date run;
- Data quality checker run - ?
- Alert - Energy meter has less than 12 full calendar months of data;
- Alert - Energy meter has gaps;
- Alert - Energy meter has overlaps;
- Alert - Energy - No meters selected for metrics;
- Alert - Energy meter has single entry more than 65 days;
- Estimated values - Energy;
- Energy Star score;
- National median *site energy* use (kBtu);
- National median site *EUI* (kBtu/ft^2);
- *Site energy* use (kBtu);
- Site *EUI* (kBtu/ft^2);

- *Weather normalized site energy* use (kBtu);
- *Weather normalized* site *EUI* (kBtu/ft^2);
- *Weather normalized* site electricity (kWh);
- *Weather normalized* site electricity intensity (kWh/ft^2);
- *Weather normalized* site natural gas use (therms);
- *Weather normalized* site natural gas intensity (therms/ft^2) energy current date;
- Electricity use - Generated from on-site renewable systems (kWh);
- Electricity use - Generated from on-site renewable systems and exported (kWh);
- Electricity Use - Grid purchase and generated from on-site renewable systems (kBtu);
- Electricity use - Grid purchase (kBtu);
- Electricity use - Generated from on-site renewable systems and used on site (kBtu);
- Natural gas use (kBtu);
- Percent of total electricity generated from on-site renewable systems;
- Cooling degree days (CDD) (°F);
- Heating degree days (HDD) (°F);
- Weather station name;
- Weather station ID.

Z6.4 End-use analysis requirements. *Building owners* shall demonstrate compliance with Form D by providing the documentation required by section Z6.4.1.

Z6.4.1 Energy Audit Forms (Form D) Audit Template. The energy audit form shall be provided electronically by completing the energy audit form (Audit Template) included in the U.S. Department of Energy, Energy Asset Score Tool, or an equivalent tool provided by the *AHJ*. This form shall be completed to document the energy audit, as published in ASHRAE Standard 211, *Standard for commercial building energy audits*, including *EEMs* considered but determined to have a *simple payback* that is greater than the *EEMs expected useful life*.

Form E - ((~~Not adopted.~~)) See Section Z6.9 Space heating electrification report (Form E).

Z6.5 Normative Annex X, Investment Criteria Tool (Form F).

Z6.5.1 To demonstrate compliance with the investment criteria of Normative Annex X, *building owners* shall complete and submit Form F, as specified by the *AHJ*.

Z6.5.2 Form F shall be developed by the AHJ. Form F shall be a life cycle cost evaluation tool compliant with NIST Standard 135 and capable of supporting the evaluation criteria required by Normative Annex X.

Z6.5.3 Form F shall evaluate all EEMs considered that have a *simple payback* that is less than or equal to the *EEMs expected useful life*.

Z6.6 Documentation of a building of historic significance (Form G).

Z6.6.1 Energy efficiency measure exemptions for historic buildings. No individual *energy efficiency measure* identified by energy efficiency audits need to be implemented if it would compromise the historical integrity of a *building* or part of a *building*. *Building owners* seeking

this exception shall provide the following documentation. Certified historic *buildings* are not exempt from the other requirements of this standard.

Z6.6.2 Plan for compliance. The owner of a qualifying historic *building* shall have the plan for compliance evaluated by a qualified historic preservationist, as defined in 36 C.F.R., Part 61, identifying any energy efficiency requirement that may compromise the historic integrity of the *building* or part of the *building*. Any element of the plan identified to compromise the historic integrity of the *building* or part of the *building* shall be omitted from the compliance plan. Evidence of this evaluation must be submitted to the *AHJ* for approval.

Z6.6.3 Documentation of a historic building. *Building owners* must provide documentation to the *AHJ* that proves its historic identification or eligibility. Valid documentation from any existing programs listed below is acceptable.

1. Examples of existing programs that verify historic property include:

a. The National Register of Historic Places;

b. The Washington heritage register;

c. Properties that are identified by the department of archaeology and historic preservation (DAHP) to be eligible for listing in either one of these registers; and

d. Properties which are listed in a local register of historic places; or

2. Other documentation approved by the *AHJ*.

Z6.7 Application for Exemption Certificate (Form H).

Apply for an exemption certificate by submitting the following documentation in the form specified by the *AHJ*. The application must include:

1. *Building* identification:

a. Washington state *building* ID;

b. County;

c. County parcel number(s);

d. Portfolio manager property ID number;

e. Property name;

f. Parent property name;

g. Address 1 (street);

h. Address 2;

i. City;

j. State; and

k. Postal code.

2. Contact information:

a. *Building owner* name(s);

b. Contact name;

c. Address 1 (street);

d. Address 2;

e. City;

f. State/Province;

g. Country;

h. Postal code;

i. Telephone number; and

j. Email address.

3. *Building* information:

a. Primary building activity type from Table 7-1, or a description of the *nontarget building* type;

b. *Building gross floor area*;
c. *Building* gross conditioned floor area.
4. Reason for exemption: Based on exemptions listed in Section Z4.1(2) Exemptions.

A list ((~~all~~)) of all documents enclosed and any facts in support of this application. Provide at least two of the acceptable documents listed below:

a. Municipal or county records;
b. Documents from a *qualified person*;
c. Construction permit;
d. Certificate of occupancy or application for certificate of occupancy;
e. Demolition permit;
f. Financial statements such as statement of assets; liabilities, capital, and surplus, statement of revenue and expenses; or statement of cash flow;
g. A letter from the *building owner* stating facts and explaining financial hardships;
h. Other documentation approved by the *AHJ*.

5. Signature and statement of *building owner* stating that the authorized representative of the *building*, affirm and attest to the accuracy, truthfulness and completeness of the statements of material fact provided in this form.

Z6.8 Grouped Buildings Compliance with Standard 100 (Form J).

1. *Grouped buildings* identification:
a. Washington state *grouped buildings* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;
k. Postal code.
2. Contact information:
a. *Grouped buildings owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Qualified person*:
a. *Qualified person* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State;
f. Postal code;
g. Telephone number;
h. Email address;

i. Licensed, certified (select all that apply):
i. Licensure; or
ii. Certifying authority.
4. *Energy manager* (if different than the *qualified person*):
a. *Energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address.
5. ((~~*Decarbonization plan* author, where applicable:~~
~~a. Company name;~~
~~b. Contact name;~~
~~c. Address 1 (street);~~
~~d. Address 2;~~
~~e. City;~~
~~f. State;~~
~~g. Postal code;~~
~~h. Telephone number;~~
~~i. Email address.~~
~~6.~~)) This compliance report is for:
a. *Grouped buildings* that meet the EUI_t;
b. *Grouped buildings* that meet the investment criteria prior to the compliance date;
c. *Grouped buildings* that will meet the EUI_t through *conditional compliance;*
i. Annual reporting;
ii. Completion reporting;
d. *Grouped buildings* that will meet the investment criteria through *conditional compliance;*
((~~e. Annual reporting for *conditional compliance;*~~
~~f. Progress reporting for *decarbonization plan;*~~
~~g. Completion reporting~~)) i. Annual reporting;
ii. Completion reporting.
((~~7.~~)) 6. Summary data:
a. **EUI_t.** *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on ((~~completed~~)) Section Z6.2 Form B;

Note: ((~~*Baseline WNEUI* for *grouped buildings* that will meet investment criteria through *conditional compliance*.~~)) *Grouped buildings* without an *energy target* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 shall report:
• National median site *EUI* (kBtu/ft^2) as calculated by the Energy Star portfolio manager account on Form C.

b. **EUI.** Measured site *energy use intensity* (*EUI*) (kBtu/ft^2) for the *grouped buildings'* compliance year ((~~*for grouped buildings*~~)) based on Section Z6.3 Form C;
((~~c. *Grouped buildings* without an energy target;~~

Notes: ~~1. Predicted site *EUI* for *grouped buildings* that will meet the EUI_t or investment criteria through *conditional compliance*.~~
~~2. *Grouped buildings* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.~~

~~d. *Grouped buildings* measured *weather normalized* site *EUI* (kBtu/ft^2) for the compliance year based on Section Z6.3 Form C;~~
~~e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *grouped buildings* from Section Z6.3 Form C;~~

~~f. *Grouped buildings* applying for *conditional compliance* through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline EUI;*~~
~~• Projected *EUI;*~~

~~**Note:** Not applicable to *decarbonization plan.*~~

~~g. *Grouped buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline* total kBtu;~~
~~• Projected total kBtu;~~
~~• Projected savings total kBtu.~~

~~**Note:** Not applicable to *decarbonization plan.*~~))

Notes: 1. *Grouped buildings* unable to comply with Section 5.2 Building energy monitoring, and complete Section Z6.3 Form C, shall report:
• Reason statement why *EUI* cannot be measured.
2. *Grouped buildings* that will meet the EUI_t through *conditional compliance* shall report the following based on Section Z6.4 Form D:
• *Baseline EUI.*
• Projected *EUI.*
3. *Grouped buildings* that will meet investment criteria through *conditional compliance* shall report the following based on Section Z6.4 Form D:
• *Baseline EUI* and total kBtu.
• Projected *EUI* and total kBtu.
• Projected savings total kBtu.

c. **WNEUI.** Measured *weather normalized site energy use intensity* (*WNEUI*) (kBtu/ft^2) for the *grouped buildings'* compliance year based on Section Z6.3 Form C.

Note: In addition to the compliance year *WNEUI*, *baseline WNEUI* is also required for *grouped buildings* that will meet:
1. Investment criteria with a measurable *EUI.*
2. Investment criteria through *conditional compliance.*
3. Minimum energy use reduction.
4. Space heating electrification (unless it is without measurable *EUI*).

d. **Date range.** List the months/year of the collected data (mm/yyyy - mm/yyyy) for the *grouped buildings'* compliance year from Section Z6.3 Form C.

Note: In addition to the compliance year date range, *baseline* date range is also required for *buildings* that will meet:
1. Investment criteria with a measurable *EUI.*
2. Investment criteria through *conditional compliance.*
3. Minimum energy use reduction.
4. Space heating electrification (unless it is without measurable *EUI*).

((~~8.~~)) 7. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload energy management plan as specified by the *AHJ.*

((~~9.~~)) 8. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload operation and maintenance implementation documentation as specified by the *AHJ.*

((~~10.~~)) 9. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Section Z6.4 Form D.

((~~11.~~)) 10. Have all *EEMs* required by Section 8 been implemented? [ ] Yes [ ] No

((~~12.~~)) 11. Have the requirements of Section 9 been completed? [ ] Yes [ ] No

((~~13.~~)) 12. We state that these *grouped buildings* comply with ANSI/ASHRAE/IES Standard 100 as amended by the *AHJ* to conform with RCW 19.27A.210:

a. Signature of *grouped buildings owner*:

• Date:

b. Signature of *qualified person*:

• Date:

c. Signature of *energy manager*:

• Date:

d. Signature of *authority having jurisdiction*:

• Conditional or final compliance:

• Date:

Z6.9 Space heating electrification report, as specified by the AHJ. (Form E). The space heating electrification report shall address both pre and post electrification and must include:

1. **Narrative system description.** Identifying:

a. Existing space heating system and system capacity;

b. Replacement space heating heat pump(s) system and system capacity;

c. Any installed or remaining fossil fuel back-up or supplemental space heating system size;

d. Any remaining fossil fuel combustion appliance.

2. **Inventory for space conditioning system.**

a. Pre electrification inventory including:

i. Equipment type (boiler, furnace, rooftop unit, etc.);

ii. Date of installation or estimated age of existing equipment;

iii. Fuel type of existing equipment;

iv. Existing space heating system rated capacity (Btu/hr);

v. Seasonal efficiency of existing system (AFUE).

b. Post retrofit inventory, also listed in the EMP and O&M program, including:

i. Heat pump equipment specifications:

• Manufacturer, model and system type (air-source, water-source, VRF, geothermal);

• Rated heating capacity (Btu/hr) at AHRI/DOE test conditions;

• Coefficient of performance (COP) or heating seasonal performance factor (HSPF2).

ii. Date of installation;

iii. Installed space heating system capacity, with:

• Total capacity of heat pump equipment (sum of all units);

• Comparison of total capacity to modeled peak heating load.

iv. Installed or remaining auxiliary or back-up heating:

• Type (electric resistance, dual-fuel, district steam backup, fossil fuel, etc.);

• Description of control strategy for peak heat demand (only engage below certain temp, emergency use, etc.).

v. Any remaining nonspace heating fossil fuel combustion appliance(s) and size.

3. **Verification of replacement.**

a. Decommissioning confirmation: Name of decommissioning contractor and date equipment removed or permanently disabled;

b. Code official inspection report, contractor install verification report, and/or commissioning report, to confirm installation of new heating system;

c. For building activity types listed in Table 7-1: #96 Supermarket/Grocery Store, #100 Data Center, and #113 Cold Storage/Refrigerated Warehouse: Documentation confirming the space heating energy savings, as measured after equipment replacement, is greater than 10 EUI.

d. Any other energy code required documentation.

4. **Heating load calculations.**

a. Modeled peak heating load:

i. Methodology used (e.g., ASHRAE Heat Balance Method, ACCA Manual N, or Software);

ii. Software used (Name and version, e.g., EnergyPlus, Carrier HAP, Trane TRACE).

b. Outdoor design temperature used;

c. Annual heating load profile with typical daily and seasonal load variations;

d. Heating load diversity (space heating, ventilation heating, domestic hot water, etc.);

e. Heat pump system design capacity;

f. Building peak space heating load, demonstrating space heating heat pump(s) system capacity is designed to meet (serve) 90 percent of the *building's* annual heating demand.

Z7 Section 7—Tables as modified by Washington state.

Table 7-1 Building Activity Types/Activities

	Building Activity Type[1,2]			
No.	**Portfolio Manager Types**	**Portfolio Manager Sub-Types**	**Sub-Types: Detailed**	**Notes**
1	Banking/financial services	Bank Branch		
2	Banking/financial services	Financial Office		
3	Education	Adult Education		
4	Education	College/University		8,9
5	Education	K-12 School	Elementary/middle school	9
6	Education	K-12 School	High school	9
7	Education	Preschool/Daycare		
8	Education	Vocational School		
9	Education	Other - Education		
10	Entertainment/public assembly	Aquarium		
11	Entertainment/public assembly	Bar/Nightclub		
12	Entertainment/public assembly	Bowling Alley		
13	Entertainment/public assembly	Casino		
14	Entertainment/public assembly	Convention Center		
15	Entertainment/public assembly	Fitness Center/Health Club/Gym		
16	Entertainment/public assembly	Ice/Curling Rink		
17	Entertainment/public assembly	Indoor Arena		
18	Entertainment/public assembly	Movie Theater		
19	Entertainment/public assembly	Museum		
20	Entertainment/public assembly	Performing Arts		
21	Entertainment/public assembly	Race Track		
22	Entertainment/public assembly	Roller Rink		
23	Entertainment/public assembly	Social/Meeting Hall		
24	Entertainment/public assembly	Stadium (Closed)		

	Building Activity Type[1,2]			
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes
25	Entertainment/public assembly	Stadium (Open)		
26	Entertainment/public assembly	Swimming Pool		
27	Entertainment/public assembly	Zoo		
28	Entertainment/public assembly	Other - Entertainment/Public Assembly	Entertainment/culture	
29	Entertainment/public assembly	Other - Entertainment/Public Assembly	Library	
30	Entertainment/public assembly	Other - Entertainment/Public Assembly	Other public assembly	
31	Entertainment/public assembly	Other - Entertainment/Public Assembly	Recreation	
32	Entertainment/public assembly	Other - Entertainment/Public Assembly	Social/meeting	
33	Entertainment/public assembly	Other - Recreation		
34	Entertainment/public assembly	Other - Stadium		
35	Food sales and service	Bar/Nightclub		
36	Food sales and service	Convenience Store with Gas Station		
37	Food sales and service	Convenience Store without Gas Station		
38	Food sales and service	Fast Food Restaurant		
39	Food sales and service	Food Sales	Grocery/food market	
40	Food sales and service	Food Sales	Convenience store with gas	
41	Food sales and service	Food Sales	Convenience store	
42	Food sales and service	Food Sales	Other food sales	
43	Food sales and service	Food Service	Fast food	
44	Food sales and service	Food Service	Restaurant/cafeteria	
45	Food sales and service	Food Service	Other food service	
46	Food sales and service	Restaurant		
47	Food sales and service	Supermarket/Grocery Store		
48	Food sales and service	Wholesale Club/Supercenter		
49	Food sales and service	Other - Restaurant/Bar		
50	Healthcare	Ambulatory Surgical Center		
51	Healthcare	Hospital (General Medical & Surgical)		9
52	Healthcare	Medical Office		3
53	Healthcare	Outpatient Rehabilitation/ Physical Therapy		
54	Healthcare	Residential Care Facility		
55	Healthcare	Senior Care Community		9
56	Healthcare	Urgent Care/Clinic/Other Outpatient		
57	Healthcare	Other - Specialty Hospital		
58	Lodging/residential	Barracks		
59	Lodging/residential	Hotel	Hotel	9
60	Lodging/residential	Hotel	Motel or inn	
61	Lodging/residential	Multifamily Housing		9
62	Lodging/residential	Prison/Incarceration		9

	Building Activity Type[1,2]			
No.	**Portfolio Manager Types**	**Portfolio Manager Sub-Types**	**Sub-Types: Detailed**	**Notes**
63	Lodging/residential	Residence Hall/Dormitory		
64	Lodging/residential	Residential Care Facility		
65	Lodging/residential	Senior Care Community		9
66	Lodging/residential	Other - Lodging/Residential		
67	Mixed use	Mixed Use Property		4
68	Office	Medical Office		3
69	Office	Office	Admin/professional office	
70	Office	Office	Bank/other financial	
71	Office	Office	Government office	
72	Office	Office	Medical office (diagnostic)	3
73	Office	Office	Other office	
74	Office	Veterinary Office		
75	Office	Other - Office		
76	Public services	Courthouse		
77	Public services	Fire Station		
78	Public services	Library		
79	Public services	Mailing Center/Post Office		
80	Public services	Police Station		
81	Public services	Prison/Incarceration		9
82	Public services	Social/Meeting Hall		
83	Public services	Transportation Terminal/Station		
84	Public services	Other - Public Service		
85	Religious worship	Worship Facility		
86	Retail	Automobile Dealership		
87	Retail	Convenience Store with Gas Station		
88	Retail	Convenience Store without Gas Station		
89	Retail	Enclosed Mall		5
90	Retail	Lifestyle Center	Enclosed mall	5
91	Retail	Lifestyle Center	Other retail	
92	Retail	Lifestyle Center	Retail store	
93	Retail	Lifestyle Center		4
94	Retail	Retail Store		
95	Retail	Strip Mall		4
96	Retail	Supermarket/Grocery Store		
97	Retail	Wholesale Club/Supercenter		
98	Retail	Other - Retail/Mall	Enclosed mall	5
99	Retail	Other - Retail/Mall		4
100	Technology/science	Data Center		6
101	Technology/science	Laboratory		
102	Technology/science	Other - Technology/Science	Other service	
103	Services	Personal Services (Health/ Beauty, Dry Cleaning, etc.)		
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop	

	Building Activity Type[1,2]			
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop	
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/maintenance	
107	Services	Other - Services		
108	Utility	Energy/Power Station		7
109	Utility	Other - Utility		7
110	Warehouse/storage	Self-Storage Facility		
111	Warehouse/storage	Distribution Center		
112	Warehouse/storage	Nonrefrigerated Warehouse		
113	Warehouse/storage	Refrigerated Warehouse		

Notes: 1. Select the most specific building activity type that applies.
2. Building Activity Types are defined by *AHJ* in Table 7-4 ((~~and also include the following:~~
~~• Data center: Is an activity space designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more. *Gross floor area* shall only include space within the *building* including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment. *Gross floor area* shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space.~~
~~• Urgent care center/clinic/other outpatient office means the *buildings* used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care~~)).
3. All medical offices considered to be diagnostic type.
4. Must use of Section 7.2.3 method for mixed use *buildings*.
5. Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
6. This is a *building* or activity without an energy target. Included to provide definition only.
7. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section ((~~Z4.1 2, d~~)) Z4.1 (2)(d).
8. Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory building activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 Laboratory for an area weighted EUI_t.
9. Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the EUI_t. "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

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

	Building Activity Type[1,2]				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	((~~EUI_t~~)) Energy Target	((~~EUI_t~~)) Energy Target
1	Banking/financial services	Bank Branch			69	71
2	Banking/financial services	Financial Office			69	71
3	Education	Adult Education			49	51
4	Education	College/University		8, 9	102	102
5	Education	K-12 School	Elementary/middle school	9	49	50
6	Education	K-12 School	High school	9	48	49
7	Education	Preschool/Daycare			59	59
8	Education	Vocational School			49	51
9	Education	Other - Education			49	51
10	Entertainment/public assembly	Aquarium			55	59
11	Entertainment/public assembly	Bar/Nightclub			55	59

	Building Activity Type[1,2]				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	((~~EUI$_t$~~)) Energy Target	((~~EUI$_t$~~)) Energy Target
12	Entertainment/public assembly	Bowling Alley			73	78
13	Entertainment/public assembly	Casino			55	59
14	Entertainment/public assembly	Convention Center			50	52
15	Entertainment/public assembly	Fitness Center/Health Club/Gym			73	78
16	Entertainment/public assembly	Ice/Curling Rink			73	78
17	Entertainment/public assembly	Indoor Arena			67	70
18	Entertainment/public assembly	Movie Theater			67	70
19	Entertainment/public assembly	Museum			67	70
20	Entertainment/public assembly	Performing Arts			55	59
21	Entertainment/public assembly	Race Track			67	70
22	Entertainment/public assembly	Roller Rink			73	78
23	Entertainment/public assembly	Social/Meeting Hall			50	52
24	Entertainment/public assembly	Stadium (Closed)			67	70
25	Entertainment/public assembly	Stadium (Open)			67	70
26	Entertainment/public assembly	Swimming Pool			73	78
27	Entertainment/public assembly	Zoo			55	59
28	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Entertainment/culture		67	70
29	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Library		56	59
30	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Other public assembly		55	59
31	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Recreation		73	78
32	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Social/meeting		50	52
33	Entertainment/public assembly	Other - Recreation			73	78
34	Entertainment/public assembly	Other - Stadium			67	70
35	Food sales and service	Bar/Nightclub			361	378
36	Food sales and service	Convenience Store with Gas Station			260	269

	Building Activity Type[1,2]				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	((~~EUI~~)) Energy Target	((~~EUI~~)) Energy Target
37	Food sales and service	Convenience Store without Gas Station			244	253
38	Food sales and service	Fast Food Restaurant			427	454
39	Food sales and service	Food Sales	Grocery/food market		191	198
40	Food sales and service	Food Sales	Convenience store with gas		260	269
41	Food sales and service	Food Sales	Convenience store		244	253
42	Food sales and service	Food Sales	Other food sales		184	189
43	Food sales and service	Food Service	Fast food		427	454
44	Food sales and service	Food Service	Restaurant/cafeteria		361	378
45	Food sales and service	Food Service	Other food service		293	308
46	Food sales and service	Restaurant			361	378
47	Food sales and service	Supermarket/Grocery Store			191	198
48	Food sales and service	Wholesale Club/ Supercenter			68	75
49	Food sales and service	Other - Restaurant/Bar			361	378
50	Healthcare	Ambulatory Surgical Center			90	96
51	Healthcare	Hospital (General Medical & Surgical)*		9	215	215
52	Healthcare	Medical Office		3		
53	Healthcare	Outpatient Rehabilitation/Physical Therapy			90	96
54	Healthcare	Residential Care Facility			78	82
55	Healthcare	Senior Care Community		9	78	82
56	Healthcare	Urgent Care/Clinic/ Other Outpatient			90	96
57	Healthcare	Other - Specialty Hospital			196	196
58	Lodging/residential	Barracks			88	90
59	Lodging/residential	Hotel	Hotel	9	68	72
60	Lodging/residential	Hotel	Motel or inn		74	77
61	Lodging/residential	Multifamily Housing		9	32	33
62	Lodging/residential	Prison/Incarceration		9	101	106
63	Lodging/residential	Residence Hall/ Dormitory			88	90
64	Lodging/residential	Residential Care Facility			78	82
65	Lodging/residential	Senior Care Community		9	78	82
66	Lodging/residential	Other - Lodging/ Residential			71	74
67	Mixed use	Mixed Use Property		4		
68	Office	Medical Office		3	60	65
69	Office	Office	Admin/professional office		63	66

	Building Activity Type[1,2]				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	((~~EUI$_t$~~)) Energy Target	((~~EUI$_t$~~)) Energy Target
70	Office	Office	Bank/other financial		69	71
71	Office	Office	Government office		66	69
72	Office	Office	Medical office (diagnostic)	3	60	65
73	Office	Office	Other office		66	68
74	Office	Veterinary Office			90	96
75	Office	Other - Office			66	68
76	Public services	Courthouse			101	106
77	Public services	Fire Station			65	68
78	Public services	Library			56	59
79	Public services	Mailing Center/Post Office			51	54
80	Public services	Police Station			65	68
81	Public services	Prison/Incarceration		9	101	106
82	Public services	Social/Meeting Hall			50	52
83	Public services	Transportation Terminal/ Station			55	59
84	Public services	Other - Public Service			66	69
85	Religious worship	Worship Facility			39	42
86	Retail	Automobile Dealership			59	66
87	Retail	Convenience Store with Gas Station			260	269
88	Retail	Convenience Store without Gas Station			244	253
89	Retail	Enclosed Mall		5	58	64
90	Retail	Lifestyle Center	Enclosed mall	5	58	64
91	Retail	Lifestyle Center	Other retail		55	62
92	Retail	Lifestyle Center	Retail store		68	75
93	Retail	Lifestyle Center		4		
94	Retail	Retail Store			68	75
95	Retail	Strip Mall		4		
96	Retail	Supermarket/Grocery Store			191	198
97	Retail	Wholesale Club/ Supercenter			68	75
98	Retail	Other - Retail/Mall	Enclosed mall	5	58	64
99	Retail	Other - Retail/Mall		4		
100	Technology/science	Data Center		6		
101	Technology/science	Laboratory			237	249
102	Technology/science	Other - Technology/ Science	Other service		66	69
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)			66	69

	Building Activity Type[1,2]				Climate Zone 4C	Climate Zone 5B
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	((~~EUI_t~~)) Energy Target	((~~EUI_t~~)) Energy Target
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop		36	39
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop		60	64
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/ maintenance		41	44
107	Services	Other - Services			66	69
108	Utility	Energy/Power Station		7		
109	Utility	Other - Utility		7		
110	Warehouse/storage	Self-Storage Facility			36	44
111	Warehouse/storage	Distribution Center			36	44
112	Warehouse/storage	Nonrefrigerated Warehouse			36	44
113	Warehouse/storage	Refrigerated Warehouse			121	126

Notes: 1. Select the most specific building activity type that applies.
2. Building Activity Types are defined by *AHJ* in Table 7-4 ((~~and also include the following:~~
~~• Data center: Is an activity space designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more. *Gross floor area* shall only include space within the *building* including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment. *Gross floor area* shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space.~~
~~• Urgent care center/clinic/other outpatient office means the *buildings* used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care~~)).
3. All medical offices considered to be diagnostic type.
4. Must use of Section 7.2.3 method for mixed use *buildings*.
5. Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
6. This is a *building* or activity without an energy target. Included to provide definition only.
7. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section ((~~Z4.1-2, d~~)) Z4.1 (2)(d).
8. Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory building activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 Laboratory for an area weighted EUI_t.
9. Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the EUI_t. "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

Table 7-3 Building Operating Shifts Normalization Factor

	Building Activity Type				Weekly Hours[1,2]		
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	50 or less	51 to 167	168
1	Banking/financial services	Bank Branch		3	0.8	1.0	1.5
2	Banking/financial services	Financial Office		3	0.8	1.0	1.5
3	Education	Adult Education		4	0.9	1.1	1.9
4	Education	College/University		4,10	0.9	1.1	1.9
5	Education	K-12 School	Elementary/middle school	4,10	0.9	1.1	1.9
6	Education	K-12 School	High school	4,10	0.9	1.1	1.9
7	Education	Preschool/Daycare		4	0.9	1.1	1.9
8	Education	Vocational School		4	0.9	1.1	1.9

	Building Activity Type				Weekly Hours[1,2]		
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	50 or less	51 to 167	168
9	Education	Other - Education		4	0.9	1.1	1.9
10	Entertainment/public assembly	Aquarium		4, 9	0.6	1.1	1.6
11	Entertainment/public assembly	Bar/Nightclub		4	0.6	1.1	1.6
12	Entertainment/public assembly	Bowling Alley		4	0.6	1.1	1.6
13	Entertainment/public assembly	Casino		4	0.6	1.1	1.6
14	Entertainment/public assembly	Convention Center		4	0.6	1.1	1.6
15	Entertainment/public assembly	Fitness Center/Health Club/Gym		4	0.6	1.1	1.6
16	Entertainment/public assembly	Ice/Curling Rink		4	0.6	1.1	1.6
17	Entertainment/public assembly	Indoor Arena		4	0.6	1.1	1.6
18	Entertainment/public assembly	Movie Theater		4	0.6	1.1	1.6
19	Entertainment/public assembly	Museum		4, 9	0.6	1.1	1.6
20	Entertainment/public assembly	Performing Arts		4	0.6	1.1	1.6
21	Entertainment/public assembly	Race Track		4	0.6	1.1	1.6
22	Entertainment/public assembly	Roller Rink		4	0.6	1.1	1.6
23	Entertainment/public assembly	Social/Meeting Hall		4	0.6	1.1	1.6
24	Entertainment/public assembly	Stadium (Closed)		4	0.6	1.1	1.6
25	Entertainment/public assembly	Stadium (Open)		4	0.6	1.1	1.6
26	Entertainment/public assembly	Swimming Pool		4	0.6	1.1	1.6
27	Entertainment/public assembly	Zoo		4, 9	0.6	1.1	1.6
28	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Entertainment/culture	4	0.6	1.1	1.6
29	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Library	4	0.6	1.1	1.6
30	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Other public assembly	4	0.6	1.1	1.6
31	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Recreation	4	0.6	1.1	1.6
32	Entertainment/public assembly	Other - Entertainment/ Public Assembly	Social/meeting	4	0.6	1.1	1.6
33	Entertainment/public assembly	Other - Recreation		4	0.6	1.1	1.6
34	Entertainment/public assembly	Other - Stadium		4	0.6	1.1	1.6
35	Food sales and service	Bar/Nightclub		4	0.6	1.1	1.5

	Building Activity Type				Weekly Hours[1,2]		
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	50 or less	51 to 167	168
36	Food sales and service	Convenience Store with Gas Station		4	0.5	0.9	1.3
37	Food sales and service	Convenience Store without Gas Station		4	0.5	0.9	1.3
38	Food sales and service	Fast Food Restaurant		4	0.6	1.1	1.5
39	Food sales and service	Food Sales	Grocery/food market	4	0.5	0.9	1.3
40	Food sales and service	Food Sales	Convenience store with gas	4	0.5	0.9	1.3
41	Food sales and service	Food Sales	Convenience store	4	0.5	0.9	1.3
42	Food sales and service	Food Sales	Other food sales	4	0.5	0.9	1.3
43	Food sales and service	Food Service	Fast food	4	0.6	1.1	1.5
44	Food sales and service	Food Service	Restaurant/cafeteria	4	0.6	1.1	1.5
45	Food sales and service	Food Service	Other food service	4	0.6	1.1	1.5
46	Food sales and service	Restaurant		4	0.6	1.1	1.5
47	Food sales and service	Supermarket/Grocery Store		4	0.5	0.9	1.3
48	Food sales and service	Wholesale Club/ Supercenter		4	0.6	1.0	1.5
49	Food sales and service	Other - Restaurant/Bar		4	0.6	1.1	1.5
50	Healthcare	Ambulatory Surgical Center		4,7	0.8	1.1	1.3
51	Healthcare	Hospital (General Medical & Surgical)		10	1.0	1.0	1.0
52	Healthcare	Medical Office		4,7			
53	Healthcare	Outpatient Rehabilitation/Physical Therapy		4,7	0.8	1.1	1.3
54	Healthcare	Residential Care Facility			1.0	1.0	1.0
55	Healthcare	Senior Care Community		10	1.0	1.0	1.0
56	Healthcare	Urgent Care/Clinic/ Other Outpatient		4,7	0.8	1.1	1.3
57	Healthcare	Other - Specialty Hospital			1.0	1.0	1.0
58	Lodging/residential	Barracks			1.0	1.0	1.0
59	Lodging/residential	Hotel	Hotel	10	1.0	1.0	1.0
60	Lodging/residential	Hotel	Motel or inn		1.0	1.0	1.0
61	Lodging/residential	Multifamily Housing		10	1.0	1.0	1.0
62	Lodging/residential	Prison/Incarceration		10	1.0	1.0	1.0
63	Lodging/residential	Residence Hall/ Dormitory			1.0	1.0	1.0
64	Lodging/residential	Residential Care Facility			1.0	1.0	1.0
65	Lodging/residential	Senior Care Community		10	1.0	1.0	1.0
66	Lodging/residential	Other - Lodging/ Residential			1.0	1.0	1.0
67	Mixed use	Mixed Use Property		6			

	Building Activity Type				Weekly Hours[1,2]		
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	50 or less	51 to 167	168
68	Office	Medical Office		4,7	0.8	1.1	1.3
69	Office	Office	Admin/professional office	3	0.8	1.0	1.5
70	Office	Office	Bank/other financial	3	0.8	1.0	1.5
71	Office	Office	Government office	3	0.8	1.0	1.5
72	Office	Office	Medical office (diagnostic)	4	0.8	1.1	1.3
73	Office	Office	Other office	3	0.8	1.0	1.5
74	Office	Veterinary Office		3	0.8	1.1	1.3
75	Office	Other - Office		3	0.8	1.0	1.5
76	Public services	Courthouse		4	0.8	0.8	1.1
77	Public services	Fire Station		3	0.8	0.8	1.1
78	Public services	Library		4	0.6	1.1	1.6
79	Public services	Mailing Center/Post Office		3	0.8	1.2	1.3
80	Public services	Police Station		3	0.8	0.8	1.1
81	Public services	Prison/Incarceration		10	1.0	1.0	1.0
82	Public services	Social/Meeting Hall		4	0.6	1.1	1.6
83	Public services	Transportation Terminal/Station		4	0.6	1.1	1.6
84	Public services	Other - Public Service		4	0.8	1.2	1.3
85	Religious worship	Worship Facility		5	0.9	1.7	1.7
86	Retail	Automobile Dealership		4	0.6	1.0	1.5
87	Retail	Convenience Store with Gas Station		4	0.5	0.9	1.3
88	Retail	Convenience Store without Gas Station		4	0.5	0.9	1.3
89	Retail	Enclosed Mall		4	0.6	1.0	1.5
90	Retail	Lifestyle Center	Enclosed mall	4	0.6	1.0	1.5
91	Retail	Lifestyle Center	Other retail	4	0.6	1.0	1.5
92	Retail	Lifestyle Center	Retail store	4	0.6	1.0	1.5
93	Retail	Lifestyle Center					
94	Retail	Retail Store		4	0.6	1.0	1.5
95	Retail	Strip Mall					
96	Retail	Supermarket/Grocery Store		4	0.5	0.9	1.3
97	Retail	Wholesale Club/ Supercenter		4	0.6	1.0	1.5
98	Retail	Other - Retail/Mall	Enclosed mall	4	0.6	1.0	1.5
99	Retail	Other - Retail/Mall					
100	Technology/science	Data Center					
101	Technology/science	Laboratory		3	1.0	1.0	1.0
102	Technology/science	Other - Technology/ Science	Other service	3	0.8	1.2	1.3
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)		4	0.8	1.2	1.3

	Building Activity Type				Weekly Hours[1,2]		
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed	Notes	50 or less	51 to 167	168
104	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Repair shop	4	0.8	1.2	1.3
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/repair shop	4	0.8	1.2	1.3
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/ maintenance	4	0.8	1.2	1.3
107	Services	Other - Services		4	0.8	1.2	1.3
108	Utility	Energy/Power Station					
109	Utility	Other - Utility					
110	Warehouse/storage	Self-Storage Facility		4	0.8	1.0	1.4
111	Warehouse/storage	Distribution Center		3	0.8	1.0	1.4
112	Warehouse/storage	Nonrefrigerated Warehouse		3	0.8	1.0	1.4
113	Warehouse/storage	Refrigerated Warehouse		3,8	1.0	1.0	1.4

Notes: 1. Do not count the hours when the property is occupied only by maintenance, security, the cleaning crew, or other support personnel. Do not count the hours when the property is occupied only by maintenance staff.
2. ((~~Working~~)) Weekly hours are based on the average use over the 12-month period selected to document energy use in form C.
3. The weekly hours are the total number of hours per week where the majority of workers are present. If there are two or more shifts of workers, add the hours. When developing targets using Section 7.2.3 for mixed use *buildings*, use the hours each separate activity, the hours per week the majority of workers are present.
4. The weekly hours are the hours that be majority of the *building* is open ((~~to serve the public~~)) for normal business operations. When developing targets using Section 7.2.3 for mixed use *buildings*, the hours each separate activity is open ((~~to the public~~)) for normal business operations.
5. The weekly hours the facility is open for operation, which may include worship services, choir practice, administrative use, committee meetings, classes, or other activities.
6. Must use of Section 7.2.3 method for mixed use *buildings*.
7. Health care *buildings* may use other weekly hours if they are required to operate *building* systems additional hours to protect patient and staff safety. Provide documentation of the requirement in the energy management plan.
8. Refrigerated warehouse greater than 167 hours assumes the workers on shift are loading and/or unloading vehicles.
9. Aquariums, museums, and zoos may use other weekly hours if they are required to operate *building* systems additional hours to protect *building* contents. Provide documentation of the requirement in the energy management plan.
10. College/university, K-12 school, hospital (general medical and surgical) ((~~and~~)), prison/incarceration, senior care community, hotel, and multifamily housing building activity types complying at the campus-level (footnote 9 of Tables 7-1, 7-2a, and 7-4) shall apply the campus-level shift normalization factor to the area weighted aggregate EUI_t. Include all space uses listed in the campus-level building activity type (college/university, K-12 school, hospital, prison, senior care community, hotel, multifamily housing) Table 7-4 definitions. For space uses not listed in the campus-level building activity type definitions, the specific space use may use their specific shift normalization factor.

Table 7-4 Building Activity Type Definitions Table

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
	Definitions are provided to define building activity types and the spaces within to include as *gross floor area*. Unless otherwise defined, *gross floor area* shall include all space within the *building* and not space outside the *building*, such as exterior/outside loading bays or docks, open air stairwells and breezeways and vehicle parking and parking garages. Definitions are not necessarily exclusive. For *Tier 1 covered buildings*, the *qualified person,* or for *Tier 2 covered buildings*, the *qualified energy manager* shall determine the *gross floor area* associated with each identified building activity type using industry standards guidance documents provided by the *AHJ*.				
No.	Portfolio Manager Types	Portfolio Manager Sub-Types	Sub-Types: Detailed		

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
0	Nontarget space				*Nontarget space* refers to space within a *building* with a building activity type without an *energy target* or not listed in Table 7-1. Use #0 Nontarget space for space other than those described in the available building activity types in this table. See Exceptions to 7.2.3 for more information. *Gross floor area* should include all *nontarget space* within the *building*.
1	Banking/ financial services	Bank Branch			Bank branch refers to a commercial banking outlet that offers banking services to walk-in customers. *Gross floor area* should include all space within the *building*, including banking areas, vaults, lobbies, atriums, kitchens used by staff, restrooms, conference rooms, storage areas, stairways, and elevator shafts.
2	Banking/ financial services	Financial Office			Financial office refers to *buildings* used for financial services such as bank headquarters and securities and brokerage firms. *Gross floor area* should include all space within the *building*, including offices, trading floors, conference rooms and auditoriums, vaults, restrooms, kitchens used by staff, lobbies, atriums, fitness areas for staff, storage areas, stairways, and elevator shafts.
3	Education	Adult Education			Adult education refers to *buildings* used primarily for providing adult students with continuing education, workforce development, or professional development outside of the college or university setting. *Gross floor area* should include all space within the *building*, including classrooms, administrative space, conference rooms, kitchens used by staff, lobbies, cafeterias, auditoriums, restrooms, stairways, atriums, elevator shafts, and storage areas.
4	Education	College/ University		8, 9	College/university refers to *buildings* used for the purpose of higher education. This includes public and private colleges and universities. *Gross floor area* should include all space within the *building*, including classrooms, libraries, laboratory classrooms, offices, cafeterias, maintenance facilities, arts facilities, athletic facilities, residential areas, storage rooms, restrooms, elevator shafts, and stairways.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
5	Education	K-12 School	Elementary/ middle school	9	K-12 school refers to *buildings* or campuses used as a school for kindergarten through 12th grade students. This does not include college or university classroom facilities/laboratories, vocational, technical, trade, adult, or continuing education schools, preschools, or day care facilities. If the school serves any of the above student populations (e.g., an elementary school that includes prekindergarten), at least 75 percent of the students must be in grades kindergarten through 12. *Gross floor area* should include all space within the *building*, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, laboratory classrooms, portable classrooms, greenhouses, stairways, atriums, elevator shafts, small landscaping sheds, and storage areas.
6	Education	K-12 School	High School	9	
7	Education	Preschool/ Daycare			Preschool/daycare applies to *buildings* used for educational programs or daytime supervision/recreation for young children before they attend kindergarten. *Gross floor area* should include all space within the *building*, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, stairways, elevator shafts, and storage areas.
8	Education	Vocational School			Vocational school refers to *buildings* primarily designed to teach skilled trades to students, including trade and technical schools. Typically, vocational schools are commonly post-secondary education, consisting of 1-2 years of technical/trade training. *Gross floor area* should include all space within the *building*, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, gymnasiums, auditoriums, laboratory classrooms, stairways, elevator shafts, and storage areas.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
9	Education	Other - Education			Other - Education refers to *buildings* used for religious, community, or other educational purposes that do not meet the definition of any other building activity type defined in Table 7-4 (i.e., educational purposes other than adult education, college/university, K-12 school, preschool/ daycare and vocational schools). *Gross floor area* should include all space within the *building*, including classrooms, libraries, administrative space, conference rooms, restrooms, kitchens used by staff, lobbies, cafeterias, auditoriums, laboratory classrooms, stairways, elevator shafts, and storage areas.
10	Entertainment/ public assembly	Aquarium			Aquarium refers to *buildings* used to provide aquatic habitat primarily to live animals and which may include public or private viewing areas and educational programs. *Gross floor area* should include public and restricted areas such as visitor walkways, tank space, retail areas, restaurants, restrooms, laboratories, classrooms, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
11	Entertainment/ public assembly	Bar/Nightclub			Bar/nightclub refers to *buildings* used primarily for social/entertainment purposes and is characterized by most of the revenue being generated from the sale of beverages instead of food. *Gross floor area* should include all space within the *building*, including standing/ seating areas, stage/dressing room areas, food/drink preparation or kitchen areas, retail areas, restrooms, administrative/ office space, mechanical rooms, storage areas, elevator shafts, and stairwells. Properties whose primary business revenue is generated from the sale of food should be entered using one of the restaurant building activity types, even if there is a bar.
12	Entertainment/ public assembly	Bowling Alley			Bowling alley refers to *buildings* used for public or private, recreational or professional bowling. *Gross floor area* should include all space within the *building*, including bowling lanes, concession areas, restrooms, party rooms, retail areas, administrative/office space, employee break rooms, storage areas, and mechanical rooms.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
13	Entertainment/ public assembly	Casino			Casino refers to *buildings* primarily used to conduct gambling activities including both electronic and live table games. *Gross floor area* should include all space within the *building*, including the main casino floor/gaming area, restaurants/bars, retail areas, administrative/office space, restrooms, mechanical rooms, storage areas, elevator shafts, and stairwells. If your casino is in the same *building* as a hotel, enter a separate hotel building activity type.
14	Entertainment/ public assembly	Convention Center			Convention center refers to *buildings* used primarily for large conferences, exhibitions, and similar events. Convention centers may include a diverse variety of spaces, including large exhibition halls, meeting rooms, and concession stands. *Gross floor area* should include all space within the *building*, including exhibit halls, preparation and staging areas, meeting rooms, concession stands, offices, restrooms, break rooms, security areas, elevator shafts, and stairwells. Conference facilities located within a hotel should be included along with your hotel building activity type details, rather than added as a separate convention center building activity type. Conference facilities primarily serving smaller meetings should be entered as social/ meeting hall.
15	Entertainment/ public assembly	Fitness Center/ Health Club/Gym			Fitness center/health club/gym refers to *buildings* used for recreational or professional athletic training and related activities. *Gross floor area* should include all space within the *building*, including weight and cardio equipment areas, personal training areas, courts, locker rooms, restrooms, sauna and spa areas, retail areas, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
16	Entertainment/ public assembly	Ice/Curling Rink			Ice/curling rink refers to *buildings* that include one or more ice sheets used for public or private, recreational or professional skating, hockey, or ringette. *Gross floor area* should include all space within the *building*, including ice area, spectator areas, concession stands, retail areas, locker rooms, restrooms, administrative/office areas, employee break rooms, mechanical rooms, and storage areas. Larger facilities primarily serving professional or collegiate functions and with significant spectator seating (above 5,000 seats) should be entered as indoor arena.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
17	Entertainment/ public assembly	Indoor Arena			Indoor arena refers to enclosed structures used for professional or collegiate sports and entertainment events. Examples of events held in indoor arenas include basketball and hockey games, circus performances, and concerts. Indoor arenas usually have capacities of 5,000 seats or more and are often characterized by multiple concourses and concession areas. *Gross floor area* should include all space within the *building*, including court/rink space, all concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells.
18	Entertainment/ public assembly	Movie Theater			Movie theater refers to *buildings* used for public or private film screenings. *Gross floor area* should include all space within the *building*, including seating areas, lobbies, concession stands, restrooms, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
19	Entertainment/ public assembly	Museum			Museum refers to *buildings* that display collections to outside visitors for public viewing and enjoyment and for informational/educational purposes. *Gross floor area* should include all space within the *building*, including public collection display areas, meeting rooms, classrooms, gift shops, food service areas, restrooms, administrative/office space, mechanical rooms, storage areas for collections, elevator shafts, and stairwells.
20	Entertainment/ public assembly	Performing Arts			Performing arts refers to *buildings* used for public or private artistic or musical performances. *Gross floor area* should include all space within the *building*, including seating, stage and backstage areas, food service areas, restrooms, retail areas, rehearsal studios, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
21	Entertainment/ public assembly	Race Track			Race track refers to *buildings* used primarily to hold racing events such as vehicle races, track/field races, horse races, and/or dog-races. *Gross floor area* should include all spectator viewing areas, concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, restrooms, administrative/office areas, employee break rooms, mechanical rooms, storage areas, elevator shafts, and stairwells. The footprint of the race track itself should also be included in the *gross floor area*, along with the footprint of any staging areas.
22	Entertainment/ public assembly	Roller Rink			Roller rink refers to *buildings* used primarily for roller-skating, inline skating/ rollerblading, or skateboarding. *Gross floor area* should include all space within the *building*, including the rink space, concession areas, restrooms, locker rooms, retail areas, administrative/office areas, employee break rooms, mechanical rooms, and storage areas.
23	Entertainment/ public assembly	Social/Meeting Hall			Social/meeting hall refers to *buildings* primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities. *Gross floor area* should include all space within the *building*, including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
24	Entertainment/ public assembly	Stadium (Closed)			Stadium (closed) refers to structures with a permanent or retractable roof which are used primarily for professional or collegiate sports and entertainment events. Examples of events held in closed stadiums include baseball and football games, and concerts. Closed stadiums usually have capacities of 25,000 seats or more and are often characterized by multiple concourses and concession areas. *Gross floor area* should include all space within the *building(s)*, including concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells. The footprint of the playing field should also be included in the *gross floor area*.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
25	Entertainment/ public assembly	Stadium (Open)			Stadium (open) refers to structures used primarily for professional or collegiate sports and entertainment events in which the playing field is not covered and is exposed to the outside. Examples of events held in open stadiums include baseball, football, and soccer games, and concerts. Open stadiums usually have capacities of 5,000 seats or more and are often characterized by multiple concourses and concession areas. *Gross floor area* should include all space within the *building(s),* including concourse space on which workers or guests can walk, concession areas, retail stores, restaurants, administrative/office areas, restrooms, employee break rooms, kitchens, mechanical rooms, storage areas, elevator shafts, and stairwells. The footprint of the playing field should also be included in the *gross floor area*.
26	Entertainment/ public assembly	Swimming Pool			Swimming pool refers to any heated swimming pools located inside a *building*.
27	Entertainment/ public assembly	Zoo			Zoo refers to *buildings* used primarily to provide habitat to live animals and which may include public or private viewing and educational programs. *Gross floor area* should include all space within all fully enclosed *buildings*, including habitats, visitor viewing areas, theaters, classrooms, food service areas, restrooms, retail stores, veterinary offices, exhibit space, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
28	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Entertainment/ culture		Entertainment/culture refers to *buildings* providing entertainment and/or cultural services that do not meet the definition of any other building activity type defined in Table 7-4.
29	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Library		Library refers to *buildings* used to store and manage collections of literary and artistic materials such as books, periodicals, newspapers, films, etc. that can be used for reference or lending. *Gross floor area* should include all space within the *building*, including circulation rooms, storage areas, reading/study rooms, administrative space, kitchens used by staff, lobbies, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
30	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Other public assembly		Other public assembly refers to *buildings* primarily used for entertainment or public gatherings that do not meet the definition of any other building activity type defined in Table 7-4. *Gross floor area* should include all space within the *building*, including entertainment areas, administrative areas, and supporting areas such as storage rooms, hallways, restrooms, stairways, and maintenance areas.
31	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Recreation		Recreation refers to *buildings* primarily used for recreation that do not meet the definition of any other building activity type defined in Table 7-4. *Gross floor area* should include all space within the *building*, including recreational areas, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.
32	Entertainment/ public assembly	Other - Entertainment/ Public Assembly	Social/meeting		Social/meeting hall refers to *buildings* primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities. *Gross floor area* should include all space within the *building*, including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.
33	Entertainment/ public assembly	Other - Recreation			Other - Recreation refers to *buildings* primarily used for recreation that do not meet the definition of any other building activity type defined in Table 7-4. *Gross floor area* should include all space within the *building*, including recreational areas, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.
34	Entertainment/ public assembly	Other - Stadium			Other - Stadium refers to *buildings* primarily used for sporting events that do not meet the definition of any other building activity type defined in Table 7-4. *Gross floor area* should include all space within the *building*, including areas for athletic activity and spectator seating, restrooms, and supporting activities such as mechanical rooms, storage areas, elevator shafts, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
35	Food sales and service	Bar/Nightclub			Bar/nightclub refers to *buildings* used primarily for preparation and sale of ready-to-eat food and beverages, but with secondary purposes characterized by revenue generated from social/ entertainment services and associated sale of beverages instead of food. Examples include restaurants with lounges and nightclubs featuring entertainment together or separate from dining. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
36	Food sales and service	Convenience Store with Gas Station			Convenience store with gas station refers to *buildings* that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.
37	Food sales and service	Convenience Store without Gas Station			Convenience store without gas station refers to *buildings* used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, and storage areas.
38	Food sales and service	Fast Food Restaurant			Fast food restaurant, also known as quick service restaurant, refers to *buildings* used for the preparation and sale of ready-to-eat food. Fast food restaurants are characterized by a limited menu of food prepared quickly (often within a few minutes), and sometimes cooked in bulk in advance and kept hot. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
39	Food sales and service	Food Sales	Supermarket/ Grocery Store/ Food Market		Supermarket/grocery store/food market refers to *buildings* used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. *Buildings* where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types. *Gross floor area* should include all space within the *building*, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.
40	Food sales and service	Food Sales	Convenience store with gas		Convenience store with gas station refers to *buildings* that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.
41	Food sales and service	Food Sales	Convenience store		Convenience store without gas station refers to *buildings* used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, and storage areas.
42	Food sales and service	Food Sales	Other food sales		Other food sales refers to *buildings* used for the sales of food on either a retail or wholesale basis, but which do not meet the definition of supermarket/grocery store/ food market, convenience store, or convenience store with gas stations. For example, specialty food sales like a cheese shop or butcher. *Gross floor area* should include all space within the *building*, including sales areas, storage areas, offices, kitchens, restrooms, and staff break rooms.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
43	Food sales and service	Food Sales	Fast Food		Fast food restaurant, also known as quick service restaurant, refers to *buildings* used for the preparation and sale of ready-to-eat food. Fast food restaurants are characterized by a limited menu of food prepared quickly (often within a few minutes), and sometimes cooked in bulk in advance and kept hot. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
44	Food sales and service	Food Sales	Restaurant/ cafeteria		Restaurant/cafeteria refers to *buildings* used for preparation and sale of ready-to-eat food and beverages, but which do not fit in the fast food building activity type. Examples include fast casual, casual, and fine dining restaurants. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
45	Food sales and service	Food Sales	Other food service		Other food service refers to *buildings* used for preparation and sale of food and beverages, but which do not meet the definition of restaurant or bar/nightclub. For example, a bakery or coffee shop. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
46	Food sales and service	Restaurant			Restaurant refers to *buildings* used for preparation and sale of ready-to-eat food and beverages, but which do not fit in the fast food building activity type. Examples include fast casual, casual, and fine dining restaurants. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, offices, restrooms, staff break rooms, and storage areas.
47	Food sales and service	Supermarket/ Grocery Store			Supermarket/grocery store refers to *buildings* used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. *Buildings* where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types. *Gross floor area* should include all space within the *building*, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
48	Food sales and service	Wholesale Club/ Supercenter			Wholesale club/supercenter refers to *buildings* used to conduct the retail sale of a wide variety of merchandise, typically in bulk quantities. Merchandise may include food, clothing, office supplies, furniture, electronics, books, sporting goods, toys, and hardware. *Gross floor area* should include all space within the *building*, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, elevators, and stairwells.
49	Food sales and service	Other - Restaurant/Bar			Other - Restaurant/bar refers to *buildings* used for preparation and sale of ready-to-eat food and beverages, but which does not fit into the fast food restaurant, restaurant, or bar/nightclub building activity types. *Gross floor area* should include all space within the *building*, including kitchens, sales areas, dining areas, restrooms, staff break rooms, and storage areas.
50	Health care	Ambulatory Surgical Center			Ambulatory surgical centers refers to health care facilities that provide same-day surgical care, including diagnostic and preventive procedures. *Gross floor area* should include all space within the *building*, including offices, operating and recovery rooms, waiting rooms, restrooms, employee break rooms and kitchens, elevator shafts, stairways, mechanical rooms, and storage areas.
51	Health care	Hospital (General Medical & Surgical)		9	Hospital refers to a general medical and surgical hospital (including critical access hospitals and children's hospitals). These facilities provide acute care services intended to treat patients for short periods of time, including emergency medical care, physician's office services, diagnostic care, ambulatory care, surgical care, and limited specialty services such as rehabilitation and cancer care. The definition of hospital accounts for all ((~~building activity~~)) space types owned by the hospital that are located within the hospital *((~~building/complex~~))* *building/campus*, including nonclinical spaces such as administrative offices, food service, retail, hotels, and power plant, so long as they serve the primary function of the hospital and act as a single property. *Gross floor area* should include all space within the ((~~*building* on the campus~~)) *building/campus* including operating rooms, bedrooms, emergency treatment areas, and medical offices, exam rooms, laboratories, lobbies, atriums, cafeterias, restrooms, stairways, corridors connecting *buildings*, storage areas, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
52	Health care	Medical Office		3	All medical offices considered to be diagnostic type.
53	Health care	Outpatient Rehabilitation/ Physical Therapy			Outpatient rehabilitation/physical therapy offices refers to *buildings* used to provide diagnosis and treatment for rehabilitation and physical therapy. *Gross floor area* should include all space within the *building*, including offices, exam rooms, waiting rooms, indoor pool areas, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.
54	Health care	Residential Care Facility			Residential care facilities refers to *buildings* that provide rehabilitative and restorative care to patients on a long-term or permanent basis. Residential care facilities treat mental health issues, substance abuse, and rehabilitation for injury, illness, and disabilities. This building activity type is intended for facilities that offer long-term residential care to residents of all ages who may need assistance with activities of daily living. If a facility is designed to provide nursing and assistance to seniors only, then the senior care community building activity type should be used. *Gross floor area* should include all space within the *building*, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between *buildings*, and elevator shafts.
55	Health care	Senior Care Community		9	Senior care community refers to *buildings* that house and provide care and assistance for elderly residents, specifically homes (skilled nursing facilities) and assisted living facilities as defined under the use designations of the Washington state edition of the International Building Code Group I. It is not intended for retirement or other senior communities that offer only independent living. For community with only independent living, use multifamily housing building activity type. *Gross floor area* should include all space within the *building*, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between *buildings*, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
56	Health care	Urgent Care/ Clinic/Other Outpatient			Urgent care center/clinic/other outpatient office refers to *buildings* used to diagnose and treat patients, usually on an unscheduled, walk-in basis, who have an injury or illness that requires immediate care but is not serious enough to warrant a visit to an emergency department. Includes facilities that provide same-day surgical, diagnostic and preventive care. *Gross floor area* should include all space within the *building*, including offices, exam rooms, waiting rooms, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.
57	Health care	Other - Specialty Hospital			Other/specialty hospitals refers to long-term acute care hospitals, inpatient rehabilitation facilities, including cancer centers and psychiatric and substance abuse hospitals/facilities. *Gross floor area* should include all space within the *building/complex*, including medical offices, patient rooms, laboratories, lobbies, atriums, cafeterias, restrooms, stairways, corridors connecting *buildings*, storage areas, and elevator shafts.
58	Lodging/ residential	Barracks			Barracks refers to *residential buildings* associated with military facilities or educational institutions, which offer multiple accommodations for long-term residents. *Gross floor area* should include all space within the *building*, including bedrooms, common areas, food service facilities, restrooms, laundry facilities, meeting spaces, exercise rooms, health club/spas, lobbies, elevator shafts, storage areas, and stairways.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
59	Lodging/ residential	Hotel	Hotel	9	Hotel refers to *buildings* renting overnight accommodations on a room/suite and nightly basis, and typically include a bath/ shower and other facilities in guest rooms. Hotel properties typically have daily services available to guests including housekeeping/laundry and a front desk/ concierge. Hotel does not apply to properties where more than 50 percent of the floor area is occupied by fractional ownership units such as condominiums or vacation timeshares, or to private residences that are rented out on a daily or weekly basis. Hotel properties should be majority-owned by a single entity and have rooms available on a nightly basis. Condominiums or time shares should select the multifamily housing building activity type. *Gross floor area* should include all interior space within the *building*, including guestrooms, halls, lobbies, atriums, food preparation and restaurant space, conference and banquet space, fitness centers/spas, laundry facilities, elevator shafts, stairways, mechanical rooms, storage areas, restrooms, employee break rooms, and back-of-house offices.
60	Lodging/ residential	Hotel	Motel or inn		Motel is a hotel like lodging where most rooms are entered from the exterior. *Gross floor area* should include all interior space within the *building*, including guestrooms, halls, lobbies, atriums, food preparation and restaurant space, conference and banquet space, fitness centers/spas, laundry facilities, elevator shafts, stairways, mechanical rooms, storage areas, restrooms, employee break rooms, and back-of-house offices.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
61	Lodging/ residential	Multifamily Housing		9	Multifamily housing refers to a covered multifamily *building* containing sleeping units or more than five dwelling units where occupants are primarily permanent in nature as defined under the use designations of the Washington state edition of the International Building Code Group R-2 or Group R-3. Group R-2 includes all residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature. Group R-3 includes residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, or I. Nontransient is occupancy for 30 days or more. Some examples of the types of *buildings* that fall within Group R-2 or R-3 include, but are not limited to, *buildings* used for the following: (1) Apartment houses; (2) Congregate living facilities (nontransient), such as: (a) Boarding houses; (b) Convents and Monasteries; (3) Hotels and Motels (nontransient). For condominium common space, other than those described in the available building activity types in this table, use multifamily housing. Use multifamily housing for nontransient hotels. *Gross floor area* should include management offices or other spaces that may not contain living units. *Gross floor area* should include all interior space within the *building*, including living space in each unit (including occupied and unoccupied units), interior common areas (e.g., lobbies, offices, community rooms, common kitchens, fitness rooms), hallways, stairwells, elevator shafts, connecting corridors between *buildings*, storage areas, restrooms, and mechanical space such as a boiler room.
62	Lodging/ residential	Prison/ Incarceration		9	Prison/incarceration refers to federal, state, local, or private-sector *buildings* used for the detention of persons awaiting trial or convicted of crimes. *Gross floor area* should include all space within the *building*, including holding cells, cafeterias, administrative spaces, kitchens, lobbies, atriums, conference rooms and auditoriums, fitness areas, storage areas, restrooms, stairways, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
63	Lodging/ residential	Residence Hall/ Dormitory			Residence hall/dormitory refers to *buildings* associated with educational institutions or military facilities, which offer multiple accommodations for long-term residents. *Gross floor area* should include all space within the *building*, including bedrooms, common areas, food service facilities, restrooms, laundry facilities, meeting spaces, exercise rooms, health club/spas, lobbies, elevator shafts, storage areas, and stairways.
64	Lodging/ residential	Residential Care Facility			Residential care facilities refers to *buildings* that provide rehabilitative and restorative care to patients on a long-term or permanent basis. Residential care facilities treat mental health issues, substance abuse, and rehabilitation for injury, illness, and disabilities. This building activity type is intended for facilities that offer long-term residential care to residents of all ages who may need assistance with activities of daily living. If a facility is designed to provide nursing and assistance to seniors only, then the senior care community building activity type should be used. *Gross floor area* should include all space within the *building*, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between *buildings*, and elevator shafts.
65	Lodging/ residential	Senior Care Community		9	Senior care community refers to *buildings* that house and provide care and assistance for elderly residents, specifically homes (skilled nursing facilities) and assisted living facilities as defined under the use designations of the Washington state edition of the International Building Code Group I. It is not intended for retirement or other senior communities that offer only independent living. A community with only independent living should benchmark as a multifamily property. *Gross floor area* should include all space within the *building*, including individual rooms or units, wellness centers, exam rooms, community rooms, small shops or service areas for residents and visitors (e.g., hair salons, convenience stores), staff offices, lobbies, atriums, cafeterias, kitchens, restrooms, storage areas, hallways, basements, stairways, corridors between *buildings*, and elevator shafts. ((~~A community with only independent living should benchmark under the multifamily building activity type.~~))

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
66	Lodging/ residential	Other - Lodging/ Residential			Other - Lodging/residential refers to *buildings* used for residential purposes other than those described in the available building activity types in this table (i.e., residential other than multifamily residential, single family home, senior care community, residence hall/dormitory, barracks, prison/incarceration, or hotel). *Gross floor area* should include all space within the *building*, including living areas, common areas, and administrative space, kitchens used by staff, lobbies, waiting areas, cafeterias, restrooms, stairways, atriums, elevator shafts, and storage areas.
67	Mixed use	Mixed Use Property		4	Must use of Section 7.2.3 method for mixed use *buildings*, area weighted EUI_t based on building activity types.
68	Office	Medical Office		3	Medical office refers to *buildings* used to provide diagnosis and treatment for medical, dental, or psychiatric outpatient care. *Gross floor area* should include all space within the *building*, including offices, exam rooms, laboratories, lobbies, atriums, conference rooms and auditoriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas. If you have restaurants, retail (pharmacy), or services (dry cleaners) within the medical office, you should most likely include this square footage and energy in the medical office building activity type.
69	Office	Office	Admin/ professional office		Administrative/professional office refers to *buildings* used for the conduct of commercial business activities. *Gross floor area* should include all space within the *building*, including offices, conference rooms and auditoriums, kitchens used by staff, lobbies, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.
70	Office	Office	Bank/other financial		Financial office refers to *buildings* used for financial services such as bank headquarters and securities and brokerage firms. *Gross floor area* should include all space within the *building*, including offices, trading floors, conference rooms and auditoriums, vaults, kitchens used by staff, lobbies, atriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
71	Office	Office	Government office		Government office is an office used by employees of federal, state, county, or city governments. *Gross floor area* should include all space within the *building*, including offices, conference rooms and auditoriums, kitchens used by staff, lobbies, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.
72	Office	Office	Medical office (diagnostic)	3	Medical office refers to *buildings* used to provide diagnosis and treatment for medical, dental, or psychiatric outpatient care. *Gross floor area* should include all space within the *building*, including offices, exam rooms, laboratories, lobbies, atriums, conference rooms and auditoriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.
73	Office	Office	Other office		Other office is an office that does not meet the definition of any of the other office building activity type defined in Table 7-4.
74	Office	Veterinary Office			Veterinary office refers to *buildings* used for the medical care and treatment of animals. *Gross floor area* should include all space within the *building*, including offices, exam rooms, waiting rooms, atriums, employee break rooms and kitchens, restrooms, elevator shafts, stairways, mechanical rooms, and storage areas.
75	Office	Other - Office			Other office is an office that does not meet the definition of any of the other office building activity type defined in Table 7-4.
76	Public services	Courthouse			Courthouse refers to *buildings* used for federal, state, or local courts, and associated administrative office space. *Gross floor area* should include all space within the *building*, including temporary holding cells, chambers, kitchens used by staff, lobbies, atriums, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.
77	Public services	Fire Station			Fire station refers to *buildings* used to provide emergency response services associated with fires. Fire stations may be staffed by either volunteer or full-time paid firefighters. *Gross floor area* should include all space within the *building*, including office areas, vehicle storage areas, residential areas (if applicable), storage areas, break rooms, restrooms, kitchens, elevator shafts, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
78	Public services	Library			Library refers to *buildings* used to store and manage collections of literary and artistic materials such as books, periodicals, newspapers, films, etc. that can be used for reference or lending. *Gross floor area* should include all space within the *building*, including circulation rooms, storage areas, reading/study rooms, administrative space, kitchens used by staff, lobbies, conference rooms and auditoriums, fitness areas for staff, restrooms, storage areas, stairways, and elevator shafts.
79	Public services	Mailing Center/ Post Office			Mailing center/post office refers to *buildings* used as retail establishments dedicated to mail and mailing supplies. This includes U.S. Post Offices, in addition to private retailers that offer priority mail services and mailing supplies. *Gross floor area* should include all space within the *building*, including retail counters, administrative space, kitchens used by staff, restrooms, lobbies, conference rooms, storage areas, stairways, and mechanical rooms.
80	Public services	Police Station			Police station applies to *buildings* used for federal, state, or local police forces and their associated office space. *Gross floor area* should include all space within the *building*, including offices, temporary holding cells, kitchens used by staff, restrooms, lobbies, atriums, conference rooms and auditoriums, fitness areas for staff, storage areas, stairways, and elevator shafts.
81	Public services	Prison/ Incarceration		9	Prison/incarceration refers to federal, state, local, or private-sector *buildings* used for the detention of persons awaiting trial or convicted of crimes. *Gross floor area* should include all space within the *building*, including holding cells, cafeterias, administrative spaces, kitchens, restrooms, lobbies, atriums, conference rooms and auditoriums, fitness areas, storage areas, stairways, and elevator shafts.
82	Public services	Social/Meeting Hall			Social/meeting hall refers to *buildings* primarily used for public or private gatherings. This may include community group meetings, seminars, workshops, or performances. Please note that there is another building activity type available, convention center, for large exhibition and conference facilities. *Gross floor area* should include all space within the *building*, including meeting rooms, auditoriums, food service areas, restrooms, lobbies, administrative/office space, mechanical rooms, storage areas, elevator shafts, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
83	Public services	Transportation Terminal/Station			Transportation terminal/station applies to *buildings* used primarily for accessing public or private transportation. This includes train stations, bus stations, airports, and seaports. These terminals include areas for ticket purchases, and embarkation/disembarkation, and may also include public waiting areas with restaurants and other concessions. *Gross floor area* should include all space within the *building*, including boarding areas, waiting areas, administrative space, kitchens used by staff, restrooms, lobbies, restaurants, cafeterias, stairways, atriums, elevator shafts, and storage areas.
84	Public services	Other - Public Service			Other - Public service refers to *buildings* used by public-sector organizations to provide public services other than those described in the available building activity types in this table (i.e., services other than offices, courthouses, drinking water treatment and distribution plants, fire stations, libraries, mailing centers or post offices, police stations, prisons or incarceration facilities, social or meeting halls, transportation terminals or stations, or wastewater treatment plants). *Gross floor area* should include all space within the *building*, including administrative space, kitchens used by staff, restrooms, lobbies, waiting areas, cafeterias, stairways, atriums, elevator shafts, landscaping sheds, and storage areas.
85	Religious worship	Worship Facility			Worship facility refers to *buildings* that are used as places of worship. This includes churches, temples, mosques, synagogues, meetinghouses, or any other *buildings* that primarily function as a place of religious worship. *Gross floor area* should include all areas inside the *building* that includes the primary worship area, including food preparation, community rooms, classrooms, and supporting areas such as restrooms, storage areas, hallways, and elevator shafts.
86	Retail	Automobile Dealership			Automobile dealership refers to *buildings* used for the sale of new or used cars and light trucks. *Gross floor area* should include all space within the *building*, including sales floors, offices, conference rooms, vehicle service centers, parts storage areas, waiting rooms, staff break rooms, restrooms, hallways, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
87	Retail	Convenience Store with Gas Station			Convenience store with gas station refers to *buildings* that are colocated with gas stations and are used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items. Convenience store with gas station may include space for vehicle servicing and repair. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, storage areas, and vehicle repair areas.
88	Retail	Convenience Store without Gas Station			Convenience store without gas station refers to *buildings* used for the sale of a limited range of items such as groceries, toiletries, newspapers, soft drinks, tobacco products, and other everyday items, which are not colocated with a gas station. *Gross floor area* should include all space within the *building*, including sales floors, offices, restrooms, staff break rooms, and storage areas.
89	Retail	Enclosed Mall		5	Enclosed mall refers to *buildings* that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores. *Gross floor area* should include all space within the *building*, including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.
90	Retail	Lifestyle Center	Enclosed mall	5	Enclosed mall refers to *buildings* that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores. *Gross floor area* should include all space within the *building*, including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.
91	Retail	Lifestyle Center	Other retail		Other - Retail refers to a mixed-use commercial development that includes retail stores and leisure amenities that do not meet the definition of lifestyle center - retail store. *Gross floor area* should include all space within the *building*, including retail stores, offices, food courts, restaurants, residential areas, storage areas, restrooms, staff break rooms, walkways, stairwells, and mechanical areas.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
92	Retail	Lifestyle Center	Retail store		Lifestyle center refers to a mixed-use commercial development that includes retail stores and leisure amenities, where individual retail stores typically contain an entrance accessible from the outside and are not connected by internal walkways. Lifestyle centers have an open-air design, unlike traditional enclosed malls, and often include landscaped pedestrian areas, as well as streets and vehicle parking. *Gross floor area* should include all space within the *building*, including retail stores, offices, food courts, restaurants, residential areas, storage areas, restrooms, staff break rooms, walkways, stairwells, and mechanical areas.
93	Retail	Lifestyle Center		4	Must use of Section 7.2.3 method for mixed use *buildings*.
94	Retail	Retail Store			Retail store refers to individual stores used to conduct the retail sale of nonfood consumer goods such as clothing, books, toys, sporting goods, office supplies, hardware, and electronics. *Buildings* containing multiple stores should be classified as enclosed mall, lifestyle center, or strip mall. *Gross floor area* should include all space within the *building*, including sales areas, storage areas, offices, restrooms, staff break rooms, elevators, and stairwells.
95	Retail	Strip Mall		4	Strip mall refers to *buildings* comprising more than one retail store, restaurant, or other business, in an open-air configuration where each establishment has an exterior entrance to the public and there are no internal walkways. *Gross floor area* should include all space within the *building*, including retail stores, offices, restaurants, storage areas, restrooms, staff break rooms, and stairwells.
96	Retail	Supermarket/ Grocery Store			Supermarket/grocery store refers to *buildings* used for the retail sale of primarily food and beverage products, and which may include small amounts of preparation and sale of ready-to-eat food. *Buildings* where the primary business is the on-site preparation and sale of ready-to-eat food should use one of the restaurant building activity types. *Gross floor area* should include all space within the *building*, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
97	Retail	Wholesale Club/ Supercenter			Wholesale club/supercenter refers to *buildings* used to conduct the retail sale of a wide variety of merchandise, typically in bulk quantities. Merchandise may include food, clothing, office supplies, furniture, electronics, books, sporting goods, toys, and hardware. *Gross floor area* should include all space within the *building*, including the sales floor, offices, storage areas, kitchens, restrooms, staff break rooms, elevators, and stairwells.
98	Retail	Other - Retail/ Mall	Enclosed mall	5	Enclosed mall refers to *buildings* that house multiple stores, often "anchored" by one or more department stores, and with interior walkways. Most stores will not have entrances accessible from outside, with the exception of the "anchor" stores. *Gross floor area* should include all space within the *building*, including retail stores, offices, food courts, restaurants, storage areas, restrooms, staff break rooms, atriums, walkways, stairwells, and mechanical rooms.
99	Retail	Other - Retail/ Mall		4	Must use of Section 7.2.3 method for mixed use *buildings*.
100	Technology/ science	Data Center		6	Data center refers to an activity space or *buildings* specifically designed and equipped to meet the needs of high density computing equipment, such as server racks, used for data storage and processing, including dedicated uninterruptible power supplies and cooling systems and require a constant power load of 75 kW or more. *Gross floor area* shall only include space within the *building*, including raised floor computing space, server rack aisles, storage silos, control console areas, battery rooms and mechanical rooms for dedicated cooling equipment. *Gross floor area* shall not include a server closet, telecommunications equipment closet, computer training area, office, elevator, corridors, or other auxiliary space. This is a *building* or activity without an energy target. Included to provide definition only.
101	Technology/ science	Laboratory			Laboratory refers to *buildings* that provide controlled conditions in which scientific research, measurement, and experiments are performed or practical science is taught. *Gross floor area* should include all space within the *building*, including workstations/hoods, offices, conference rooms, restrooms, storage areas, decontamination rooms, mechanical rooms, elevator shafts, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
102	Technology/ science	Other - Technology/ Science	Other service		Other - Technology/science refers to *buildings* used for science and technology related services other than laboratories and data centers. *Gross floor area* should include all space within the *building*, including areas with the main business activity, production areas, administrative offices, restrooms, employee break areas, stairways, atriums, elevator shafts, and storage areas.
103	Services	Personal Services (Health/Beauty, Dry Cleaning, etc.)			Personal services refers to *buildings* used to sell services rather than physical goods. Examples include dry cleaners, salons, spas, etc. *Gross floor area* should include all space within the *building*, including sales floors, offices, storage areas, restrooms, staff break rooms, walkways, and stairwells.
104	Services	Repair Services (Vehicle, Shoe,Locksmith, etc.)	Repair shop		Repair services refers to *buildings* in which repair service is provided other than vehicle repair or maintenance. Examples include vehicle service or repair shops, shoe repair, jewelry repair, locksmiths, etc. *Gross floor area* should include all space within the *building*, including sales floors, repair areas, workshops, offices, parts storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.
105	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle service/ repair shop		Vehicle service/repair shop refers to *buildings* in which vehicle repair service is provided. Examples include vehicle mechanical repair, body and paint shops, muffler, brake and tire shops. *Gross floor area* should include all space within the *building*, including sales floors, repair areas, workshops, offices, parts storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.
106	Services	Repair Services (Vehicle, Shoe, Locksmith, etc.)	Vehicle storage/ maintenance		Repair services - Vehicle storage/ maintenance refers to *buildings* in which vehicle storage or maintenance service is provided. Examples include warehousing of vehicles and maintenance services such as vehicle washing/detailing. *Gross floor area* should include all space within the *building*, including sales floors, maintenance areas, repair areas, workshops, offices, storage areas, waiting rooms, restrooms, staff break rooms, hallways, and stairwells.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
107	Services	Other - Services			Other - Services refers to *buildings* in which primarily services are offered, but which does not fit into the personal services or repair services building activity type. Examples include kennels, photo processing shops, etc. *Gross floor area* should include all space within the *building*, including sales floors, offices, storage areas, restrooms, staff break rooms, walkways, and stairwells.
108	Utility	Energy/Power Station		7	Energy/power station applies to *buildings* containing machinery and/or associated equipment for generating electricity or district heat (steam, hot water, or chilled water) from a raw fuel, including fossil fuel power plants, traditional district heat power plants, combined heat and power plants, nuclear reactors, hydroelectric dams, or facilities associated with a solar or wind farm. *Gross floor area* should include all space within the *building*, including power generation areas (boilers, turbines, etc.), administrative space, cooling towers, kitchens used by staff, restrooms, lobbies, meeting rooms, cafeterias, stairways, elevator shafts, and storage areas (which may include fossil fuel storage tanks or bins). This is a *building* or activity without an energy target. This may be exempt from the standard, see Section Z4.1 2, d.
109	Utility	Other - Utility		7	Other - Utility applies to *buildings* used by a utility for some purpose other than general office or energy/power generation. This may include utility transfer stations or maintenance facilities. Note that an administrative office occupied by a utility should be entered as office, and a power or energy generation plant should be entered as energy/power station. *Gross floor area* should include all space within the *building*, including administrative space, maintenance and equipment areas, generator rooms, kitchens used by staff, restrooms, lobbies, meeting rooms, stairways, elevator shafts, and storage areas. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section ((~~Z4.1 2, d~~)) Z4.1 (2)(d) or Y4.1 (2)(d).

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
110	Warehouse/ storage	Self-Storage Facility			Self-storage facility refers to *buildings* that are used for private storage. Typically, a single self-storage facility will contain a variety of individual units that are rented out for the purpose of storing personal belongings. *Gross floor area* should include all space within the *building*, including individual storage units, administrative offices, security and maintenance areas, mechanical rooms, hallways, stairways, and elevator shafts.
111	Warehouse/ storage	Distribution Center			Distribution center refers to unrefrigerated *buildings* that are used for the temporary storage and redistribution of goods, manufactured products, merchandise or raw materials. *Buildings* that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility. This may be exempt from the standard, see Section Z4.1 (2)(d) or Y4.1 (2)(d). *Gross floor area* should include all space within the *building*, including space designed to store nonperishable goods and merchandise, offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.
112	Warehouse/ storage	Nonrefrigerated Warehouse			Nonrefrigerated warehouse refers to unrefrigerated *buildings* that are used to store goods, manufactured products, merchandise or raw materials. *Buildings* that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility. This may be exempt from the standard, see Section Z4.1 (2)(d) or Y4.1 (2)(d). *Gross floor area* should include all space within the *building*, including the main storage rooms, administrative offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.

	Building Activity Type[1,2]			Notes	Clean Buildings Performance Standard Definitions
113	Warehouse/ storage	Refrigerated Warehouse			Refrigerated warehouse refers to refrigerated *buildings* that are used to store or redistribute perishable goods or merchandise under refrigeration at temperatures below 50 degrees Fahrenheit (10 degrees Celsius). *Buildings* that are used primarily for assembling, modifying, manufacturing, or growing goods, products, merchandise or raw material should be classified as manufacturing facility. This may be exempt from the standard, see Section Z4.1 (2)(d) or Y4.1 (2)(d). *Gross floor area* should include all space within the *building*, which includes temperature controlled areas, administrative offices, lobbies, stairways, restrooms, equipment storage areas, and elevator shafts.

Notes:
1. Select the most specific building activity type that applies.
2. Building activity types are defined by *AHJ* in Table 7-4.
3. All medical offices considered to be diagnostic type.
4. Must use of Section 7.2.3 method for mixed use *buildings*.
5. Suggest considering use of Section 7.2.3 method for mixed use *buildings*.
6. This is a *building* or activity without an energy target. Included to provide definition only.
7. This is a *building* or activity without an energy target. This may be exempt from the standard, see Section ((~~Z4.1 2, d~~)) Z4.1 (2)(d).
8. Laboratories as defined by the college/university building activity type where the primary activity is for teaching practical science shall use the college/university building activity type target. College/university *buildings* with research laboratory building activities where the primary activities are of scientific research, measurement, and experiments are performed, can utilize building activity type 101 laboratory for an area weighted EUI_t.
9. Building activity type target developed at the campus-level. As an alternative to complying at the building-level, these *covered buildings* may comply at a campus-level with the EUI_t. "Campus-level" is an alternative reporting pathway for a collection of all *buildings* on adjoining property with a single shared primary function that act as a single property.

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

WAC 194-50-160 Normative Annex Y—Washington state Tier 2 covered buildings reporting requirements—This is a normative annex and is part of the Tier 2 covered building requirements of this standard.

Y1 Building owner notifications by the AHJ.

Y1.1 Notification to building owners of covered buildings by the AHJ. Based on records obtained from each county assessor and other available information sources, the *AHJ* must create a database of *covered buildings* and *building owners* required to comply with the standard established in accordance with this section. The database may include *buildings* and *building complexes* presumed to meet the definition of *covered building* and *multifamily residential buildings* greater than 20,000 square feet in floor area.

Y1.1.1 The database will contain information about *buildings* that may be subject to compliance and their owners. The database will also contain information to assist tracking and reporting on *building owner* compliance, and incentive application and distribution. Commerce will create a method for tracking *building owner* notification responses. Each *building* or *building complex* will be assigned a unique *building* identifier.

Y1.2 By July 1, 2025, the *AHJ* must provide the owners of *covered buildings* with notification of compliance requirements.

Y1.3 Failure by the *AHJ* to provide the notification in Section Y1.2 does not release the *building owner* of the legal obligation to comply with this law. When a *covered building* undergoes a change of ownership, it is the buyer's responsibility to contact the *AHJ* and update the *covered building's* profile.

Y2 Building owner response to notifications.

Y2.1 Correction of errors. *Building owners* are responsible for reviewing the property and *building* information provided by the *AHJ* through notification including, but not limited to, *building* or *building complex* ownership details, *gross floor area*, and other information as identified by the *building owner*.

Y2.1.1 Correction of errors documentation. *Building owners* who are notified in error may submit a correction to the *AHJ*. The correction will be used to document *gross floor area* (conditioned and unconditioned) and/or *building* type.

Y3 Washington state reporting requirements for building owners.

Y3.1 General compliance. The *building owner* of a *Tier 2 covered building* must report compliance with the standard to the *AHJ* in accordance with the compliance schedule established under Section Y3.2 and every five years thereafter. For each reporting date, the *building owner* must submit documentation to demonstrate that:

1. The *weather normalized energy use intensity* (WNEUI) of the *Tier 2 covered building* measured in a period not to exceed two years prior to the compliance ((~~deadline~~)) date specified in ((~~Normative Annex Y,~~)) Section ((~~Y3.1~~)) Y3.2 Compliance schedule compared to the *energy use intensity target*; and has developed and is maintaining an energy management plan (EMP) in accordance with Section 5, including an operations and maintenance (O&M) program ((~~*O&M*~~)) in accordance with Section 6; or

2. The *covered building* has received a *Tier 2 covered building* ((~~*conditional compliance from the AHJ*~~)) extension in accordance with Exceptions to Section Y3.2: Extension; or

3. The *covered building* is exempt from the standard by demonstrating that the *building* meets one of the criteria for an exemption.

Y3.2 Compliance schedule. The *building owner* of a *Tier 2 covered building* must report the *building owner*'s compliance with the standard to the *AHJ* in accordance with the appropriate initial compliance date as follows and every five years thereafter.

1. **Compliance date.** For a *building* with more than 20,000 gross square feet but less than 50,001 gross square feet and all *multifamily residential buildings* more than 20,000 gross square feet: July 1, 2027.

2. **Graduated group compliance date.** *Covered buildings* complying at a *grouped building* level shall use the compliance schedule representing the ((~~largest~~)) earliest applicable *covered building* compliance date, or the compliance schedule can be graduated through the *conditional compliance* provisions of the standard in accordance with individual *covered buildings* size cohort compliance schedules of Sections Z3.2, Y3.2, and W3.2. Notify the *AHJ* a minimum of 180 days prior to the ((~~largest~~)) *covered building's* earliest compliance date when complying at a *grouped building* level to update the *covered building*

profile(s) and when applicable, to apply for *conditional compliance* in accordance with Section Z4.4 or Z4.5.

Exceptions to Y3.2: Extension. *Covered buildings* are eligible for a two-year compliance date extension if the *building owner* or its authorized representative submits an extension application to the *AHJ*, no sooner than six months prior to and up to six months after the applicable compliance date. The application to request an extension must include documentation supporting the reason for the extension, and meet at least one of the following criteria:

1. **Beyond control.** *Building owner* experiences conditions beyond their control, the effects of which could not have been avoided by exercising reasonable diligence, which substantially interfere with compliance efforts or schedule, including:

a. Natural disasters declared by appropriate governmental officials;

b. Goods and services shortages causing delays.

2. **Change of ownership.** *Building owner* purchases *building* in an arm's length transaction, with a date of purchase within 12 months prior to or on the exact compliance date.

3. **Financial restrictions.** *Building owner* has financial restrictions requiring additional time to demonstrate full compliance.

Financial hardship in accordance with Annex Y, Section Y4.1 (2)(g), affecting cash flow.

4. **New construction.** *Building owner* has active or recent construction with a valid building/demolition permit limiting the ability to obtain 12 consecutive months of measured energy use prior to the *building* compliance date. New construction includes addition, remodel, or demolition modifying at least 10 percent of the square footage and affecting conditions of compliance which require additional time to demonstrate full compliance.

5. **EMP and O&M.** *Building owner* complies with the requirements of the standard for *benchmarking* (Section 5.2 Building energy monitoring, and Section 7.2.1 Determining energy use intensity target (EUI_t)) can receive an extension to comply with the EMP and O&M program requirements (Section 4.2 Energy management plan and operations and maintenance program). Where energy use is not monitored at the *covered building* level, *benchmarking* shall be performed at the *connected building* level.

An extension granted pursuant to this subsection is valid for two years beyond the *covered building's* compliance date. Upon expiration of the two-year extension, *building owner* must submit an application to the *AHJ*, for an exemption or to demonstrate compliance, or they will be subject to potential penalties.

Y3.2.1 Early compliance option. *Building owners* may submit for compliance to the *AHJ* beginning July 1, 2025. Energy use data for developing the net energy consumption of the *covered building* shall be measured in a period not to exceed two years prior to the submission of compliance documentation. This section expires June 1, 2027.

Y3.2.2 Application for Tier 2 covered building conditional compliance. ((~~Applications for *Tier 2 covered building conditional compliance* must be submitted to the *AHJ* prior to the compliance date to receive *Tier 2 covered building conditional compliance* approval.~~

~~1. *Tier 2 covered building conditional compliance* is valid for the *EMP* and *O&M* requirements of the standard.~~

~~2. *Benchmarking* is required and shall be reported in application for *Tier 2 covered building conditional compliance*. Approved applications will receive a revised compliance date of 180 days. Application for *Tier 2 covered building conditional compliance* is limited to one application per compliance cycle.~~)) (RESCINDED) See Exceptions to Y3.2 Extension 5. EMP and O&M.

Y3.2.3 Application for exemption. *Building owners* submitting an application for exemption as specified in Section Y4.1 must submit to the *AHJ* no sooner than two years prior and no later than 180 days prior to the compliance date to receive exemption approval prior to the compliance date.

Y4 Documentation of compliance with the standard. Documentation of compliance shall be submitted to the *AHJ* demonstrating the *building owner* has complied with the standard through submission of documentation in accordance with Section Y4.1, Y4.2 or Y4.3.

Y4.1 Documentation of compliance through exemption. *Building owners* seeking approval of exemption shall submit to the *AHJ* Section Y6.7 Form H, "Application for Exemption Certificate," documenting the following:

1. **Exemption conditions.** Exemptions are applied at the building-level. Exemptions shall not be applied at the *grouped building* level. The *building* qualifies for one of the exemptions listed in Y4.1(2), and:

a. **Exemption verification.** Compliance with the exemption must be verified by the owner based on the *building* as it is to be occupied and operating on the compliance date.

b. **Exemption application time frame.** Applications for exemptions may be submitted no sooner than two years prior to the compliance date and submitted to the *AHJ* no later than 180 days prior to the compliance date.

c. **Exemption certificate validity.** Exemptions certificates are only valid for the current compliance review cycle.

2. **Exemptions.** *Covered buildings* are not eligible for exemption from the standards unless they meet ((~~at least~~)) one or a combination of multiple exemptions (a through d) affecting more than 50 percent of the *building* square footage, of the following criteria:

a. **Certificate of occupancy.** The *building* did not have a certificate of occupancy or temporary certificate of occupancy for a consecutive 12-month period within two years prior to the compliance date.

b. **Physical occupancy.** The *building* did not have *physical occupancy* by owner or tenant for at least 50 percent of the conditioned floor area throughout the consecutive 12-month period prior to the *building* compliance date.

If using the *physical occupancy* exemption in combination with other exemptions, the portion of the conditioned floor area without *physical occupancy* (unoccupied, not leased, or otherwise vacant) combined with the floor area of other exempt spaces must be more than 50 percent of the *building's* square footage.

c. **((~~Floor area~~)) Unconditioned and semi-heated space.** The sum of the *building's gross floor area* minus unconditioned and *semi-heated spaces*, as defined in the Washington State Energy Code, is less than 20,000 square feet.

d. **Manufacturing or industrial.** More than 50 percent of the *gross floor area* of the *building* is used for manufacturing or other indus-

trial purposes, as defined under the following use designations of the Washington state edition of the International Building Code:

i. Factory group F; or

ii. High hazard group H.

Include within the manufacturing or industrial primary use floor area, the spaces with nonexempt occupancy classifications that are within the *building* and are directly supporting the manufacturing or industrial space use. Do not include within the primary use floor area tenant spaces that are not associated with the primary manufacturing or industrial use of the *building*.

If using the manufacturing or industrial exemption in combination with other exemptions, the portion of the manufacturing or industrial use combined with the floor area of other exempt spaces must be more than 50 percent of the *building's* square footage.

e. **Agricultural.** The *building* is an *agricultural structure*.

f. **Demolition.** The *building* is pending demolition.

g. **Financial hardship.** The *building* meets at least one of the following conditions of financial hardship:

i. **Taxes or charges.** The *building* had arrears of property taxes or water or wastewater charges that resulted in the *building's* inclusion, within the prior two years, on a city or county's annual tax lien sale list.

ii. **Receivership.** The *building* has a court-appointed receiver in control of the asset due to financial distress.

iii. **Foreclosure.** The *building* is owned by a financial institution through default by a borrower.

iv. **Conveyance in lieu of foreclosure.** The *building* has been acquired by a deed in lieu of foreclosure within the previous 24 months.

v. **Senior mortgage default.** The *building* has a senior mortgage subject to a notice of default.

vi. **K-12 school.** The *building* is a K-12 school *building* in a school district or a private school that has financial hardships related to capital construction or improvements including, but not limited to, a failed bond and/or levy, limited school district debt capacity, and/or the *building* is actively correcting a violation of state board of health rules.

vii. **Hospital.** The *building* is a public hospital in a *public hospital district* that lacks the debt capacity to cover the cost of compliance.

viii. **Heavy and immediate financial need.** The *building owner* has an immediate and heavy financial need ((~~that cannot be satisfied from other reasonable available resources and that is~~)) caused by events that are beyond their control, lacks the debt capacity to cover the cost of compliance, and has exhausted all other reasonable available resources.

h. **National security.** *Buildings* for which meeting the standard would impair national security interests, when all or a portion of the *building* has the primary purpose of providing products or services to a federal agency that is considered "classified" under Executive Order No. 12356, or as directed by the *AHJ*.

3. **Notification of exemption approved or denied.** After documents have been submitted and reviewed, the *AHJ* will send notification of approval or denial.

a. If the exemption is approved, the *AHJ* shall notify the applicant stating the application has been approved and update the *AHJ* records for the *building*.

b. If the exemption is denied, the *AHJ* shall notify the applicant stating the application has been denied and update the *AHJ* records for the *building*.

i. **Requesting hearing for denied exemption.** See Section Y5.7 Administrative hearings.

4. **Compliance required when exemption denied.** When an application for exemption is denied, the *building owner* must proceed with the process to demonstrate compliance with one of the compliance options in Washington state reporting requirements for *building owners* in ((~~Sections Y4.2 through Y4.5~~)) Section Y4.2 Documentation of compliance for Tier 2 covered buildings or Exceptions to Y3.2: Extension.

Y4.2 ((~~Benchmarking~~)) Documentation of compliance for Tier 2 covered buildings. *Building owners* must provide the following documentation to verify that the *building ((~~weather normalized EUI~~))* WNEUI is compared to the *building* EUI_t and that the energy management plan (EMP), including the operations and maintenance (O&M) program ((~~*(O&M)*~~)) is complete and being implemented.

1. ((~~Form A;~~

~~2.Form B; except *buildings* unable to meet Section 7.2, Determining Energy Target (EUI_t);~~

~~3. Form C~~)) Energy management plan (EMP);

2. EMP reporting tool;

3. Operations and maintenance (O&M) program;

4. O&M reporting tool;

5. Form A - Summary compliance with Standard 100 (or Form J - Summary for *grouped buildings*);

6. Form B - Building activity and energy use intensity target (EUI_t), except *buildings* unable to meet Section 7.2 Determining energy target (EUI_t);

7. Form C - Energy Star portfolio manager energy use intensity calculations, except *buildings* unable to meet Section 5.2 Building energy monitoring.

Y4.3 Buildings approved for Tier 2 covered building conditional compliance. ((~~*Building owners* seeking approval of *Tier 2 covered building conditional compliance* for the energy management plan (*EMP*), including the operations and maintenance (*O&M*) program shall submit to the *AHJ Tier 2 covered building conditional compliance* application along with the following documentation:~~

~~1. Form A;~~

~~2. Form B;~~

~~3. Form C.~~

~~Once *Tier 2 covered building conditional compliance* is approved:~~

~~4. Documentation to verify that the *EMP* and *O&M* is complete and being implemented must be submitted to the *AHJ* by the revised compliance date~~)) See Exceptions to Y3.2: Extension.

Y5. Violations, assessment of administrative penalties and review of penalty decisions.

Y5.1 Authorization. The *AHJ* is authorized to impose administrative penalties on *building owners* for failing to submit documentation demonstrating compliance with the requirements of this standard. Failure to submit documentation demonstrating compliance by the scheduled reporting date will result in penalties by legal notice.

Y5.2 Notice of violation, opportunity to correct, and intent to assess penalties (NOVCI).

Y5.2.1 Notifying owner of failure to demonstrate compliance. The *AHJ* may issue a NOVCI when a *building owner* has failed to submit documentation that demonstrates compliance with this standard by the scheduled reporting date.

Y5.2.2 Issuing NOVCI. A NOVCI may be issued for failure to meet the requirement of the standard for any of the following reasons:

1. Failure to submit a compliance report in the form and manner prescribed by the *AHJ*.

2. ((~~Failure to submit compliance report by the revised compliance date after receiving *Tier 2 covered building conditional compliance* approval.~~

~~3.~~)) Failure to provide accurate reporting consistent with the requirements of the standard.

((~~4.~~)) 3. Failure to provide a valid exemption certificate.

4. Failure to receive extension approval.

Y5.2.3 Identifying failure to demonstrate compliance. The *AHJ* will identify in the NOVCI the section(s) of law, code, or the standard for which the *building owner* has failed to demonstrate compliance.

Y5.2.4 Specifying time frame to remedy. The NOVCI will specify the time by which the *building owner* must cure the violation by submitting documentation that demonstrates compliance with the identified section(s) of law, code, or the standard. The *AHJ* will give the *building owner* at least 30 calendar days to submit such documentation.

Y5.3 Response to NOVCI.

Y5.3.1 Responding to NOVCI. *Building owners* must respond to a NOVCI within 30 days by meeting one of the following:

1. **Compliance:** Submitting a compliance report in the form and manner prescribed by the *AHJ*((~~.~~));

2. **Extension:** Submitting an application for extension in accordance with Section Y3.2 Compliance schedule, if applicable;

3. **Exemption:** Submitting an application for exemption in accordance with Section Y4.1 Documentation of compliance through exemption, if applicable;

((~~3. **Tier 2 Covered building conditional compliance:** Submitting a *Tier 2 covered building conditional compliance* application in accordance with Section Y4.3 Buildings approved for Tier 2 covered building conditional compliance;~~))

4. **Pay penalties:** Submitting their intent to pay the penalties by using the form provided by the *AHJ*; or

5. **Request hearing:** Submitting a request for an administrative hearing to challenge or mitigate the penalty in accordance with Section Y5.7 Administrative hearings.

Y5.3.2 Missing NOVCI response deadline. If the *building owner* does not respond within 30 days in accordance with Section Y5.3.1 Responding to the NOVCI, the *building owner* waives their right to a hearing, and the *director* or their designee may issue a final order assessing the penalties described in the NOVCI.

Y5.4 Assessment of administrative penalties.

Y5.4.1 Penalties for building owners. Failure to submit documentation demonstrating compliance with the standard by the date specified in a

NOVCI will result in the assessment of administrative penalties at an amount not to exceed $0.30 per square foot of *gross floor area*.

Penalties may not be passed along to tenants, per RCW 19.27A.210 and 19.27A.250 so long as tenants are providing access to utility usage data, access to physical spaces in the *buildings*, and being responsive to the compliance needs from *building owners* to facilitate compliance with the standard. The inability for tenants and *building owners* to find a mutually agreeable time is not being unresponsive. *Building owners* seeking relief through an exemption or exception must provide documentation of how the tenant is being unresponsive.

Y5.4.1.1 Penalties for building owners pursuing relief. For *building owners* subject to a NOVCI who respond within 30 days:

1. **With documentation demonstrating compliance or successful challenges.** For *building owners* that submit documentation demonstrating compliance or are successful in their challenges:

a. Fines shall be waived.

b. *Building owners* may be eligible to apply for early adopter incentive program.

2. **Without compliance documentation or unsuccessful challenges.** For *building owners* that have not submitted documentation demonstrating compliance by ((~~deadline or *Tier 2 covered building conditional compliance* deadline,~~)) the required date specified in the NOVCI or have an unsuccessful challenge:

a. The Tier 2 *building owner* will be assessed the maximum penalty of amount equal to $0.30 per square foot of *gross floor area*.

b. *Building owners* may not be eligible to apply for early adopter incentive program.

c. The *AHJ* may by rule increase the penalty rates to adjust for the effects of inflation.

Y5.4.1.2 Building owners that choose to pay the fine rather than pursuing compliance. *Building owners* may choose to respond to the NOVCI by paying the maximum penalty.

1. The Tier 2 *building owner* will be assessed the maximum penalty of $0.30 per square foot of *gross floor area.*

2. *Building owners* may not be eligible to apply for early adopter incentive program.

3. Penalties are assessed for each compliance period.

Y5.4.2 Interest. Interest will accrue on civil penalties pursuant to RCW 43.17.240 if and when the debt becomes past due.

Y5.5 Due date and collection of penalties.

Y5.5.1 Penalties due. Penalties shall become due and payable on the later of:

1. Thirty days after receipt of the final order imposing the penalty; or

2. The date specified in the final order imposing the penalty.

Y5.5.2 Debt collection. If a penalty has not been paid by the due date, the *AHJ* may assign the debt to a collection agency as authorized by RCW 19.16.500 or take other action to pursue collection as authorized by law. If referred to a collection agency, the *AHJ* may add a reasonable fee, payable by the debtor, to the outstanding debt for the collection agency fee.

Y5.6 Payment of administrative penalties. Penalties will be payable in U.S. funds to the Washington state department of commerce, as specified by the *AHJ*.

Y5.7 Administrative hearings.

Y5.7.1 Requesting a hearing. A *building owner* may request an administrative hearing after receiving a NOVCI ((~~or after the denial of their application for an exemption~~)) by submitting a request within 30 days of the date of a NOVCI ((~~or the denial of a timely application for exemption~~)). All requests must be made in writing and filed at the address specified on the NOVCI. For convenience, the *AHJ* will attach a form titled "Request for Hearing" to the NOVCI that may be used to request an administrative hearing. Requests for hearing must be accompanied by the following:

1. Washington state *building* ID;
2. Submitted Annex Y Forms A, B, and C.

Y5.7.2 Hearing process. The *AHJ* may refer matters to the office of administrative hearings (OAH). Administrative hearings will be conducted in accordance with chapter 34.05 WAC, Administrative Procedure Act, chapter 10-08 WAC, Model rules of procedure, and the procedural rules adopted in this chapter. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this section, the procedural rules adopted in this section take precedence.

Y5.7.3 Initial orders to become final orders. Initial orders issued by the presiding officer will become final without further agency action unless, within 20 days,

1. The *director* determines that the initial order should be reviewed; or
2. A party to the proceeding files a petition for administrative review of the initial order.

Upon occurrence of either event, notice shall be given to all parties to the proceeding.

Y5.7.4 Judicial review. A final order entered pursuant to this section is subject to judicial review pursuant to RCW 34.05.510 through 34.05.598.

Y5.7.5 Collected penalties. Administrative penalties collected under this section must be deposited into the low-income weatherization and structural rehabilitation assistance account created in RCW 70A.35.030 and reinvested into the clean buildings program, where feasible, to support compliance with the standard.

Y6 Compliance forms. The following sections replace Standard 100, Normative Annex C, "Reporting Forms," and provide additional forms specified by rule. *Building owners* are required to submit the applicable forms and the required supporting information to demonstrate compliance with the standard. These forms replace all referenced forms in this standard. The *AHJ* will make these forms available in an electronic format for submission to the *AHJ*.

Y6.1 Compliance with Standard 100 (Form A).

Note: For *grouped buildings*, use Grouped Buildings Compliance with Standard 100 (Form J), instead of Form A.

1. *Building* identification:

a. Washington state *building* ID;
b. County;
c. County parcel number(s);

d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;
k. Postal code.
2. Contact information:
a. *Building owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Qualified person* (if applicable):
a. *Qualified person* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State;
f. Postal code;
g. Telephone number;
h. Email address;
i. Licensed, certified (select all that apply):
i. Licensure; or
ii. Certifying authority.
4. *Qualified energy manager* (if not the *qualified person*):
a. *Qualified energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address;
j. *Qualified energy manager* certification number.
5. *Energy manager* (if different than the *qualified person or qualified energy manager*):
a. *Energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address.
6. This compliance report is for:
a. *Tier 2 covered buildings.*
7. Summary data:

a. ***EUI_t.*** *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on ((~~completed~~)) Section Y6.2 Form B;

Note: ((*Buildings* ~~unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* target as calculated by the Energy Star portfolio manager account and reported on Form C.~~)) *Building* without an *energy target* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 shall report:
• National median site *EUI* (kBtu/ft^2) as calculated by the Energy Star portfolio manager account on Form C.

b. **EUI.** Measured site ((~~*EUI*~~)) *energy use intensity (EUI)* (kBtu/ft^2) for the *building's* compliance year ((~~for this *building*~~)) based on Section Y6.3 Form C;

Note: *Buildings* unable to comply with Section 5.2 Building energy monitoring, and complete Section Y6.3 Form C, shall report:
• Reason statement why *EUI* cannot be measured.

c. **WNEUI.** Measured *weather normalized* site ((~~*EUI*~~)) *energy use intensity (WNEUI)* (kBtu/ft^2) for the *building's* compliance year based on Section Y6.3 Form C;

d. **Date range.** List the months/year of the collected data (mm/yyyy - mm/yyyy) for the *building's* compliance year ((~~for this *building*~~)) from Section Y6.3 Form C((~~,~~

~~e. *Buildings* unable to comply with Section 5.2, building energy monitoring, and complete Section Y6.3 Form C, shall provide a reason statement~~)).

((~~7.~~)) 8. Have the energy management requirements of Section 5 been met? [ ] Yes [ ] No

• Upload energy management plan as specified by the *AHJ*.

((~~8.~~)) 9. Have the operation and maintenance requirements of Section 6 been met? [ ] Yes [ ] No

• Upload operation and maintenance implementation documentation as specified by the *AHJ*.

((~~9.~~)) 10. Date the audit and economic evaluation was completed (N/A if none required)

• Upload audit reports as specified by Section Y6.4 Form D.

((~~10.~~)) 11. We state that this *building* complies with ANSI/ASHRAE/IES Standard 100 as amended by the *AHJ* to conform with RCW 19.27A.210:

a. Signature of *building owner*:
• Date:
b. Signature of *qualified energy manager* or *qualified person*:
• Date:
c. Signature of *energy manager*:
• Date:
d. Signature of *authority having jurisdiction*:
• Conditional or final compliance:
• Date:

Y6.2 Building activity and energy use intensity target (EUI_t) (Form B). Complete form provided by the *AHJ* with the following information:

1. *Building* identification:
a. Washington state *building* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;

k Postal code.

2. List the *building* location climate zone, 4C or 5B. Determine the climate zone using the ASHRAE climate zone map located in Informative Annex G.

a. *Buildings* located in Climate Zone 5C shall use Climate Zone 4C.

b. *Buildings* located in Climate Zone 6B shall use Climate Zone 5B.

3. The *gross floor area* in square feet shall be reported as defined in Section 3.

a. *Buildings* unable to comply with Section 5.2, Building energy monitoring, at the *covered building* level and complying at the *connected buildings* level, shall use a group application to calculate the EUI_t for all *buildings* in the group.

4. If entire *building* is a *nontarget building*, a single building activity type not listed in Table 7-1, it should be listed as "*building* without target" on Section Y6.1 Form A. List "energy target" as "N/A" on Section Y6.2 Form B, and Section Y6.2 Form B is considered complete.

5. Fill in fraction of *gross floor area* $(A)_i$ for each activity. For single-activity *buildings* this is 1.0.

6. Fill in the operating shifts normalization factor $(S)_i$ from Table 7-3 for each activity.

7. Fill in the activity energy target $(EUI_{t1})_i$ from Table 7-2 (or table from *AHJ*) for each activity.

8. Calculate weighted space *EUI* target $(A \times S \times EUI_{t1})_i$ for each activity.

9. Add up fraction of floor area and enter sum in "Total fraction of floor area with target," and add up all weighted space ((~~*EUI targets*~~)) *energy use intensity targets* (EUI_t) and enter sum as the "((~~energy target~~)) *EUI*" on Sections Y6.2 and Y6.1 Forms B and A.

10. If more than 50 percent of *gross floor area* has no target, it should be listed as "*building* without target" on Section Y6.1 Form A. List "energy target" as "N/A" on Section Y6.2 Form B. For single-activity *buildings* this is 1.0.

Y6.3 Energy use intensity calculations (Form C). *Energy use intensity* calculations shall be reported via the U.S. EPA's ((~~ENERGY STAR~~)) Energy Star Portfolio Manager (www.energystar.gov/benchmark). The *energy manager* is responsible for creating Energy Star portfolio manager record for each *building*.

Exception to Y6.3: *Buildings* unable to comply with Section 5.2, building energy monitoring shall ((~~demonstrate compliance~~)) monitor *building* energy at the *covered building* level and shall report benchmarking at the *connected buildings* level.

The Energy Star portfolio manager *building* record shall be identical to the building activity/type, fraction floor area, operating shifts (hours of operation), and *gross floor area* of the *building* as reported on Form B. All inputs shall be up to date prior to reporting as required in Section Y4, and annually as required in Section 5.1.2.3.

Prior to submitting reports, run the Energy Star portfolio manager data quality checker and make all corrections required to complete the report.

The *energy manager* shall use the EPA's Energy Star portfolio manager share properties feature and share the property data with the *AHJ* by enabling the read-only access and exchange data feature.

For each report submitted under Section Y4, the *energy manager* shall create and submit a report documenting the required data fields listed (below) and other fields deemed necessary by the *AHJ* for the reporting period.

Report fields shall include the following:

- Portfolio manager property ID;
- Portfolio manager parent property ID;
- Property name;
- Parent property name;
- Address 1;
- Address 2;
- City;
- County;
- State/Province;
- Postal Code;
- Primary property type - Self-selected;
- Primary property type - EPA calculated;
- List of all property use types at property;
- Property GFA - Self-reported (ft^2);
- Property GFA - EPA calculated (*buildings* and parking) (ft^2);
- Property GFA - EPA calculated (*buildings*)(ft^2);
- Property GFA - EPA calculated (parking)(ft^2);
- Largest property use type;
- Largest property use type - *Gross floor area* (ft^2);
- 2nd Largest property use type;
- 2nd Largest property use - *Gross floor area* (ft^2);
- 3rd Largest property use type;
- 3rd Largest property use type - *Gross floor area* (ft^2);
- Year built;
- Occupancy;
- Property notes;
- Property data administrator;
- Property data administrator - Email;
- Last modified date - Property;
- Last modified date - Electric meters;
- Last modified date - Gas meters;
- Last modified date - Nonelectric nongas energy meters;
- Local standard ID(s) Washington state building standard;
- Data center - Energy estimates applied;
- Electricity use - Grid purchase and generated from on-site renewable systems (kWh);
- Electricity use - Grid purchase (kWh);
- Electricity use - Generated from on-site renewable systems and used on-site (kWh);
- Natural gas use (therms);
- Fuel oil #1 use (kBtu);
- Fuel oil #2 use (kBtu);
- Fuel oil #4 use (kBtu);
- Fuel oil #5 and #6 use (kBtu);
- Diesel #2 use (kBtu);
- Kerosene use (kBtu);
- Propane use (kBtu);

- District steam use (kBtu);
- District hot water use (kBtu);
- District chilled water use (kBtu);
- Coal - Anthracite use (kBtu);
- Coal - Bituminous use (kBtu);
- Coke use (kBtu);
- Wood use (kBtu);
- Other use (kBtu);
- Default values;
- Temporary values;
- Estimated data flag - Electricity (grid purchase);
- Estimated data flag - Natural gas;
- Alert - Data center does not have an IT meter;
- Alert - *Gross floor area* is 0 ft^2;
- Alert - Property has no uses;
- Data quality checker - Date run;
- Data quality checker run - ?;
- Alert - Energy meter has less than 12 full calendar months of data;
- Alert - Energy meter has gaps;
- Alert - Energy meter has overlaps;
- Alert - Energy - No meters selected for metrics;
- Alert - Energy meter has single entry more than 65 days;
- Estimated values - Energy;
- Energy Star score;
- National median *site energy* use (kBtu);
- *Site energy* use (kBtu);
- Site *EUI* (kBtu/ft^2);
- *Weather normalized site energy* use (kBtu);
- *Weather normalized* site *EUI* (kBtu/ft^2);
- *Weather normalized* site electricity (kWh);
- *Weather normalized* site electricity intensity (kWh/ft^2);
- *Weather normalized* site natural gas use (therms);
- *Weather normalized* site natural gas intensity (therms/ft^2) energy current date;
- Electricity use - Generated from on-site renewable systems (kWh);
- Electricity use - Generated from on-site renewable systems and exported (kWh);
- Electricity Use - Grid purchase and generated from on-site renewable systems (kBtu);
- Electricity use - Grid purchase (kBtu);
- Electricity use - Generated from on-site renewable systems and used on-site (kBtu);
- Natural gas use (kBtu);
- Percent of total electricity generated from on-site renewable systems;
- Cooling degree days (CDD) (°F);
- Heating degree days (HDD) (°F);
- Weather station name;
- Weather station ID.

Y6.4 Energy Audit Forms (Form D) Audit Template. Not applicable for *Tier 2 covered buildings*.

Form E. Not adopted.

Y6.5 Normative Annex X, Investment Criteria Tool (Form F). Not applicable for *Tier 2 covered buildings*.

Y6.6 Documentation of a building of historic significance (Form G). Not applicable for *Tier 2 covered buildings*.

Y6.7 Application for exemption certificate (Form H). Apply for an exemption certificate by submitting the following documentation in the form specified by the *AHJ*. The application must include the following:

1. *Building* identification:
a. Washington state *building* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;
k. Postal code.
2. Contact information:
a. *Building owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/Province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Building* information:
a. Primary building activity type from Table 7-1, or a description of the *nontarget building* type;
b. *Building gross floor area*;
c. *Building* gross conditioned floor area.
4. Reason for exemption: Based on exemptions listed in Section ((~~Y4.1(b)~~)) Y4.1(2) Exemptions. A list all of documents enclosed and any facts in support of this application. Provide at least two of the acceptable documents listed below:
a. Municipal or county records;
b. Documents from a *qualified person*;
c. Construction permit;
d. Certificate of occupancy or application for certificate of occupancy;
e. Demolition permit;
f. Financial statements such as statement of assets; liabilities, capital, and surplus, statement of revenue and expenses; or statement of cash flow;
g. A letter from the *building owner* stating facts and explaining financial hardships;
h. Other documentation approved by the *AHJ*.
5. Signature and statement of *building owner* stating that the authorized representative of the *building* affirm and attest to the accuracy, truthfulness, and completeness of the statements of material fact provided in this form.

Y6.8 Grouped Buildings Compliance with Standard 100 (Form J).

1. *Grouped buildings* identification:
a. Washington state *grouped buildings* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;
k. Postal code.
2. Contact information:
a. *Grouped buildings owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Qualified person*:
a. *Qualified person* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State;
f. Postal code;
g. Telephone number;
h. Email address;
i. Licensed, certified (select all that apply):
i. Licensure; or
ii. Certifying authority.
4. *Energy manager* (if different than the *qualified person*):
a. *Energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address.
5. *Decarbonization plan* author, where applicable:
a. Company name;
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State;
g. Postal code;
h. Telephone number;
i. Email address.

6. This compliance report is for:

a. *Grouped buildings* that ((~~meet the EUI_t;~~

~~b. *Grouped buildings* that meet the investment criteria prior to the compliance date;~~

~~c. *Grouped buildings* that will meet the EUI_t through *conditional compliance*;~~

~~d. *Grouped buildings* that will meet the investment criteria through *conditional compliance*;~~

~~e. Annual reporting for *conditional compliance*;~~

~~f. Progress reporting for *decarbonization plan*;~~

~~g. Completion reporting~~)) will meet compliance for *Tier 2 covered buildings*.

7. Summary data:

a. **EUI_t.** *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on ((~~completed~~)) Section ((~~Z6.2~~)) Y6.2 Form B;

Note: ((~~*Baseline WNEUI* for *grouped buildings* that will meet investment criteria through *conditional compliance*.~~)) *Grouped buildings* without an *energy target* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 shall report:
• National median site *EUI* (kBtu/ft^2) as calculated by the Energy Star portfolio manager account on Form C.

b. **EUI.** Measured site ((~~*EUI*~~)) *energy use intensity (EUI)* (kBtu/ft^2) for the ((~~compliance year for~~)) *grouped buildings'* compliance year based on Section ((~~Z6.3~~)) Y6.3 Form C;

((~~c. *Grouped buildings* without an energy target;~~

Notes: ~~1. Predicted site *EUI* for *grouped buildings* that will meet the EUI_t or investment criteria through *conditional compliance*.~~
~~2. *Grouped buildings* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.~~

~~d. *Grouped buildings* measured *weather normalized* site *EUI* (kBtu/ft^2) for the compliance year based on Section Z6.3 Form C;~~

~~e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *grouped buildings* from Section Z6.3 Form C;~~

~~f. *Grouped buildings* applying for *conditional compliance* through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline EUI*;~~
~~• Projected *EUI*;~~

Note: ~~Not applicable to *decarbonization plan*.~~

~~g. *Grouped buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline* total kBtu;~~
~~• Projected total kBtu;~~
~~• Projected savings total kBtu;~~

Note: ~~Not applicable to *decarbonization plan*.~~))

Note: *Grouped buildings* unable to comply with Section 5.2 Building energy monitoring, and complete Section Z6.3 Form C, shall report:
• Reason statement why *EUI* cannot be measured.

c. **WNEUI.** Measured *weather normalized* site *energy use intensity (WNEUI)* (kBtu/ft^2) for the *grouped buildings'* compliance year based on Section Y6.3 Form C.

d. **Date range.** List the months/year of the collected data (mm/yyyy - mm/yyyy) for the *grouped buildings'* compliance year from Section Y6.3 Form C.

8. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by

July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload energy management plan as specified by the *AHJ*.

9. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload operation and maintenance implementation documentation as specified by the *AHJ*.

10. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Section Z6.4 Form D.

11. Have all *EEMs* required by Section 8 been implemented? [ ] Yes [ ] No

12. Have the requirements of Section 9 been completed? [ ] Yes [ ] No

13. We state that these *grouped buildings* comply with ANSI/ASHRAE/IES Standard 100 as amended by the *AHJ* to conform with RCW 19.27A.210:

a. Signature of *grouped buildings owner*:

• Date:

b. Signature of *qualified energy manager* or *qualified person*:

• Date:

c. Signature of *energy manager*:

• Date:

d. Signature of *authority having jurisdiction*:

• Conditional or final compliance:

• Date:

Y7. Section 7—Tables as modified by Washington state.

See Normative Annex Z - Washington State Reporting Requirements for:

• **Table 7-1 Building Activity Types/Activities**

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

• **Table 7-3 Building Operating Shifts Normalization Factor**

• **Table 7-4 Building Activity Type Definitions Table**

AMENDATORY SECTION (Amending WSR 24-16-041, filed 7/30/24, effective 8/30/24)

WAC 194-50-170 Normative Annex W—Washington state participating campus district energy system decarbonization plan general compliance and reporting requirements—This is a normative annex and is part of the district energy systems decarbonization requirements of this standard.

W1. Building owner notifications to the AHJ.

W1.1 Notification to the AHJ by participating campus owners with a district energy system. By June 30, 2024, owner or owner's designated representative of a *state campus district energy system* shall notify the *AHJ* that they are developing a *decarbonization plan*. Designated representatives of a *campus district energy system* may submit to the

AHJ a request to opt-in to the *decarbonization plan* process. *Participating campuses* must comply with all of the *decarbonization plan* requirements in accordance with Normative Annex W.

Provide the following information to the *AHJ*:

For *participating campus*:

- State agency name or owner organization name;
- Agency or owner organization mailing address;
- *Campus* name;
- *Campus* owner name;
- Main point of contact: Name, email, phone;
- *District energy system* utility name and whether they are publicly or privately owned.

For each *building* connected to the *district energy system*:

- *Building* name and associated *gross floor area* (*GFA*);
- Address;
- Parcel number;
- Commerce *building* ID - where applicable.

W2. AHJ reporting.

W2.1 Summary report. The *AHJ* must provide a summary report on the *decarbonization plans* required to decarbonize *district energy systems* in accordance with the clean buildings performance standard (CBPS) and Normative Annex W to the Governor and the appropriate committees of the legislature by December 1, 2025. The *AHJ's* report may include *campuses* that fail to submit a *decarbonization plan* or fail to comply with the requirements, including the implementation schedule defined within the plan.

W3. Washington state reporting requirements for participating campus district energy systems.

W3.1 General compliance.

W3.1.1 District energy system decarbonization plan requirements: By June 30, 2025, the owner of a *participating campus* must develop a *district energy system decarbonization plan* to provide a strategy for up to 15 years and submit it to the *AHJ*. The *AHJ* may approve a *decarbonization plan* that is based on an implementation schedule longer than 15 years.

The *decarbonization plan* must include:

1. **Decarbonization:** Mechanisms to replace fossil fuels in the *district energy system* heating plants to provide 100 percent of the *campus* design load, including a schedule for replacement:

a. A *campus* with a *district energy system* providing cooling only shall evaluate:

i. Addition of a *district energy system* heating plant, in compliance with Normative Annex W;

ii. Mechanisms to replace fossil fuels of the heating systems at the building-level;

b. A *campus* with a *district energy system* providing cooling only may extend compliance schedule in accordance with Section W3.2, where decarbonization of the *campus* heating system is pursued in accordance with Section W3.1.1 (1)(a);

Exceptions to W3.1.1(1):

1. Fossil fuel or electric resistance sources may account for a maximum of 10 percent of:

a. A *district energy system* heating plant's annual output; or

b. Building-level heating system output when complying in accordance with Section W3.1.1 (1)(b).

2. Decommissioning of the *district energy system* heating plant is an acceptable alternative if a life-cycle cost analysis demonstrates implementation of decarbonized heating systems at the building-level saves more energy and is more cost-effective over the life of the measure, in accordance with Normative Annex X. If decarbonizing by decommissioning the *district energy system* heating plant, provide the following:

a. *Decarbonization plan* representing implementation of decarbonized heating systems at the building-level in lieu of decarbonization of the *district energy system's* heating plant, in accordance with Normative Annex W.

b. Life-cycle cost analysis (LCCA), evaluating implementation of decarbonized heating systems at the building-level vs. decarbonization of the *district energy system* heating plant, in accordance with Normative Annex W.

c. Evaluation of potential beneficial and cost-effective use of existing distribution system.

2. **Waste heat and cooling:** An evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;

3. **Expansion:** An examination of opportunities to add *buildings* or other facilities to the *district energy system* once it is decarbonized, a strategy to incentivize growth of a decarbonized system, and requirements for facilities joining the system;

4. **CBPS performance ((~~metric~~)) target:** An evaluation, prioritization, and scheduled plan for meeting the requirements of Sections 4.1 and ((~~4.3~~)) 4.3.1 for the *campus*.

a. When a *decarbonization plan* is fully implemented, the *campus* shall meet the requirements of Section ((~~4.3~~)) 4.3.2 or 4.3.3.

5. **CBPS EMP and O&M program:** Compliance with the requirements of Section 4.2 in accordance with the compliance schedule of Z3.2, Y3.2, and W3.2 as applicable for all *buildings* connected to the *campus*. The requirements of Section 4.2 shall apply to all *buildings* connected to the *campus*.

W3.1.2 Recommended district energy system decarbonization plan considerations: *Participating campuses* are encouraged to include the following considerations in a *decarbonization plan*:

1. Distribution network upgrades;

2. On-site energy storage facilities;

3. Space cooling for residential facilities;

4. Labor and workforce, including state registered apprenticeship utilization;

5. Options for public-private partnerships;

6. Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

W3.1.3 Utility engagement: *Participating campuses* must consult with the electric utility and the natural gas utility serving the site of the system during *decarbonization plan* development.

W3.2 Compliance Schedule. *Participating campuses* must:

1. **Develop decarbonization plan:** Begin developing a *decarbonization plan* by June 30, 2024, in accordance with the reporting requirements of Section W1.1.

2. **Final decarbonization plan:** Submit a final *decarbonization plan* to the *AHJ* by June 30, 2025, in accordance with the reporting requirements of Sections W3.1.1 and W4.1.

3. **Energy management plan and operations and maintenance program:** ((~~Submit~~)) Implement EMP and O&M in accordance with compliance schedule in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and by July 1, 2030, for *buildings* not covered, connected to the *district energy system*. Submit EMP and O&M to the *AHJ* with the first *decarbonization plan* progress reporting.

4. **Decarbonization plan progress reports:** Every five years after June 30, 2025, until full implementation of the *decarbonization plan* and compliance with the standard has been met, *decarbonization plans* must be resubmitted by July 1st, along with a progress report including revisions to the implementation of the *decarbonization plan*, to the *AHJ* in accordance with Section W4.2. A *campus* with a *district energy system* providing cooling only, which does not decarbonize their heating systems, is required to submit completion reporting in lieu of progress reporting by July 1, 2030.

5. **Completion reporting:** Upon full implementation of *decarbonization plan* and compliance with the standard, submit completion report by July 1, 2040, or the alternatively approved *decarbonization plan* completion date to the *AHJ*, in accordance with Sections W4.3 through W4.5, as applicable. A *campus* with a *district energy system* providing cooling only, which does not decarbonize their heating systems, shall submit completion reporting by July 1, 2030, or the alternatively approved *decarbonization plan* completion date to the *AHJ*, in accordance with Sections W4.3 through W4.5, as applicable.

W3.2.1 Decarbonization plan review and evaluation: Upon submittal to the *AHJ*, *decarbonization plans* will be reviewed and approved by the *AHJ* in accordance with Normative Annex W. The *AHJ* may ask for a *decarbonization plan* to be revised and resubmitted if it does not meet standards as determined by the *AHJ*.

W4. Performance standard compliance reporting through decarbonization plan.

W4.1 Decarbonization plan reporting. *Participating campus* owners must provide a final *decarbonization plan*.

((~~• *Decarbonization plan;*~~
~~• Form J;~~
~~• Form K;~~
~~• Form B;~~
~~• Form C;~~
~~• Form D, as applicable;~~
~~• Form F, as applicable.~~)) 1. *Decarbonization plan;*

2. Form J - Grouped buildings compliance with Standard 100;

3. Form K - Decarbonization plan reporting;

4. Form B - Building activity and energy use intensity target (EUI_t);

5. Form C - Energy Star portfolio manager energy use intensity calculations;

6. Form D - Audit Template energy audit form, as applicable and if revised;

7. ASHRAE Level 2 energy audit report developed by the *qualified energy auditor*, as applicable;

8. Form F - Life-cycle cost analysis (LCCA), as applicable and if revised.

W4.2 Decarbonization plan progress reporting. *Participating campus* owners must provide status updates and revised *decarbonization plans* until *decarbonization plan* is fully implemented. A minimum of one energy management plan (EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~)) must be implemented for the *campus*. Submit EMP and O&M to the AHJ with the first decarbonization plan progress reporting.

((~~• Revised *decarbonization plan;*~~
~~- Status updates;~~
~~- Identify any revisions to *decarbonization plan;*~~
~~• Form J;~~
~~• Form K;~~
~~• Form B;~~
~~• Form C;~~
~~• Form D, as applicable and if revised;~~
~~• Form F~~)) 1. Revised *decarbonization plan;*
a. Status updates;
b. Identify any revisions to *decarbonization plan;*
2. Energy management plan (EMP);
3. EMP reporting tool;
4. Operations and maintenance (O&M) program;
5. O&M reporting tool;
6. Form J - Grouped buildings compliance with Standard 100;
7. Form K - Decarbonization plan reporting;
8. Form B - Building activity and energy use intensity target (EUI_t);
9. Form C - Energy Star portfolio manager energy use intensity calculations;
10. Form D - Audit Template energy audit form, as applicable and if revised;
11. ASHRAE Level 2 energy audit report developed by the *qualified energy auditor*, as applicable;
12. Form F - Life-cycle cost analysis (LCCA), as applicable and if revised.

W4.3 Documentation of exempt buildings connected to a district energy system. There are no exemptions for a whole *campus*. *Participating campus* owners seeking approval of *building* exemption shall submit to the *AHJ* Form H, "Application for Exemption Certificate," in accordance with Section Z6.7 for *Tier 1 covered buildings* or Section Y6.7 for *Tier 2 covered buildings*.

W4.4 Campus that meets the EUI_t through the decarbonization plan. *Participating campus* owners must provide the following documentation to verify that the *campus weather normalized EUI* is less than the *campus* EUI_t and that a minimum of one energy management plan (EMP) must be completed and the operations and maintenance (O&M) program ((~~(O&M)~~)) must be implemented for the *campus*.

((~~• *Decarbonization plan;*~~
~~• Form J;~~
~~• Form K;~~
~~• Form B;~~
~~• Form C;~~
~~• Form F~~)) 1. *Decarbonization plan;*
2. Energy management plan (EMP);
3. EMP reporting tool;
4. Operations and maintenance (O&M) program;

5. O&M reporting tool;
6. Form J - Grouped buildings compliance with Standard 100;
7. Form K - Decarbonization plan reporting;
8. Form B - Building activity and energy use intensity target (EUI_t);
9. Form C - Energy Star portfolio manager energy use intensity calculations;
10. Form F - Life-cycle cost analysis (LCCA), when complying with the *decarbonization plan* through decommissioning in accordance with Section W3.1.1 Exception 2.

W4.5 Campus that meets the investment criteria through the decarbonization plan. *Participating campus* owners must provide the following documentation to verify that the *campus* has implemented all *EEMs* that meet the cost-effectiveness criteria resulting from the energy audit and economic evaluation criteria from Normative Annex X. The cost-effectiveness criteria does not apply to the decarbonization of the *district energy system* heating plant. The energy management plan (EMP) must be completed and the operations and maintenance program (O&M) must be implemented for the *campus*, and all *EEMs* must be installed and commissioned, prior to the approved *decarbonization plan* implementation schedule.

((~~• *Decarbonization plan;*~~
~~• Form J;~~
~~• Form K;~~
~~• Form B;~~
~~• Form C;~~
~~• Form D;~~
~~• Form F.~~)) 1. *Decarbonization plan;*
2. Energy management plan (EMP);
3. EMP reporting tool;
4. Operations and maintenance (O&M) program;
5. O&M reporting tool;
6. Form J - Grouped buildings compliance with Standard 100;
7. Form K - Decarbonization plan reporting;
8. Form B - Building activity and energy use intensity target (EUI_t);
9. Form C - Energy Star portfolio manager energy use intensity calculations;
10. Form D - Audit Template energy audit form;
11. ASHRAE Level 2 energy audit report developed by the *qualified energy auditor;*
12. Form F - Life-cycle cost analysis (LCCA).

W5. Assessment of administrative penalties.

W5.1 Issuing NOVC. The *AHJ* may issue a NOVC in accordance with Sections Z5 and Y5, when a *building owner* has failed to submit a *decarbonization plan*, approved by the *AHJ*, and has not met the requirements of this standard. Approved *decarbonization plans* extend Normative Annexes Z and Y compliance ((~~deadlines~~)) dates to the schedule specified in the approved *decarbonization plan*. Progress reporting submitted in accordance with Section W4.2, is required to maintain ((~~deadline~~)) compliance date extension and avoid penalty.

W6. Compliance forms.

W6.1 Grouped Buildings Compliance with Standard 100 (Form J).

Note: Grouped Buildings Compliance with Standard 100 (Form J) is used instead of Form A for *grouped buildings*.

1. *Grouped buildings* identification:
a. Washington state *grouped buildings* ID;
b. County;
c. County parcel number(s);
d. Portfolio manager property ID number;
e. Property name;
f. Parent property name;
g. Address 1 (street);
h. Address 2;
i. City;
j. State;
k. Postal code.
2. Contact information:
a. *Grouped buildings owner* name(s);
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State/province;
g. Country;
h. Postal code;
i. Telephone number;
j. Email address.
3. *Qualified person*:
a. *Qualified person* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State;
f. Postal code;
g. Telephone number;
h. Email address;
i. Licensed, certified (select all that apply):
i. Licensure; or
ii. Certifying authority.
4. *Energy manager* (if different than the *qualified person*):
a. *Energy manager* name;
b. Address 1 (street);
c. Address 2;
d. City;
e. State/province;
f. Postal code;
g. Country;
h. Telephone number;
i. Email address.
5. *Decarbonization plan* author, where applicable:
a. Company name;
b. Contact name;
c. Address 1 (street);
d. Address 2;
e. City;
f. State;
g. Postal code;
h. Telephone number;
i. Email address.
6. This compliance report is for:

a. *Grouped buildings* that meets the EUI_t;

b. *Grouped buildings* that meets the investment criteria prior to the compliance date;

c. *Grouped buildings* that will ((~~meet the EUI_t through *conditional compliance*;~~

~~d. *Grouped buildings* that will meet the investment criteria through *conditional compliance*;~~

~~e. Annual reporting for *conditional compliance*;~~)) comply with the *decarbonization plan*, in addition:

((~~f.~~)) i. Progress reporting for *decarbonization plan*;

((~~g.~~)) ii. Completion reporting.

7. Summary data:

a. **EUI_t.** *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on ((~~completed~~)) Section Z6.2 Form B;

Note: ((~~*Baseline WNEUI* for *grouped buildings* that will meet investment criteria through *conditional compliance*.~~)) *Grouped buildings* without an *energy target* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 shall report:

• National median site *EUI* (kBtu/ft^2) as calculated by the Energy Star portfolio manager account on Form C.

b. **EUI.** Measured site ((~~*EUI*~~)) *energy use intensity (EUI)* (kBtu/ft^2) for the ((~~compliance year for~~)) *grouped buildings'* compliance year based on Section Z6.3 Form C;

((~~c. *Grouped buildings* without an energy target;~~

~~Notes:~~ ~~1. Predicted site *EUI* for *grouped buildings* that will meet the EUI_t or investment criteria through *conditional compliance*.~~

~~2. *Grouped buildings* unable to develop EUI_t in accordance with Section 7.2.2 or 7.2.3 of this standard shall report national median site *EUI* as calculated by the Energy Star portfolio manager account and reported on Form C.~~

~~d. *Grouped buildings* measured *weather normalized* site *EUI* (kBtu/ft^2) for the compliance year based on Section Z6.3 Form C;~~

~~e. List the months/year of the collected data (mm/yyyy - mm/yyyy) for the compliance year for this *grouped buildings* from Section Z6.3 Form C;~~

~~f. *Grouped buildings* applying for *conditional compliance* through meeting the EUI_t shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline EUI*;~~

~~• Projected *EUI*;~~

~~Note:~~ ~~Not applicable to *decarbonization plan*.~~

~~g. *Grouped buildings* applying for *conditional compliance* through meeting the investment criteria shall submit the following based on Section Z6.4 Form D:~~

~~• *Baseline* total kBtu;~~

~~• Projected total kBtu;~~

~~• Projected savings total kBtu;~~

~~Note:~~ ~~Not applicable to *decarbonization plan*.~~))

c. **WNEUI.** Measured *weather normalized* site *energy use intensity (WNEUI)* (kBtu/ft^2) for the *grouped buildings'* compliance year based on Section Z6.3 Form C.

Note: In addition to the compliance year *WNEUI*, *baseline WNEUI* is also required for *grouped buildings* that will meet investment criteria with a measurable *EUI*.

d. **Date range.** List the months/year of the collected data (mm/yyyy - mm/yyyy) for the *grouped building's* compliance year from Section Z6.3 Form C.

Note: In addition to the compliance year date range, *baseline* date range is also required for *grouped buildings* that will meet investment criteria with a measurable *EUI*.

8. Have the energy management requirements of Section 5 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered build-*

ings, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload energy management plan as specified by the *AHJ*.

9. Have the operation and maintenance requirements of Section 6 been met in accordance with the compliance schedule outlined in Section Z3.2 for *Tier 1 covered buildings*, Section Y3.2 for *Tier 2 covered buildings*, and for *campuses* participating in the *decarbonization plan* by July 1, 2030, for *buildings* not covered, but connected to the *district energy system*? [ ] Yes [ ] No

• Upload operation and maintenance implementation documentation as specified by the *AHJ*.

10. Date the audit and economic evaluation was completed (N/A if none required).

• Upload audit reports as specified by Section Z6.4 Form D.

11. Have all *EEMs* required by Section 8 been implemented? [ ] Yes [ ] No

12. Have the requirements of Section 9 been completed? [ ] Yes [ ] No

13. We state that these *grouped buildings* comply with ANSI/ASHRAE/IES Standard 100 as amended by the *AHJ* to conform with RCW 19.27A.210:

a. Signature of *grouped buildings owner*:

• Date:

b. Signature of *qualified person*:

• Date:

c. Signature of *energy manager*:

• Date:

d. Signature of *authority having jurisdiction*:

• ((~~Conditional or~~)) Final compliance:

• Date:

W6.2 Building activity and energy use intensity target (EUI_t) (Form B). See Section Z6.2.

W6.3 Energy use intensity calculations (Form C). See Section Z6.3.

W6.4 End use analysis requirements. *Building owners* shall demonstrate compliance with Form D by providing the documentation required by Section Z6.4.1 for all *Tier 1 covered buildings* of *campuses* pursuing compliance through the investment criteria.

W6.5 Normative Annex X, "Investment Criteria," Tool (Form F). See Section Z6.5 for all *Tier 1 covered buildings* of *campuses* pursuing compliance through the investment criteria.

W6.6 Documentation of a building of historic significance (Form G). See Section Z6.6.

W6.7 Application for exemption certificate (Form H). See Section Z6.7 for *Tier 1 covered buildings* or Section Y6.7 for *Tier 2 covered buildings*.

W6.8 Decarbonization plan reporting requirements (decarbonization plan content outline) (Form K).

1. **This decarbonization plan report is for:**

a. Final *decarbonization plan* submittal [ ] Yes [ ] No

b. Progress reporting [ ] Yes [ ] No

c. Completion reporting [ ] Yes [ ] No

2. **Decarbonization project scope of work:**

a. Summary of existing *district energy system* and *campus* layout including:

i. List of all *buildings* served by the *district energy system*;

ii. List of all *buildings* served by the *district energy system* heating and/or cooling plant, peak load;

iii. Description of current *district energy system* including, but not limited to, heating and cooling system type(s), configuration(s), output capacity(ies), thermal distribution loop(s);

iv. Energy monitoring (*benchmarking*):

• Identification of current *benchmarking* configuration:

- *Campus* [ ] Yes [ ] No
- *Connected building* [ ] Yes [ ] No
- Campus-level [ ] Yes [ ] No

v. *Energy use intensity target* (EUI_t) (kBtu/ft^2/yr) based on completed Section Z6.2;

((**Form B Note:** *Baseline WNEUI* for *decarbonization plans* that will meet investment criteria through *conditional compliance*.))

vi. Measured site *EUI* (kBtu/ft^2) for the identified *benchmarking* configuration at time of *decarbonization plan* submittal based on Section Z6.3 Form C;

b. Proposed decarbonized *district energy system* and *campus* layout including:

i. List of all *buildings* to be served by the *district energy system*;

ii. List of all *buildings* to be served by the *district energy system* heating plant, peak load;

iii. List of all *buildings* to be served by the *district energy system* cooling plant, peak load;

iv. Description of proposed *district energy system* including, but not limited to, heating and cooling system type(s), configuration(s), output capacity(ies), thermal distribution loop(s);

• An inventory and evaluation of possible options to partner with nearby sources and uses of waste heat and cooling;

• An inventory and evaluation of expanding *district energy system* to other *buildings*;

v. Identification of heating plant backup type, fuel source, capacity;

vi. Identification of proposed *energy efficiency measures* (*EEMs*) required to meet the requirements of the standard;

c. Proposed *building performance* ((~~metric~~)) *target*:

i. Compliance pathway:

• EUI_t [ ] Yes [ ] No

• Investment criteria - (include within progress report) [ ] Yes [ ] No

- Plans for Level 2 energy audit, on *Tier 1 covered buildings*
- Plans for LCCA

ii. Energy monitoring (*benchmarking*):

• Identification of proposed *benchmarking* configuration:

- *Campus* [ ] Yes [ ] No
- *Connected building* [ ] Yes [ ] No
- Campus-level [ ] Yes [ ] No

• Proposed *energy use intensity target* (EUI_t) (kBtu/ft^2/yr) developed in accordance with the standard;

• Projected site *EUI* (kBtu/ft^2) for the identified *benchmarking* configuration after implementation of *decarbonization plan* based on Section Z6.3 Form C;

• Form D documenting proposed *energy efficiency measures* (*EEMs*);

• Form F documenting the life-cycle cost analysis if pursuing the investment criteria of the standard;

d. Proposed metering configuration:

i. Shall include metering to measure *district energy system* heating and/or cooling plant input to individual *buildings*;

ii. Shall be configured in a manner to measure proposed *benchmarking* configuration;

iii. Shall include independent end use metering of *district energy system* backup heating plant.

3. **Recommended district energy system decarbonization plan considerations:** *Participating campuses* are encouraged to include the following considerations in a *decarbonization plan*:

a. Distribution network upgrades;

b. On-site energy storage facilities;

c. Space cooling for residential facilities;

d. Labor and workforce, including state registered apprenticeship utilization;

e. Options for public-private partnerships;

f. Incorporation of industrial symbiosis projects or networks as described in chapter 308, Laws of 2021.

4. **Utility engagement:** Narrative of steps taken including the date range of communications, for *participating campuses* consultation with the electric utility and the natural gas utility serving the site of the system during *decarbonization plan* development.

5. **Proposed project timeline shall provide implementation details and dates for:**

a. Energy management plan and operations and maintenance program, implemented in accordance with Section W3.1.1(5);

b. *Energy efficiency measures* (*EEMs*) required to meet the standard;

c. All phases of *district energy system decarbonization plan*;

i. *Decarbonization plan* shall determine implementation schedule, project timeline, compliance schedule;

6. **Other considerations:**

a. Communication engagement including, but not limited to, occupants, utilities, funders, and public;

b. Are funding mechanisms in place? [ ] Yes [ ] No

c. Are there cost projections in place? [ ] Yes [ ] No

i. What are your current/updated estimated costs? _____

ii. What are your current expended costs? _____

d. Changes to plan required to meet changes in codes, laws, and standards including any future reductions in EUI_t.

NEW SECTION

WAC 194-50-180 Informative Annex B—Compliance pathways—This is an informative annex.

B1 Compliance pathways. Compliance pathways represent different ways that can be used to demonstrate that *covered buildings* (a *building*, *complex of buildings*, or *grouped buildings*) comply with the Clean Buildings Performance Standard (CBPS, standard). Additionally, for each *building* the *building owner* or its authorized representative shall complete an energy management plan (EMP), implement an opera-

tions and maintenance (O&M) program, perform energy monitoring (*benchmark*), and determine an *energy use intensity target* (EUI_t), if possible, or report the national median site *EUI* as calculated by the Energy Star portfolio manager account.

EXCEPTION: If a *covered building* is unable to comply with one of the following compliance pathways by the compliance date, for a *Tier 1 covered building* see Exceptions to Z3.2 Extension or for a *Tier 2 covered building* see Exceptions to Y3.2 Extension.

B1.1 General requirements.

B1.1.1 Section 4.2 Energy management plan and operations and maintenance program;

B1.1.2 Section 4.3.1 Measured EUI and developed EUI_t:

B1.1.2.1 Section 5.2 Building energy monitoring;

B1.1.2.2 Section 7.2.1 Determining energy use intensity target (EUI_t).

B2 Compliance pathways for Tier 1 covered buildings. For each *Tier 1 covered building* (a *building*, *complex of buildings*, or *grouped buildings*), the *building owner* must choose a compliance pathway to demonstrate compliance with the Clean Buildings Performance Standard. Each *building* shall comply with Section B1.1 General requirements and shall demonstrate compliance with the *performance target* using one of the following compliance pathways:

B2.1 Compliance through exemptions. *Tier 1 covered buildings* pursuing compliance through exemption shall demonstrate eligibility qualifications for the exemption and must comply with Section Z4.1 Documentation of compliance through exemption by compliance deadline. *Tier 1 covered buildings* complying through exemption are not required to comply with the sections outlined in Section B1.1 General requirements.

Exception to B2.1: *Tier 1 covered buildings* complying with Section Z4.1 (2)(i) Compliance light exemption must still comply with Section B1.1 General requirements.

B2.2 Meeting the EUI_t compliance pathway. *Buildings* pursuant to meeting the EUI_t compliance pathway shall demonstrate the *building's* measured *weather normalized energy use intensity* (*WNEUI*) is less than or equal to the *building's energy use intensity target* (EUI_t) and must comply with the following requirements of the standard:

B2.2.1 Section B1.1 General requirements;

B2.2.2 Section 4.3.2 Meeting the energy use intensity target (EUI_t);

B2.2.3 Section 8.2.1 Meeting the EUI_t or Section 8.2.2 Building does not meet the EUI_t - Energy audit overall process;

B2.2.4 Section 9.1.1 Requirements and Section 9.2.1 Verification of implemented EEMs - Meeting the EUI_t;

B2.2.5 Section Z4.2 Documentation of compliance for meeting the EUI_t.

B2.3 Investment criteria compliance pathway.

B2.3.1 Investment criteria - Optimized bundle. *Buildings* (a *building*, *complex* of *buildings*, or *connected buildings*) pursuing the investment criteria compliance pathway through the *optimized bundle* shall implement an *optimized bundle* of *energy efficiency measures* (*EEMs*), verify the energy savings, as measured after the *optimized bundle EEM* implementation, meets or exceeds 75 percent of the *optimized bundle* projec-

ted energy savings, aligning with the energy audit report, and shall comply with the following requirements of the standard:

B2.3.1.1 Section B1.1 General requirements;

B2.3.1.2 Section 4.3.3 Investment criteria;

B2.3.1.3 Section 8.2.3 Investment criteria - Energy audit overall process;

B2.3.1.4 Section 9.1.1 Requirements; and Section 9.2.2 Verification of implemented EEMs - Investment criteria;

B2.3.1.5 Section X2.1 Optimized bundle;

B2.3.1.6 Section Z4.3 Documentation of compliance for investment criteria.

B2.3.2 Investment criteria - Install all identified EEMs with simple payback. *Buildings* (a *building*, *complex* of *buildings*, or *connected buildings*) pursuing the investment criteria compliance pathway by installing all identified *EEMs* shall implement all *energy efficiency measures* (*EEMs*) identified in the Level 2 energy audit which have a *simple payback* period less than or equal to the *EEM's expected useful life*, verify the energy savings, as measured after all identified *EEM* implementation, meets or exceeds 75 percent of the energy savings projected in the energy audit and shall comply with the following requirements of the standard:

B2.3.2.1 Section B1.1 General requirements;

B2.3.2.2 Section 4.3.3 Investment criteria;

B2.3.2.3 Section 8.2.3 Investment criteria - Energy audit overall process;

B2.3.2.4 Section 9.1.1 Requirements; and Section 9.2.2 Verification of implemented EEMs - Investment criteria;

B2.3.2.5 Exceptions to Section X2.1(1) Implement all EEMs;

B2.3.2.6 Section Z4.3 Documentation of compliance for investment criteria.

B2.3.3 Investment criteria - No identified EEMs with simple payback. *Buildings* (a *building*, *complex* of *buildings*, or *connected buildings*) pursuing the investment criteria compliance pathway with no *energy efficiency measures* (*EEMs*) identified in the Level 2 energy audit which have a *simple payback* period less than or equal to the *EEM's expected useful life* shall document the *simple payback* calculation in Form D - Audit Template (and in the EMP), provide a reason statement in application submittal, and shall comply with the following requirements of the standard:

B2.3.3.1 Section B1.1 General requirements;

B2.3.3.2 Section 4.3.3 Investment criteria;

B2.3.3.3 Section 8.2.3 Investment criteria - Energy audit overall process;

B2.3.3.4 Section 9.1.1 Requirements; and Section 9.2.2 Verification of implemented EEMs - Investment criteria;

B2.3.3.5 Section X2.3.1 Level 2 audit; and Exceptions to Section X2.1(2), "No identified EEMs with simple payback";

B2.3.3.6 Section Z4.3 Documentation of compliance for investment criteria.

B2.3.4 Investment criteria - Custom bundle. *Buildings* (a *building*, *complex* of *buildings*, or *connected buildings*) pursuing the investment criteria compliance pathway through the custom bundle shall identify the *optimized bundle* of *energy efficiency measures* (*EEMs*), verify the energy savings, as measured after the custom bundle *EEM* implementation, meets or exceeds 75 percent of the *optimized bundle* projected

energy savings, aligning with the energy audit report and demonstrating that the custom bundle equivalent achieves the same or more energy savings, and shall comply with the following requirements of the standard:

B2.3.4.1 Section B1.1 General requirements;

B2.3.4.2 Section 4.3.3 Investment criteria;

B2.3.4.3 Section 8.2.3 Investment criteria - Energy audit overall process;

B2.3.4.4 Section 9.1.1 Requirements; and Section 9.2.2 Verification of implemented EEMs - Investment criteria;

B2.3.4.5 Exceptions to Section X2.1(3) Custom bundle;

B2.3.4.6 Section Z4.3 Documentation of compliance for investment criteria.

B2.4 Conditional compliance - Temporary compliance method. *Buildings* pursuing the *conditional compliance* temporary compliance method shall implement all energy use reduction strategies and install all *EEMs* required by the standard prior to the compliance date. *Buildings* approved for *conditional compliance* are allowed additional time to demonstrate reduction in energy use through energy monitoring and compliance with the *performance target*. *Conditional compliance* applies to the following compliance pathways:

B2.4.1 Section B2.2 Meeting the EUI_t compliance pathway;

B2.4.2 Section B2.3.1 Investment criteria - Optimized bundle;

B2.4.3 Section B2.3.2 Investment criteria - Install all identified EEMs with simple payback;

B2.4.4 Section B2.3.4 Investment criteria - Custom bundle;

B2.4.5 Section B2.5 Phased implementation for investment criteria through conditional compliance. Phased implementation applies to Section B2.3.1, B2.3.2, and B2.3.4.

B2.5 Phased implementation for investment criteria through conditional compliance. *Buildings* pursuing the phased implementation for investment criteria compliance pathway through *conditional compliance* are not required to replace a system or equipment before the end of the system or equipment's *remaining useful life* and shall comply with the investment criteria requirements of the standard, listed in Section B2.3 Investment criteria compliance pathway.

B2.5.1 Section B1.1 General requirements;

B2.5.2 Section 4.3.3 Investment criteria;

B2.5.3 Section 8.2.3 Investment criteria - Energy audit overall process;

B2.5.4 Section 9.1.1 Requirements; and Section 9.2.2 Verification of implemented EEMs - Investment criteria;

B2.5.5 Normative Annex X Investment criteria;

B2.5.6 Section Z4.5 Documentation of compliance for investment criteria through conditional compliance;

B2.5.7 Section Z4.5.1 Phased implementation for investment criteria through conditional compliance.

B2.6 Minimum energy use reduction. *Buildings* pursuing the minimum energy use reduction compliance pathway shall demonstrate the measured *weather normalized energy use intensity* (*WNEUI*) is reduced a minimum of 15 percent from the *baseline WNEUI* measured from 12 consecutive months of data monitored in a period not to exceed five years prior to the *building* compliance date, and shall comply with the following requirements of the standard:

B2.6.1 Section B1.1 General requirements;

B2.6.2 Section 4.3.4 Minimum energy use reduction;

B2.6.3 Section 8.2.4 Minimum energy use reduction - Energy audit overall process;

B2.6.4 Section 9.1.1 Requirements; and Section 9.2.3 Verification of implemented EEMs - Minimum energy use reduction;

B2.6.6 Section Z4.7 Documentation of compliance for minimum energy use reduction.

Note: Section 4.3.4 Minimum energy use reduction expires after the 2046 - 2048 compliance cycles.

B2.7 Space heating electrification. *Buildings* pursuing the space heating electrification compliance pathway shall replace existing fossil fuel consuming space conditioning equipment with electric heat pump equipment, within five years prior to the *building's* compliance date. Space heating heat pump(s) shall, at minimum, be designed to meet 90 percent of the *building's* annual heating demand as required by the Washington state building codes. *Buildings* must comply with the following requirements of the standard:

B2.7.1 Section B1.1 General requirements;

B2.7.2 Section 4.3.5 Space heating electrification;

B2.7.3 Section 8.2.5 Space heating electrification - Energy audit overall process;

B2.7.4 Section 9.1.1 Requirements; and Section 9.2.4 Verification of implemented EEMs - Space heating electrification;

B2.7.5 Section Z4.8 Documentation of compliance for space heating electrification.

Note: Section 4.3.5 Space heating electrification is valid for only one compliance cycle.

B3 Compliance pathways for Tier 2 covered buildings.

For each *Tier 2 covered building* (a *building*, *complex of buildings*, or *grouped buildings*), the *building owner* must choose a compliance pathway to demonstrate compliance with the Clean Buildings Performance Standard. Each *building* shall comply with Section B1.1 General requirements and shall demonstrate compliance using one of the following compliance pathways:

B3.1 Compliance through exemptions. *Tier 2 covered buildings* pursuing compliance through exemption shall demonstrate eligibility qualifications for the exemption and comply with Section Y4.1 Documentation of compliance through exemption of the standard. *Tier 2 covered buildings* complying through exemption are not required to comply with the sections outlined in Section B1.1 General requirements.

B3.2 Tier 2 covered buildings compliance pathway. *Tier 2 covered buildings* shall measure and report the *building weather normalized energy use intensity* (*WNEUI*) and compare it to the *building energy use intensity target* (EUI_t) and comply with the following requirements of the standard:

B3.2.1 Section B1.1 General requirements;

B3.2.2 Section Y4.2 Documentation of compliance for *Tier 2 covered buildings*.

WSR 26-15-115
PERMANENT RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed July 21, 2026, 11:42 a.m., effective August 21, 2026]

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

Purpose: Update the WAC language on initial consideration of an educator preparation program.

Citation of Rules Affected by this Order: Amending WAC 181-78A-105.

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

Adopted under notice filed as WSR 26-11-016 on July 16, 2026 [May 13, 2026].

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

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

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

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

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

Date Adopted: July 16, 2026.

Matt Dressen
Rules Coordinator

RDS-7026.2

AMENDATORY SECTION (Amending WSR 24-08-035, filed 3/26/24, effective 4/26/24)

WAC 181-78A-105 Procedures for initial approval of an educator preparation program. A prospective provider desiring to establish a preparation program shall comply with the following:

(1) ((~~Notification of intent~~)) Readiness profile. Prospective providers must submit the appropriate form, published by the professional educator standards board, ((~~declaring an intent~~)) to apply for approval to offer an educator preparation program or a new educator certification program. The prospective provider will address essential elements aligned to program standards, and include evidence of necessary capacity and resources for projected sustainability of the program for three to five years.

(a) ((~~The notification of intent will be posted on the board website as public notice.~~

~~(b) The board will contact the prospective provider to begin the preproposal process~~)) If approved by the board, the prospective provider will move to the preproposal stage.

(b) If denied by the board, the prospective provider may resubmit its readiness profile informed by suggestions of the board.

(c) The readiness profile will expire one year after approval, unless the prospective provider is granted an exception as approved by the board.

(2) Preproposal. The prospective provider will ((~~develop and submit a preproposal that addresses all requirements approved and published by the board including evidence of necessary capacity, resources, and projected sustainability of the program. After board staff verify the preproposal is complete, the preproposal will be brought to the board~~)) submit the appropriate form, published by the professional educator standards board. The prospective provider will address all requirements approved and published by the board, including domains, components, and other program approval requirements contained in chapter 181-78A WAC, including evidence of projected sustainability of the program. Letters of support from partner districts and/or community agencies must also be included as evidence of how the program will meet Washington educator workforce needs.

(a) If approved by the board, the prospective provider will move to the full proposal stage.

(b) If denied by the board, the prospective provider may resubmit its preproposal informed by suggestions of the board.

(c) The preproposal will expire two years after its approval unless the prospective provider is granted an exception as approved by the board.

(3) ((~~Final~~)) Full proposal. The prospective provider ((~~may be approved to develop a final proposal or the preproposal may be denied~~)) will submit the appropriate form, published by the professional educator standards board. The prospective provider will address any and all changes to the previously approved preproposal as well as provide additional evidence of meeting all requirements approved and published by the board and contained in chapter 181-78A WAC.

(a) If approved by the board, the prospective provider may implement the program.

(b) If denied by the board, the prospective provider may resubmit its ((~~preproposal~~)) full proposal informed by suggestions of the board.

((~~(b) If the preproposal is approved by the board, the prospective provider must develop and submit a written plan which addresses all final proposal elements including domains, components, and other program approval requirements contained in chapter 181-78A WAC and published by the board, including letters of support from partner districts and/or community agencies as evidence of how the program will meet Washington educator workforce needs.~~))

(c) ((~~Final~~)) The full proposal will expire two years after its approval unless the prospective provider is granted an exception as approved by the board.

(d) Full proposals submitted by prospective providers of school counselor preparation programs shall include evidence of seeking accreditation as soon as eligible by the council for the accreditation for counseling and related education programs.

((~~(d) Final~~)) (e) Full proposals submitted by prospective providers of school psychologist programs shall include evidence of seeking accreditation by the National Association for School Psychologists.

(4) After reviewing a prospective provider's ((~~final~~)) full program proposal, the board may ((~~approve or deny the program approval:~~

~~(a) The program may be approved in a specific location(s) for an initial approval period of up to 27 months following the beginning of instruction. The prospective provider must notify the board when instruction has begun. If initial approval is denied, the prospective provider may resubmit a revised plan informed by suggestions given by the board and its staff~~)) initially approve the program in specific location(s) for a specific period of time. The prospective provider must notify the board when instruction has begun.

(a) Teacher and administrator preparation programs: Approve the program for up to 27 months following the beginning of instruction.

(b) School counselor and school psychologist programs: Approve the program for a time period to align with their respective national association approvals.

(5) Prior to the expiration of initial approval, staff of the board shall conduct a site visit to determine if the program is in full compliance and performance aligned with the state approval requirements. This includes a review of all applicable indicators and domain components for the type of program.

(a) The initial review is a formal review to evaluate recently approved educator preparation programs and consider them for continued approval.

(i) The formal review will incorporate the following elements:

(A) The board shall determine the schedule for formal reviews and the forms of documentation and validation that will be used for evaluation.

(B) Preparation program providers will submit requested evidence to the staff of the board.

(C) A review team will review the evidence and request additional information including information provided through documents and interviews with program provider staff or affiliates as needed. One board staff member will serve as chair on the review team during the review process but will not serve in an evaluative role. Additional members of the review team shall include one member of the program's professional educator advisory board, one P-12 practitioner with expertise related to the program scheduled for review, and two representatives of peer programs. Any two of these review team members, or two additional members must be identified individuals with expertise related to the domains of practice and standard components identified in annual written program feedback analyses.

(ii) The initial review team will use multiple data sources to address the specific goals listed in this section.

(A) The initial review team and the preparation program provider will use annual performance indicator data available at the time of review. Performance of programs on board approved indicators will be used by the review team to write the review report and by the board in consideration of the program's continued approval status.

(B) The initial review team and the preparation program provider will use evidence compiled by the provider that demonstrates performance aligned with all program standards and requirements. Programs' demonstration of upholding board approved standards and requirements will be used by the review team to write the review report and will be used by the board in consideration of continued approval status. Staff of the board will offer program providers guidance regarding the evidence required, how it may be gathered and used, and how it must be submitted.

(C) The initial review team and the preparation program provider will evaluate whether and to what degree the provider of the program

under review has implemented the program in alignment with the goals and design for which it was approved. Fidelity to approved program designs and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(D) The initial review team and the preparation program provider will evaluate whether and to what degree the provider of the program under review has demonstrated continuous improvement in its implementation and outcomes. Providers' ability to demonstrate continuous improvement in processes and outcomes will be used by the review team to write the review report and by the board in consideration of continued approval status.

(iii) Following the review, the review team will provide a report identifying any areas of practice in which program performance is out of alignment with standards and requirements.

(A) The report may also verify or contradict that the approved indicators or thresholds are functioning as intended.

(B) The review team's report and other appropriate documentation will be submitted to the provider and the board within six months of the formal initial review.

(C) Providers may submit a reply to the review team report within three weeks following receipt of the report. The board shall publish the process for submitting and reviewing the reply.

(D) In considering the review team's report, the board may request additional information for review, or take action to extend or change the educator preparation program's approval status.

(iv) Based upon the review team's report, the program provider's response, and any subsequent requests for information, as applicable, the board shall take one of the following actions:

(A) The board shall give full approval as described in WAC 181-78A-110 (1)(a).

(B) Limited approval as described in WAC 181-78A-110 (1)(b).

(C) Disapproval as described in WAC 181-78A-110 (1)(c).

(v) The board's staff may provide technical assistance to providers to help them improve their performance as described in WAC 181-78A-110 (1)(b)(iv).

(b) A provider may request a hearing in instances where it disagrees with the professional educator standards board's decision. This request must be made within 20 days from the decision date. The hearing will be conducted through the office of administrative hearings by an administrative law judge under chapter 34.05 RCW. The provider seeking a hearing will provide a written request to the board in accordance with WAC 10-08-035.

WSR 26-15-128
PERMANENT RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 22, 2026, 8:08 a.m., effective August 22, 2026]

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

Purpose: In accordance with RCW 28A.640.010 and 28A.642.010, discrimination in Washington K-12 public schools on the basis of sex; race; ethnicity; creed; religion; color; national origin; honorably discharged veteran or military status; sexual orientation; gender identity; gender expression; homelessness; immigration or citizenship status; the presence of any sensory, mental, or physical disability; neurodivergence; or the use of a trained dog guide or service animal by a person with a disability is prohibited. RCW 28A.640.020 and 28A.642.020 require the office of superintendent of public instruction (OSPI) to develop rules and guidelines to eliminate discrimination as it applies to public school employment, counseling and guidance services to students, recreational and athletic activities for students, access to course offerings, and in textbooks and instructional materials used by students. These rules are found in chapter 392-190 WAC.

OSPI is adopting revisions to chapter 392-190 WAC to: (1) Clarify civil rights requirements and procedures for responding to complaints of discrimination in public schools; (2) improve procedures for OSPI monitoring and enforcement; and (3) align rules with new statutory requirements regarding nondiscrimination requirements.

OSPI anticipates a revision of the nondiscrimination rules will, among other things: (1) Clarify procedures for responding to discrimination complaints; (2) eliminate problems of interpretation and problems of practice by increasing the clarity of rule language; (3) encourage public schools to address issues of discrimination with transparency and accountability; and (4) provide students, parents, employees, and community members better access to information about their rights and processes to addressing concerns about equal access and discrimination.

Citation of Rules Affected by this Order: New WAC 392-190-008, 392-190-052, 392-190-063, and 392-190-064; repealing WAC 392-190-056 and 392-190-082; and amending WAC 392-190-005, 392-190-007, 392-190-010, 392-190-020, 392-190-025, 392-190-030, 392-190-040, 392-190-045, 392-190-046, 392-190-048, 392-190-050, 392-190-055, 392-190-0555, 392-190-057, 392-190-058, 392-190-059, 392-190-0591, 392-190-0592, 392-190-060, 392-190-065, 392-190-070, 392-190-075, 392-190-0751, 392-190-076, 392-190-077, 392-190-079, 392-190-080, and 392-190-081.

Statutory Authority for Adoption: RCW 28A.640.020 and 28A.642.020.

Adopted under notice filed as WSR 26-10-067 on May 5, 2026.

Changes Other than Editing from Proposed to Adopted Version: In WAC 392-190-010(6), the phrase "of a protected class" was revised to "who are members of any one of the categories identified in this section." In WAC 392-190-055 (5)(a) and (b), the phrase "who is part of a protected class established in RCW 28A.640.010 and 28A.642.010" was changed to "on the basis of a protected status." In WAC 392-190-055 (5)(b), the phrase "Subitem (a) of this subsection" was revised to "Subsection (5)(a)." In WAC 392-190-060(2), the term "adequate" was changed to "sufficient." The phrase "the preponderance of the evidence" was changed to "a preponderance of the evidence" in WAC

392-190-065 (3)(a)(ii), 392-190-075 (3)(b), and 392-190-077(2). WAC 392-190-065 (3)(a)(iii) was revised to read: "… the email and address where the complainant may file the appeal, the name of the party or board that will decide the appeal, and any established filing deadline …" WAC 392-190-070 (1)(d) was added to require written appeal submission. WAC 392-190-075 (1)(c)(iii) was revised to read: "A copy of the complainant's written complaint to the school district and appeal to the school board." WAC 392-190-075 (1)(d) was added: "OSPI may require the complainant to submit a signed consent form from a student's legal parent or guardian before OSPI proceeds to open an investigation that involves an individual student."

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

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

Number of Sections Adopted on the Agency's own Initiative: New 3, Amended 28, Repealed 2.

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

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

Date Adopted: July 22, 2026.

Chris P.S. Reykdal
State Superintendent of Public Instruction

RDS-7180.2

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-005 Purpose—Elimination of unlawful discrimination in public schools. The purpose of this chapter is to establish rules to implement chapters 28A.640 and 28A.642 RCW. Chapters 28A.640 and 28A.642 RCW prohibit discrimination on the basis of sex, race, ethnicity, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, homelessness, immigration or citizenship status, the presence of any sensory, mental or physical disability, neurodivergence, or the use of a trained dog guide or service animal by a person with a disability in Washington public schools, including public charter schools. Broad federal regulations implementing Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and Titles VI and VII of the Civil Rights Act of 1964 similarly prohibit discrimination based on sex, race, creed, religion, color, national origin, and disability in federally assisted education programs or activities. As a result, several substantive areas have been similarly identified and addressed by both state and federal enactments.

In accordance with chapters 28A.640 and 28A.642 RCW and RCW 28A.710.040, it is unlawful for any public school district or public charter school to discriminate on the basis of sex, race, ethnicity, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, homelessness, immigration or citizenship status, the presence of any sensory, mental, or physical disability, neurodivergence, or the use of a trained dog guide or service animal with regard to any program or activity conducted by or on behalf of a school district or public charter school including, but not limited to, recreational and athletic activities, extracurricular activities, preschool, adult education, community education, and vocational-technical program activities.

In accordance with RCW 28A.640.020 and 28A.642.020, the office of the superintendent of public instruction (OSPI) will develop guidelines to supplement this chapter and to guide its interpretation and administrative enforcement of chapters 28A.640 and 28A.642 RCW under WAC 392-190-060 through 392-190-081. Under RCW 28A.640.050 and 28A.642.050, ((~~the office of superintendent of public instruction~~)) OSPI has the authority to enforce the guidelines and this chapter.

This chapter applies to public charter schools to the same extent as public school districts, collectively referred to as school districts.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-007 Compliance with federal law. For purposes of administrative enforcement of this chapter under WAC 392-190-060 through 392-190-081, and unless otherwise provided in chapters 28A.640 and 28A.642 RCW, this chapter, or as interpreted in the guidelines adopted under WAC 392-190-005, ((~~the office of superintendent of public instruction~~)) OSPI adopts the definitions, requirements, and procedural safeguards set forth by the United States Department of Education pursuant to Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, Title IX of the Education Amendments of 1972, and Title VI of the Civil Rights Act of 1964.

DEFINITIONS

NEW SECTION

WAC 392-190-008 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. The definitions set forth in RCW 28A.642.012 also govern the terms used in this chapter. Where a term is not defined in RCW

28A.642.012, the definitions in chapter 49.60 RCW apply, unless the context clearly requires otherwise.

(1) "OSPI" means the office of the superintendent of public instruction.

(2) "Protected status" means a personal characteristic or membership in a class for which discrimination is prohibited under RCW 28A.640.010 and 28A.642.010 including sex, race, ethnicity, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, homelessness, immigration or citizenship status, the presence of any sensory, mental, or physical disability, neurodivergence, or the use of a trained dog guide or service animal by a person with a disability.

(3) "School district" means a common school as defined by RCW 28A.150.010 and charter schools as defined by RCW 28A.710.010.

(4) "Sexual harassment."

(a) "Sexual harassment" means unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact, or other verbal or physical conduct or communication of a sexual nature between two or more individuals if:

(i) Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining an education or employment;

(ii) Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's education or employment; or

(iii) That conduct or communication has the purpose or effect of substantially interfering with an individual's educational or work performance, or of creating an intimidating, hostile, or offensive educational or work environment.

(b) For the purpose of this definition, sexual harassment may include conduct or communication that involves adult to student, student to adult, student to student, adult to adult, male to female, female to male, male to male, and female to female.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-010 Counseling and guidance services—Course and program enrollment. (1) School districts ((~~and public charter schools~~)) must not discriminate ((~~against any person~~)) on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status in the counseling or guidance of students.

(2) Each school district ((~~and public charter school~~)) must develop and use materials, orientation programs, and counseling techniques that encourage participation in all school programs and courses of study, including career and vocational technical programs and employment opportunities, regardless of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a~~

~~trained dog guide or service animal~~)) a student's protected status. School districts ((~~and public charter schools~~)) must encourage students to explore subjects, activities, and occupations not traditional for their sex.

(3) Each school district ((~~and public charter school~~)) that uses testing and other materials for counseling students must not use different materials for students based on their ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) protected status. A school district ((~~or public charter school~~)) may use different materials for students on the basis of their ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) protected status if:

(a) The different materials address the same occupations and interest areas; and

(b) The use of different materials is essential to eliminate bias or prevent discrimination based on ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status.

(4) Each school district ((~~and public charter school~~)) must develop and use internal procedures to ensure that all tests and appraisal instruments related to guidance counseling, career and vocational guidance materials, work/study programs and opportunities, and educational scheduling or placement do not discriminate on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a student's protected status.

(5) If a school district ((~~or public charter school~~)) concludes that the use of tests and appraisal instruments, career and vocational guidance materials, work/study programs, or educational scheduling or placement has resulted in a substantially disproportionate number of students ((~~who are members of one of the groups identified in WAC 392-190-005~~)) of a protected status in any particular course of study or classification, the school district ((~~or charter school~~)) must take prompt action to ensure that the disproportion is not the result of discrimination in the instrument or material, or its application.

(6) At least annually, each school district ((~~and public charter school~~)) must review student enrollment data within courses and programs disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. In its review of this data, the school district ((~~or public charter school~~)) must determine whether a substantially disproportionate number of students within these categories are enrolled in a particular course or program. Where a school district ((~~or public charter school~~)) finds that a particular course or program contains a substantially disproportionate number of students who are members of any one of the categories identified in this section, the district ((~~or charter school~~)) must take prompt ac-

tion to ensure that the disproportion is not the result of discrimination, including in:

(a) The identification and selection of students;
(b) Course and program enrollment criteria;
(c) Tests and appraisal instruments;
(d) Academic, career, and vocational guidance materials;
(e) Work/study programs and opportunities;
(f) Educational scheduling or placement; and
(g) Other factors related to course and program enrollment.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-020 Training—Staff responsibilities—Bias awareness. Each school district ((~~and public charter school~~)) must provide training to all administrators and certificated and classroom personnel((~~, including the school district or public charter school employee designated under WAC 392-190-060, (1)~~)) regarding their responsibilities under this chapter((~~,~~)) and ((~~(2)~~)) to raise awareness of and eliminate bias based on ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal~~)) a protected status.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-025 Recreational and athletic activities. (1) Except as provided under this section, school districts ((~~and public charter schools~~)) must not, on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status, exclude any ((~~person~~)) student from participation in, deny any ((~~person~~)) student the benefits of, or otherwise discriminate against any ((~~person~~)) student in any interscholastic, club, or intramural athletics or recreational activity offered or sponsored by the school district ((~~or charter school~~)). School districts ((~~and public charter schools~~)) must not provide any athletic or recreational activity separately on such basis, except as provided in this section.

(2) A school district ((~~or public charter school~~)) may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a school district ((~~or public charter school~~)) operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered.

(3) A school district ((~~or public charter school~~)) that operates or sponsors interscholastic, club, or intramural athletics must provide equal athletic opportunities for members of both sexes within each school. The following factors must be considered when determining whether equal opportunities are available:

(a) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(b) Provision of equipment and supplies;

(c) Scheduling of games and practice time, including the use of playfields, courts, gyms, and pools;

(d) Travel and per diem allowances, if any;

(e) Opportunity to receive coaching and academic tutoring;

(f) Assignment and compensation of coaches, tutors, and game officials;

(g) Provision of locker rooms and practice and competitive facilities;

(h) Provision of medical and training facilities and services, including the availability of insurance;

(i) Provision of housing and dining facilities and services, if any; and

(j) Publicity and awards.

(4) Unequal aggregate expenditures within a school district ((~~or public charter school~~)) for members of each sex or unequal expenditures for separate male and female teams alone will not constitute noncompliance with this section, but the failure to provide necessary funds for recreational and athletic activities for members of one sex may be considered in assessing the equality of opportunity for members of each sex.

(5) Where individual students with disabilities cannot participate in existing activities even with reasonable modifications and necessary accommodations, aids, or services, a school district ((~~or public charter school~~)) may offer opportunities for students with disabilities to participate in separate or different recreational or athletic activities.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-030 Recreational and athletic activities—Annual athletic evaluation. Each school district ((~~and public charter school~~)) must evaluate the recreational and athletic program at each school at least once each year to ensure that equal opportunities are available to members of both sexes with respect to interscholastic, club, or intramural athletics that are operated, sponsored, or otherwise provided by the school district ((~~or charter school~~)).

In determining whether equal opportunities are available to members of both sexes, each school district ((~~and public charter school~~)) conducting an evaluation required by this section must consider each of the factors listed under WAC 392-190-025(3).

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-040 Recreational and athletic activities—Student athletic interest survey. (1) ((~~The superintendent of public instruction must develop a survey instrument to assist each school district and public charter school in determining male and female student interest in participation in specific sports. With the office of superintendent of public instruction's approval, school districts and public charter schools may modify or amend the content of the survey instrument if necessary to clarify and assist in evaluating student interest.~~

~~(2)~~)) Each school district ((~~and public charter school~~)) must administer the OSPI student athletic interest survey to determine, for members of both sexes, student interest to participate in specific sports. Each school district must administer the survey ((~~developed under this section~~)) at least once every three years at each school and grade level where interscholastic, intramural, and other athletics are conducted. The school district ((~~or public charter school~~)) must consider the results of the survey, disaggregated by sex, when planning and developing recreational and athletic activities offered within the school district ((~~or charter school~~)) and when determining whether equal opportunities are available to members of both sexes under WAC 392-190-025 and 392-190-030.

(2) With OSPI's approval, school districts may modify or amend the content of the survey instrument if necessary to clarify and assist in evaluating student interest.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-045 Recreational and athletic activities—Facilities. A school district ((~~or public charter school~~)) that provides athletic facilities for members of one sex, including showers, toilets, and training room facilities for athletic purposes, must provide comparable facilities for members of the opposite sex. A school district ((~~or public charter school~~)) may provide separate facilities for male and female students or schedule the facilities equitably for separate use. This section does not require the construction of additional facilities.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-046 Access to course offerings. (1) Each school district ((~~and public charter school~~)) must ensure that no student is denied or limited in their ability to participate in or benefit from its course offerings on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status.

(2) Course offerings include all education programs and activities offered or sponsored by a school district ((~~or public charter school~~)), whether those programs or activities take place in a ((~~school~~)) district's ((~~or charter school's~~)) facilities or elsewhere.

AMENDATORY SECTION (Amending WSR 25-13-037, filed 6/10/25, effective 7/11/25)

WAC 392-190-048 Access to course offerings—Student discipline and corrective action. At least annually, each school district ((~~and public charter school~~)) must review data on corrective and disciplinary actions taken against students within each school disaggregated by sex, race, limited-English proficiency (i.e., English language learners), and disability, including students protected under Section 504 of the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act. This review must include, but is not limited to, short-term suspensions, long-term suspensions, expulsions, and emergency removals. In reviewing this data, each school district ((~~or public charter school~~)) must determine whether it has disciplined or applied corrective action to a substantially disproportionate number of students within any of the categories identified in this section. If a school district ((~~or public charter school~~)) finds that it has disciplined or applied corrective action to a substantially disproportionate number of students who are members of one of the categories identified in this section, the school district ((~~or charter school~~)) must take prompt action to ensure that the disproportion is not the result of discrimination.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-050 Access to course offerings—Separate programs or activities. Except as provided under this section, school districts ((~~and public charter schools~~)) must not provide any course or otherwise carry out any of its programs or activities separately on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status or require or refuse participation therein by any of its students on such basis. This section does not prohibit:

(1) The grouping of students in physical education classes and activities by demonstrated ability as assessed by objective standards of individual performance developed and applied without regard to sex. Where use of a single standard of measuring skill or progress in a physical education class has an adverse effect on members of one sex, the school district ((~~or public charter school~~)) must promptly implement appropriate standards that do not have such effect;

(2) The separation of students by sex within physical education classes or activities offered for students if:

(a) It can be shown under the factual circumstances involved in the particular case that maintaining a separate physical education

class or activity for boys and girls is the best method of providing both sexes with an equal opportunity to participate in the class or activity; and

(b) The separated classes or activities are substantially equal;

(3) The separation of students by sex for classes or portions of classes that deal primarily with human sexuality;

(4) Classes and activities with requirements based on vocal range or quality, which may result in a chorus or choruses of one or predominantly one sex; and

(5) Classes, courses, or placement of students based on the student's individual language skill development or based on the student's needs as identified in the student's individualized education program under the Individuals with Disabilities Education Act.

NEW SECTION

WAC 392-190-052 Student enrollment documentation. (1) A school district must accept a birth certificate, passport, or alternative documents to show a child's age or date of birth for the purposes of enrollment. Alternative documents include, but are not limited to, a religious, hospital, or physician's certificate showing the date of birth, an entry in a family bible, an adoption record, an affidavit from a parent, or a previously verified school record.

(2) Notwithstanding subsection (1) of this section, a school district may not inquire about, request, or collect any information about the immigration or citizenship status of any student or their parent or guardian.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-055 Textbooks ((~~and~~)), instructional materials, and supplemental instructional materials—Instructional materials policy—Elimination of bias. (1) School districts ((~~and public charter schools~~)) must not discriminate on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status through the use of any textbooks ((~~or~~)), instructional materials, or supplemental instructional materials, including reference materials and audio-visual materials.

(2) Each school district ((~~and public charter school~~)) must adopt ((~~an~~)) policies and procedures regarding instructional materials ((~~policy~~)) that ((~~includes~~)) include selection criteria designed to eliminate bias based on ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, and the use of a trained dog guide or service animal~~)) protected statuses in all textbooks ((~~and~~)), instructional materials, and supplemental instructional materials, including reference materials and audio-visual materials. Each school

district ((~~and public charter school~~)) must use the screening criteria adopted under this section to identify and eliminate bias in all textbooks and instructional materials, including reference materials and audio-visual materials.

(3) If instructional materials that contain bias cannot be replaced immediately, each school district ((~~and public charter school~~)) must acquire supplemental instructional materials or aids to be used concurrent with existing materials to counter the bias content.

(4) Nothing in this section is intended to prohibit the use or assignment of supplemental instructional materials, such as classic and contemporary literary works, periodicals, and technical journals, that are educationally necessary or advisable even though they contain bias.

(5)(a) Consistent with RCW 28A.320.233, a school district board of directors may not refuse to approve, or prohibit the use of, any textbook, instructional material, supplemental instructional material, or other curriculum for student instruction on the basis that it relates to the study of the role and contributions of any individual or group on the basis of a protected status.

(b) Subsection (5)(a) does not apply if the content of the material relating to the role and contributions of an individual or group violates the provisions of chapter 28A.640 or 28A.642 RCW, including materials containing bias against any individual or group on the basis of a protected status.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-0555 Discriminatory harassment. (1) For purposes of administrative enforcement of this chapter under WAC 392-190-060 through 392-190-081, a school district ((~~or public charter school~~)) violates a student's rights regarding discriminatory harassment, including sexual harassment as defined under WAC 392-190-056, when the following conditions are met:

(a) The alleged conduct is based on a student's ((~~sex, race, creed, religion, color, national origin, sexual orientation, gender expression, gender identity, honorably discharged veteran or military status, presence of any sensory, mental, or physical disability, or use of a trained dog guide or service animal~~)) protected status;

(b) The alleged conduct is sufficiently severe, persistent, or pervasive that it limits or denies a student's ability to participate in or benefit from the school district's ((~~or public charter school's~~)) course offerings, including any educational program or activity (i.e., creates a hostile environment); and

(c) The school district ((~~or public charter school~~)), upon notice, fails to take prompt and appropriate action to investigate or fails to take prompt and effective steps reasonably calculated to end the harassment, eliminate the hostile environment, prevent its recurrence, and, as appropriate, remedy its effects.

(2) For purposes of administrative enforcement of this chapter under WAC 392-190-060 through 392-190-081, ((~~the office of superintendent of public instruction~~)) OSPI deems a school district ((~~or public charter school~~)) to have notice of discriminatory harassment if a reasonable employee knew, or in the exercise of reasonable care should have known, about the harassment.

(3) Nothing in this chapter is intended to diminish or otherwise modify an individual's right to bring an action under state or federal law alleging that the individual has been harmed by conduct or communication related to the individual's ((~~sex, race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, presence of any sensory, mental, or physical disability, or use of a trained dog guide or service animal~~)) protected status that creates a hostile or abusive educational or workplace environment.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-057 Sexual harassment policy—Required criteria. In order to eliminate sexual harassment in connection with any responsibility, function, or activity within the jurisdiction of a school district ((~~or public charter school~~)), a sexual harassment policy must be adopted and implemented by each district ((~~and charter school~~)). This policy must apply to all school district ((~~and public charter school~~)) employees, volunteers, parents, and students including, but not limited to, conduct between students. This policy must incorporate the following criteria:

(1) Definition((~~s~~)) of sexual harassment consistent with WAC ((~~392-190-056~~)) 392-190-008;

(2) Responsibilities of employees and volunteers;

(3) Investigative and complaint procedures consistent with WAC 392-190-065 through 392-190-075;

(4) Remedies available to targets of sexual harassment;

(5) Possible disciplinary actions against violators, which must conform with collective bargaining agreements and state and federal laws;

(6) Reprisal, retaliation, and false accusations prohibition;

(7) Dissemination and implementation of the policy; and

(8) Internal review of the policy.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-058 Sexual harassment policy—Notification. (1) The school district's ((~~or public charter school's~~)) sexual harassment policy must be easily understood and conspicuously posted throughout each school building and provided to each employee.

(2) Information about the school district's ((~~or public charter school's~~)) sexual harassment policy and complaint procedure must appear in any publication of a school((~~,~~)) or school district((~~, or public charter school~~)) that sets forth the rules, regulations, procedures, and standards of conduct for the school((~~,~~)) or school district((~~, or charter school. School districts and public charter schools that do not provide such a publication must provide written information about the district's or charter school's sexual harassment policy and complaint procedure to each student, parent or guardian, employee, and volunteer~~)). Each school district must publish this in-

formation in handbooks and on school and district websites consistent with the requirements in RCW 28A.300.286.

(3) Each school district ((~~and public charter school~~)) must develop a process for discussing the district's ((~~or charter school's~~)) sexual harassment policy. The process must ensure the discussion addresses the definition of sexual harassment and issues covered in the sexual harassment policy.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-059 Harassment, intimidation, and bullying prevention policy and procedure—School districts. (1) Each school district must adopt a harassment, intimidation, and bullying prevention policy and procedure as provided for in RCW ((~~28A.300.285~~)) 28A.600.477.

(2) If the allegations in a written ((~~report~~)) complaint of harassment, intimidation, or bullying ((~~pursued~~)) filed under the school district's procedure adopted under RCW ((~~28A.300.285~~)) 28A.600.477 indicate a potential violation of this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005, the school district's harassment, intimidation, and bullying compliance officer, designated under RCW 28A.300.285, must promptly notify the district ((~~employee~~)) civil rights coordinator designated under WAC 392-190-060. Or, if during the course of an investigation of harassment, intimidation, or bullying, the school district becomes aware of a potential violation of this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005, the ((~~school~~)) district staff member investigating the report must promptly notify the district ((~~employee designated under WAC 392-190-060~~)) civil rights coordinator. Upon receipt of this information, the ((~~designated employee~~)) civil rights coordinator must notify the complainant that their complaint will also proceed under the discrimination complaint procedure in WAC 392-190-065 ((~~through 392-190-075~~)), in addition to the procedures adopted under RCW ((~~28A.300.285~~)) 28A.600.477. School districts must provide this notice in a language that the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964. In these cases, the investigation and response timeline set forth in WAC 392-190-065 begins when the school district knows or should have known that a written report of harassment, intimidation, or bullying involves allegations that the school district has violated this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005.

(3) This section is not intended to limit the scope of RCW ((~~28A.300.285~~)) 28A.600.477 or the use of a school district's procedures adopted under RCW ((~~28A.300.285~~)) 28A.600.477.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-0591 Public school employment and contract practices—Nondiscrimination. (1) School districts ((~~and public charter~~

~~schools~~)) must not, on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status, exclude any person from participation in, deny any person the benefit of, or subject any person to discrimination in employment, recruitment, promotion, advancement, consideration, or selection, whether full time or part time, in connection with employment by a school district ((~~or public charter school~~)).

(2) Each school district ((~~and public charter school~~)) must make all employment decisions in a nondiscriminatory manner and must not limit, segregate, or classify any person in any way that could adversely affect a person's employment opportunities or status on the basis of ((~~sex, race, creed, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status.

(3) School districts ((~~and public charter schools~~)) must not enter into any contractual or other relationship that directly or indirectly has the effect of subjecting any person to discrimination in connection with employment on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal~~)) a protected status including, but not limited to, relationships with employment and referral agencies, labor unions, and organizations providing or administrating fringe benefits to employees.

(4) School districts ((~~and public charter schools~~)) must not grant preferential treatment to applications for employment based on an applicant's enrollment at any education institution or entity that only or predominately admits students on the basis of sex, race, color, or national origin if the giving of such preferences has the effect of discriminating on the basis of sex, race, color, or national origin.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-0592 Public school employment—Affirmative action program. (1) Each school district ((~~and public charter school~~)) must develop an affirmative action employment plan or program that includes appropriate provisions designed to eliminate discrimination on the basis of ((~~sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal by a person with a disability~~)) a protected status.

(2) With respect to sex discrimination, a school district's ((~~or public charter school's~~)) affirmative action employment plan or program must include:

(a) The requirement to:

(i) Maintain credential requirements for all personnel without regard to sex;

(ii) Make no differentiation in pay scale on the basis of sex;

(iii) Make no differentiation in the assignment of school duties on the basis of sex except where such assignment would involve duty areas or situations such as, but not limited to, a shower room, where persons might be disrobed;

(iv) Provide the same opportunities for advancement for males and females;

(v) Make no difference in conditions of employment on the basis of sex including, but not limited to, hiring practices, leaves of absence, hours of employment, and assignment of or payment for instructional and noninstructional duties; and

(b) Such other provisions as may be required by ((~~the superintendent of public instruction~~)) OSPI to facilitate reasonable affirmative action goals and objectives and to eliminate discrimination in public school employment.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-060 ((~~Compliance—School district or public charter school—Designation of responsible employee—Notification.~~)) Designation of civil rights coordinator. (1) The superintendent of each school district ((~~or the public charter school governing board~~)) must designate at least one employee ((~~who~~)), a civil rights coordinator, who will serve as the district's primary contact under RCW 28A.642.090. The civil rights coordinator may also serve as the primary contact regarding the school district's policy and procedure prohibiting harassment, intimidation, and bullying under RCW 28A.600.477, or the primary contact regarding the school district's policy and procedure related to transgender students under RCW 28A.642.080. The civil rights coordinator is responsible for:

(a) Monitoring and coordinating the school district's ((~~or charter school's~~)) compliance with this chapter ((~~and~~)), including as interpreted in the guidelines adopted under WAC 392-190-005((~~. The employee designated under this section is also responsible for~~));

(b) Ensuring that all complaints communicated to the ((~~school~~)) district ((~~or public charter school~~)) under WAC 392-190-065 are promptly investigated and resolved((~~.~~

~~(2) Each school district and public charter school must, once each year or more often as deemed necessary, publish notice in a manner that is reasonably calculated to inform all students, students' parents and guardians, and employees of the complaint procedure set forth in WAC 392-190-065, 392-190-070 and 392-190-075. School districts and public charter schools must provide this notice in a language that each parent and guardian can understand, which may require language assistance for parents and guardians with limited English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.~~

~~(3) Each school district and public charter school must include a nondiscrimination statement in written announcements, notices, recruitment materials, employment application forms, and other publica-~~

~~tions made available to all students, parents, or employees. The statement must include:~~

~~(a) Notice that the district or public charter school may not discriminate in any programs or activities on the basis of sex, race, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, the presence of any sensory, mental or physical disability, or the use of a trained dog guide or service animal;~~

~~(b) The name or title, office address, and telephone number of the employee or employees designated under this section, as well as the employees designated to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972; and~~

~~(c) Pursuant to the Boy Scouts of America Equal Access Act, notice that the school district or public charter school provides equal access to the Boy Scouts of America and any other youth group listed in Title 36 of the United States Code as a patriotic society.~~

~~(4) School districts and public charter schools must not adopt any policy, procedure, or practice that would limit a person's right to file a complaint under this chapter or have the effect of discouraging any person from utilizing the complaint procedure in WAC 392-190-065 through 392-190-075. School districts and public charter schools must not intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right secured by this chapter or the guidelines adopted under WAC 392-190-005 or because the individual has made a complaint or participated in an investigation under this chapter.~~)); and

(c) Facilitating communication about the school district's compliance with federal and state nondiscrimination laws including, but not limited to, (a) and (b) of this subsection, with other district coordinators, including the primary contact for the harassment, intimidation, and bullying policy and procedure under RCW 28A.600.477 and the primary contact for the policy and procedure related to transgender students under RCW 28A.642.080.

(2) The civil rights coordinator must receive sufficient training regarding their responsibilities and the school district's compliance requirements under this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, and to raise awareness of and eliminate bias based on protected statuses.

NEW SECTION

WAC 392-190-063 Notification of nondiscrimination and complaint procedures. (1) Each school district must, once each year or more often as deemed necessary, publish notice in a manner that is reasonably calculated to inform all students, students' parents and guardians, and employees of the complaint procedure set forth in WAC 392-190-065, 392-190-070, and 392-190-075. Each school district must provide this notice in a language that each parent and guardian can understand, which may require language assistance for parents and guardians with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964. Each school district must publish this information in handbooks and on school and district websites consistent with the requirements in RCW 28A.300.286.

(2) Each school district must include a nondiscrimination statement in written announcements, recruitment materials, employment application forms, and other publications made available to all students, students' parents and guardians, or employees. The statement must include:

(a) Notice that the school district may not discriminate in any programs or activities on the basis of a protected status, including sex, race, ethnicity, creed, religion, color, national origin, honorably discharged veteran or military status, sexual orientation, gender expression, gender identity, homelessness, immigration or citizenship status, the presence of any sensory, mental or physical disability, neurodivergence, or the use of a trained dog guide or service animal;

(b) The name or title, office address, email address, and telephone number of the civil rights coordinator designated under WAC 392-190-060, as well as the employees designated to ensure compliance with Section 504 of the Rehabilitation Act of 1973 and Title IX of the Education Amendments of 1972; and

(c) Pursuant to the Boy Scouts of America Equal Access Act, notice that the school district provides equal access to the Boy Scouts of America and any other youth group listed in Title 36 of the United States Code as a patriotic society.

NEW SECTION

WAC 392-190-064 Protections against retaliation. School districts must not adopt any policy, procedure, or practice that would limit a person's right to file a complaint under this chapter or have the effect of discouraging any person from utilizing the complaint procedure in this chapter. School districts must not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right secured by this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, or because the individual has made a complaint or participated in an investigation under this chapter.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-065 ((~~Compliance —~~))Complaint procedure—Level I complaint to school district ((~~or public charter school~~)). Each school district ((~~and public charter school~~)) must establish a discrimination complaint procedure that((~~, at a minimum,~~)) includes the following requirements:

(1) **Receiving a complaint.**

(a) Anyone may file a complaint with a school district ((~~or public charter school~~)) alleging that the district ((~~or charter school~~)) has violated this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005. The complaint must be written and describe the specific acts, conditions, or circumstances alleged to violate this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005.

((~~(2)~~)) (b) A school district ((~~or local charter school~~)) may establish a complaint filing deadline. The filing deadline must be no less than one year after the ((~~occurrence~~)) specific act, condition, or circumstance that is the subject matter of the complaint. A complaint filing deadline may not be imposed if the complainant was prevented from filing a complaint due to:

((~~(a)~~)) (i) Specific misrepresentations by the school district ((~~or public charter school~~)) that it had resolved the problem forming the basis of the complaint; or

((~~(b)~~)) (ii) Withholding of information by the school district ((~~or public charter school~~)) that was required to be provided under this chapter ((~~or the guidelines adopted under WAC 392-190-005~~)).

((~~(3)~~)) (c) Complaints may be submitted by mail, fax, ((~~electronic mail~~)) email, or hand delivery to any district((~~,~~)) or school((~~, or charter school~~)) administrator or to ((~~any employee~~)) the civil rights coordinator designated under WAC 392-190-060. Any district((~~,~~)) or school((~~, or charter school~~)) administrator who receives a complaint that ((~~meets the criteria in this section~~)) alleges a violation of this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, must promptly notify the ((~~employee~~)) civil rights coordinator designated under WAC 392-190-060.

((~~(4)~~)) (d) Upon receipt of the complaint, the ((~~employee or employees~~)) civil rights coordinator designated under WAC 392-190-060 must((~~:~~

~~(a)~~)) provide the complainant a copy of the school district's ((~~or public charter school's~~)) discrimination complaint procedure in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964((~~; and~~)).

(2) **Investigation.**

((~~(b)~~)) (a) Upon receipt of a complaint, the civil rights coordinator designated under WAC 392-190-060 must ensure that the school district ((~~or public charter school~~)) conducts a prompt ((~~and~~)), thorough, and impartial investigation into the allegations in the complaint.

((~~(5)~~)) (b) The school district must complete the investigation and respond to the complainant in writing within 30 calendar days after the district received the complaint. A school district may extend the investigation and response timeline if:

(i) The complainant agrees to an extension; or

(ii) Exceptional circumstances related to the complaint require an extension of the timeline. If an extension is needed, the school district must promptly notify the complainant in writing of the reasons for the extension and the anticipated response date. This notice must be provided in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

(c) Following the completion of the investigation, the ((~~designated employee or employees~~)) civil rights coordinator must provide the school district superintendent((~~, charter school administrator,~~)) or the superintendent's designee with a full written report of the complaint and the results of the investigation.

(3) **Written response to complainant.**

(a) The district superintendent((~~, charter school administrator,~~)) or their designee must respond in writing to the ((~~complaining party within thirty calendar days after the school district or public~~

~~charter school received the complaint, unless otherwise agreed to by the complainant or if exceptional circumstances related to the complaint require an extension of the time limit. If an extension is needed, the school district or public charter school must notify the complainant in writing of the reasons for the extension and the anticipated response date; this notice must be provided in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964. At the time the school district or public charter school responds to the complainant, the school district or charter school must send a copy of the response to the office of superintendent of public instruction.~~

~~(6)~~)) complainant within the timeline established under subsection (2)(b) of this section. The written response of the school district superintendent((~~, charter school administrator,~~)) or their designee ((~~required by this section~~)) must include:

((~~(a)~~)) (i) A summary of the results of the investigation;

((~~(b) Whether~~)) (ii) A determination regarding whether a preponderance of the evidence shows that the school district ((~~or public charter school~~)) has failed to comply with this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005;

((~~(c)~~)) (iii) Notice of the complainant's right to appeal under WAC 392-190-070, including ((~~where and to whom the appeal must be filed~~)) the email and address where the complainant may file the appeal, the name of the party or board that will decide the appeal, and any established filing deadline; and

((~~(d)~~)) (iv) If the school district ((~~or public charter school~~)) has failed to comply with this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005, the corrective measures deemed necessary to correct the noncompliance. Any corrective measures must be instituted as expeditiously as possible but no later than ((~~thirty~~)) 30 calendar days after the school district's ((~~or public charter school's~~)) written response to the complainant, unless otherwise agreed to by the complainant.

((~~(7)~~)) (b) The school district's ((~~or public charter school's~~)) written response to the complainant must be in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

((~~(8)~~)) (c) At the time the school district superintendent responds to the complainant, the school district must send a copy of the response to OSPI.

(4) **Informal resolution.**

(a) The complainant and the school district ((~~or public charter school~~)) may agree to resolve the complaint in lieu of an investigation. If the complaint is resolved to the satisfaction of the parties involved, no further action is necessary under this section.

((~~(9)~~)) (b) Nothing in this section prohibits a school district ((~~or public charter school~~)) from adopting a separate procedure to resolve informal (i.e., verbal) complaints or allegations. An informal complaint procedure must not limit a complainant's right to file a formal complaint under this section. When utilizing an informal complaint procedure, a school ((~~districts and public charter schools~~)) district must notify complainants about their right to file a formal complaint under this section. The school district ((~~or public charter school~~)) must provide this notice in a language the complainant can

understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

((~~(10)~~)) (5) **Failure to respond.**

(a) If a school district fails to comply with the procedures in this section such that the complainant is denied a timely written response, the complainant may file a complaint with OSPI. In lieu of opening an investigation, OSPI may direct the school district to complete the investigation and respond consistent with subsections (2) and (3) of this section.

(b) The complaint to OSPI must be in writing and include:

(i) A copy of the complaint that complainant submitted to the school district under subsection (1) of this section; and

(ii) Information about when, how, and to whom the complaint was submitted; and

(iii) A copy of any communication between the complainant and the school district regarding the complaint response timelines.

(c) The complainant must file the complaint to OSPI within one year of their complaint to the school district. The complaint may be submitted by mail, fax, email, or hand delivery.

(6) **Employment complaints.** Nothing in this section is intended to modify or supersede any grievance procedure provided for in a school district ((~~or public charter school~~)) collective bargaining agreement.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-070 ((~~Compliance—Appeal procedure—School district or public charter school.~~)) Complaint procedure—Level II appeal to school board. (1) **Appeals.**

(a) A school district's ((~~or public charter school's~~)) complaint procedure required under WAC 392-190-065 must provide an option to appeal the decision of the school district superintendent((~~, charter school administrator,~~)) or their designee to ((~~a party or board that was not involved in the initial complaint or investigation~~)) the district school board of directors. The school board may designate a different party or board to decide appeals under this section so long as the designee is granted authority to order the school district to take corrective measures deemed necessary to correct any noncompliance identified in the appeal.

(b) Any individuals deciding the appeal may not have been involved in the initial complaint, investigation, or decision under WAC 392-190-065.

((~~(2)~~)) (c) A school district ((~~or public charter school~~)) may establish ((~~a time limit to file appeals. Appeal time limits~~)) an appeal filing deadline. The appeal filing deadline must be no less than ((~~ten~~)) 10 calendar days from the date the complainant received the school district's ((~~or public charter school's~~)) response under WAC 392-190-065.

((~~(3)~~)) (d) The appeal must be submitted in writing.

(2) **Appeal decision.**

(a) The school district ((~~or public charter school~~)) must provide ((~~a~~)) the school board or school board designee's written appeal decision to the complainant in a timely manner, not to exceed ((~~thirty~~))

30 calendar days from the date the school district ((~~or charter school~~)) received the appeal, unless otherwise agreed to by the complainant. The appeal decision must include notice of the complainant's right to file a complaint with ((~~the superintendent of public instruction~~)) OSPI under WAC 392-190-075. ((~~The school district or charter school must send a copy of the appeal decision to the office of superintendent of public instruction.~~

~~(4) The school district's or public charter school's~~))

(b) The written appeal decision must be provided in a language the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

(c) At the time the school district responds to the complainant, the school district must send a copy of the appeal decision to OSPI.

(3) **Failure to respond.**

(a) If a school district fails to comply with the procedures in this section such that the complainant is denied a timely written appeal decision, the complainant may file a complaint with OSPI. In lieu of opening an investigation, OSPI may direct the school district to complete its appeal and respond consistent with subsection (2) of this section.

(b) The complaint to OSPI must be in writing and include:

(i) A copy of the appeal that complainant submitted to the school board or their designee under this section; and

(ii) Information about when, how, and to whom the appeal was submitted; and

(iii) A copy of any communication between the complainant and the school board or their designee regarding the appeal decision timelines.

(c) The complainant must file the complaint to OSPI within one year of their appeal to the school board or their designee. The complaint may be submitted by mail, fax, email, or hand delivery.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-075 ((~~Compliance—Complaint procedure—Office of superintendent of public instruction.~~)) Complaint procedure—Level III complaint to OSPI. (1) **Complaint to OSPI.**

(a) If a complainant disagrees with the ((~~school district's or public charter school's~~)) appeal decision under WAC 392-190-070, ((~~or if the school district or public charter school fails to comply with the procedures in WAC 392-190-065 or 392-190-070,~~)) the complainant may file a complaint with ((~~the office of superintendent of public instruction~~)) OSPI. ((~~A~~))

(b) The complaint must be received by ((~~the office of superintendent of public instruction~~)) OSPI within ((~~twenty~~)) 20 calendar days after the complainant received the school district's ((~~or public charter school's~~)) written appeal decision, unless ((~~the office of superintendent of public instruction~~)) OSPI grants an extension for good cause. ((~~Complaints~~)) The complaint may be submitted by mail, fax, ((~~electronic mail~~)) email, or hand delivery. ((~~A~~))

(c) The complaint must be in writing and include:

((~~(a)~~)) (i) A description of the specific acts, conditions, or circumstances alleged to violate this chapter ((~~or~~)), including as interpreted in the guidelines adopted under WAC 392-190-005, and the facts on which the complaint is based;

((~~(b)~~)) (ii) The name and contact information, including an address, of the complainant;

((~~(c) The name and address of the school district or public charter school subject to the complaint;~~

~~(d)~~)) (iii) A copy of the complainant's written complaint to the school district and appeal to the school board;

(iv) A copy of the school district's ((~~or public charter school's~~)) complaint and appeal decisions under WAC 392-190-065 and 392-190-070;

((~~(e)~~)) (v) A proposed resolution of the complaint or relief requested; and

((~~(f)~~)) (vi) If the allegations regard a specific student, the complaint must also include((~~:~~

~~(i)~~)) the name and address of the student, or in the case of a homeless child or youth, contact information for the student((~~; and~~

~~(ii) The name of the school and school district, or public charter school, the student attends~~)).

(d) OSPI may require the complainant to submit a signed consent form from a student's legal parent or guardian before OSPI proceeds to open an investigation that involves an individual student.

(2) **OSPI investigation.**

(a) Upon receipt of a complaint, ((~~the office of superintendent of public instruction~~)) OSPI may, at its discretion, initiate an investigation, which may include reviewing relevant information or conducting an independent on-site review. ((~~The office of superintendent of public instruction~~)) OSPI may, at its discretion, investigate additional issues related to the complaint that were not included in the initial complaint or appeal to the school district ((~~or public charter school~~)) under WAC 392-190-065 or 392-190-070.

(b) If OSPI initiates an investigation, OSPI will provide notice to the school district of the complaint and the issues OSPI has identified for investigation. As part of the investigation, OSPI will provide the school district the opportunity to respond in writing to the complaint and provide any information the district deems relevant to OSPI's investigation. The school district will provide such response and information, if any, within 30 calendar days of its receipt of OSPI's notice of the investigation, unless OSPI agrees to an extension.

(c) OSPI will provide a copy of the notice under subsection (3)(b) of this section to the complainant in a language that the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964.

(3) **Investigation resolution.**

(a) A complaint may be resolved at any time when, before the conclusion of an investigation by OSPI, the complainant withdraws their complaint or a school district enters into a voluntary resolution agreement with OSPI to take actions to resolve the complaint.

(b) If the complaint is not resolved voluntarily, following an investigation, ((~~the office of superintendent of public instruction~~)) OSPI will make an independent determination as to whether a preponderance of the evidence shows the school district ((~~or public charter school~~)) has failed to comply with this chapter ((~~or~~)), including as

interpreted in the guidelines adopted under WAC 392-190-005. ((~~The office of superintendent of public instruction~~)) OSPI will issue a written ((~~decision~~)) proposed order to the complainant and the school district ((~~or public charter school that addresses each allegation in the complaint and any other noncompliance issues that the office of superintendent of public instruction has identified in the investigation. The written decision will include the corrective actions deemed necessary to correct any noncompliance and any documentation the school district or public charter school must provide to ensure that the corrective action is completed. The office of superintendent of public instruction will provide this written decision in a language that the complainant can understand, which may require language assistance for complainants with limited-English proficiency, in accordance with Title VI of the Civil Rights Act of 1964~~)) that states OSPI's determination with regard to each issue identified for investigation in the notice provided under subsection (3)(b) of this section.

(c) If OSPI determines the school district has failed to comply with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, OSPI will issue a proposed order that includes:

(i) Findings of fact;

(ii) One or more conclusions of law stating how the school district failed to comply with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005;

(iii) An order of appropriate corrective measures or sanctions, which could include, but is not limited to:

(A) The institution of a corrective action plan, which will include corrective actions OSPI deems necessary to correct the noncompliance, the timeline for completing such corrective actions, and the documentation the school district must provide OSPI to show the corrective actions are completed;

(B) The institution of sanctions or other corrective measures outlined in WAC 392-190-080; and

(iv) Notice of appeal procedures under WAC 392-190-079.

(d) If the school district does not exercise its right to appeal the proposed order pursuant to the procedures described in WAC 392-190-079 within 30 calendar days of the date of the proposed order, the proposed order shall be the final order of the agency.

(4) **Corrective action monitoring.**

(a) All corrective actions must be completed within the timelines established in the ((~~written decision~~)) final order unless ((~~the office of superintendent of public instruction~~)) OSPI grants an extension.

(b) If timely compliance by a school district ((~~or public charter school~~)) is not achieved, ((~~the office of superintendent of public instruction~~)) OSPI may take actions to ensure compliance. Such actions may include, but are not limited to, referring the school district ((~~or public charter school~~)) to appropriate state or federal agencies empowered to order compliance with the law or the initiation of additional sanctions or corrective measures under WAC 392-190-080.

((~~(5) A complaint may be resolved at any time when, before the conclusion of an investigation, the complainant, the school district, or the public charter school voluntarily agrees to resolve the complaint. The office of superintendent of public instruction may provide technical assistance and dispute resolution methods necessary to resolve a complaint.~~))

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-0751 Mediation. (1) A school district ((~~or public charter school~~)) may offer mediation, at the district's ((~~or charter school's~~)) expense, to resolve complaints at any time during the complaint procedure set forth in WAC 392-190-065 through 392-190-075. The purpose of mediation is to offer both the complainant and the school district ((~~or public charter school~~)) an opportunity to resolve disputes and reach a mutually acceptable agreement concerning the complaint through the use of an impartial mediator.

(2) Mediation must be voluntary and requires the agreement of both parties. It may be terminated by either party at any time during the mediation process.

(3) Mediation cannot be used to deny or delay a complainant's right to utilize the complaint procedure set forth in WAC 392-190-065 through 392-190-075 or to deny any other rights afforded under this chapter or under chapters 28A.640 or 28A.642 RCW.

(4) Mediation must be conducted by qualified and impartial mediators. An individual who serves as a mediator:

(a) May not be an employee of any school district((~~, public charter school,~~)) or other public or private agency that is providing education or related services to a student who is the subject of the mediation process; and

(b) Must not have a personal or professional conflict of interest.

(5) A person who otherwise qualifies as a mediator is not an employee of a school district((~~, public charter school,~~)) or other public agency solely because he or she is paid by the school district((~~, charter school,~~)) or agency to serve as a mediator.

(6) If the parties resolve a dispute through the mediation process, the parties may execute a legally binding agreement that:

(a) Sets forth that resolution;

(b) States that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in any subsequent complaint, due process hearing, or civil proceeding; and

(c) Is signed by both the complainant and a representative of the school district ((~~or public charter school~~)) who has the authority to bind the district ((~~or charter school~~)).

(7) The complainant and the school district ((~~or public charter school~~)) may agree to extend the timelines set forth in WAC 392-190-065 through 392-190-075 to pursue mediation.

(8) ((~~The office of superintendent of public instruction~~)) OSPI does not sign, approve, or endorse any mediation agreements reached by the parties. However, ((~~the office of superintendent of public instruction~~)) OSPI may assist both parties in understanding pertinent legal standards and possible remedies.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-076 Monitoring—Duty of the superintendent of public instruction. (1) ((~~The office of superintendent of public instruc-~~

~~tion~~)) OSPI must monitor school districts' ((~~and public charter schools'~~)) compliance with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, and chapters 28A.640 and 28A.642 RCW((~~, and the guidelines adopted under WAC 392-190-005~~)).

(2) In addition to monitoring school district compliance through the investigation of complaints under WAC 392-190-075, procedures for monitoring school districts ((~~and public charter schools~~)) may include, but are not limited to:

(a) Investigation ((~~of complaints under WAC 392-190-075~~)) into a school district's compliance with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, and chapters 28A.640 and 28A.642 RCW;

(b) Collection, review, and analysis of data and other information; and

(c) Performance of on-site visits and interviews((~~; and~~

~~(d) Review of any compliance issues, including reviews by those agencies referenced in WAC 392-190-077~~)).

(3) If OSPI initiates monitoring under this section, OSPI will provide notice to the school district of the issues OSPI has identified for monitoring. As part of the monitoring, OSPI will provide the school district the opportunity to respond in writing to the identified issues and provide any information the district deems relevant to OSPI's monitoring. The school district will provide such response and information, if any, within 30 calendar days of its receipt of OSPI's notice of the monitoring, unless OSPI agrees to an extension.

(4) OSPI may, at any time, refer a complaint or compliance issue regarding a school district to appropriate state or federal agencies empowered to order compliance with the law.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-077 Monitoring ((~~procedures—Results~~))—Determinations. (1) ((~~Following its monitoring of a school district or public charter school under WAC 392-190-076, the office of superintendent of public instruction must notify the district or charter school of any findings of noncompliance with this chapter, chapters 28A.640 and 28A.642 RCW, or the guidelines adopted under WAC 392-190-005. This notification of noncompliance must initiate a process of correction, verification, and validation to ensure that the noncompliance is corrected within a compliance period identified by the office of superintendent of public instruction. The compliance period must be no longer than one year from the identification of noncompliance. If noncompliance is systemic in nature, a systemic corrective action plan will be required. The school district or public charter school will have thirty calendar days after its receipt of the notice of noncompliance to:~~

~~(a) Accept the findings contained in the notification of noncompliance;~~

~~(b) Provide the office of superintendent of public instruction with supplemental information that may serve as a basis for amending the notification of noncompliance; or~~

~~(c) Provide any revisions to the proposed corrective action plan.~~

~~(2) If the school district or public charter school provides the office of superintendent of public instruction with supplemental in-~~

~~formation, the office of superintendent of public instruction must respond to the school district or charter school with a final monitoring report within thirty calendar days after receipt of the supplemental information.~~

~~(3) If the school district or public charter school does not timely address the identified noncompliance with corrective actions, the superintendent of public instruction may, at his or her discretion, undertake actions to ensure the school district's or charter school's compliance. Such actions may include, but are not limited to, referring the school district or public charter school to appropriate state or federal agencies empowered to order compliance with the law, or the initiation of sanctions or corrective measures under WAC 392-190-080.~~)) OSPI's monitoring may be resolved at any time when, before the conclusion of the monitoring by OSPI, the school district enters into a voluntary resolution agreement with OSPI to take actions to resolve noncompliance with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, or chapters 28A.640 and 28A.642 RCW.

(2) Following the monitoring, OSPI will make an independent determination as to whether a preponderance of the evidence shows the school district has failed to comply with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005. OSPI will issue a written proposed order to the school district that states OSPI's determination with regard to each issue identified for investigation in the notice provided under WAC 392-190-076.

(3) If OSPI determines the school district has failed to comply with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, or chapters 28A.640 and 28A.642 RCW, OSPI will issue a proposed order that includes:

(a) Findings of fact;

(b) One or more conclusions of law stating how the school district failed to comply with this chapter, including as interpreted in the guidelines adopted under WAC 392-190-005, or chapters 28A.640 and 28A.642 RCW;

(c) An order of appropriate corrective measures or sanctions which could include, but is not limited to:

(i) The institution of a corrective action plan, which will include corrective actions OSPI deemed necessary to correct the noncompliance, the timeline for completing such corrective actions, and the documentation the school district must provide OSPI to show the corrective actions are completed; or

(ii) The institution of permissible sanctions or other corrective measures outlined in WAC 392-190-080; and

(d) Notice of appeal procedures under WAC 392-190-079.

(4) If the school district does not exercise the right to appeal the proposed order pursuant to the procedures described in WAC 392-190-079 within 30 calendar days of the date of the proposed order, the proposed order shall be the final order of the agency.

(5) All corrective actions must be completed within the timelines established in the final order unless OSPI grants an extension. If timely compliance by a school district is not achieved, OSPI may take actions to ensure compliance. Such actions may include, but are not limited to, referring the school district to appropriate state or federal agencies empowered to order compliance with the law or the initiation of additional sanctions or corrective measures WAC 392-190-080.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-079 Monitoring—Appeal procedure. (1) A complainant((~~,~~)) or school district((~~, or public charter school~~)) that desires to appeal the ((~~written decision of the office of superintendent of public instruction~~)) proposed order of OSPI issued under WAC 392-190-075 or 392-190-077 may file an appeal with ((~~the superintendent of public instruction~~)) OSPI in accordance with the adjudicative proceedings in RCW 34.05.413 through 34.05.494, and the administrative practices and procedures of ((~~the superintendent of public instruction~~)) OSPI in chapter 392-101 WAC. To initiate review under this section, a complainant((~~,~~)) or school district((~~, or public charter school~~)) must file a written notice with ((~~the superintendent of public instruction~~)) OSPI within ((~~thirty~~)) 30 calendar days following the date of receipt of ((~~the office of superintendent of public instruction's written decision~~)) OSPI's proposed order under WAC 392-190-075 or 392-190-077.

(2) For purposes of hearing an appeal under this section, ((~~the superintendent of public instruction~~)) OSPI must conduct a formal administrative hearing in conformance with the Administrative Procedure Act, chapter 34.05 RCW. ((~~The superintendent of public instruction~~)) OSPI, in carrying out this duty, may contract with the office of administrative hearings pursuant to RCW 28A.300.120 to hear a particular appeal.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-080 Violations—Permissible sanctions. In the event a school district ((~~or public charter school~~)) is found to be in violation of the requirements of this chapter, ((~~the superintendent of public instruction~~)) OSPI may, by appropriate order pursuant to chapter 34.05 RCW, impose an appropriate sanction or institute appropriate corrective measures including, but not limited to:

(1) The termination of all or part of state apportionment or categorical moneys to the offending school district ((~~or public charter school~~));

(2) The termination of specified programs wherein the violation or violations are found to be flagrant in nature;

(3) The institution of a mandatory affirmative action program within the offending school district ((~~or public charter school~~)); and

(4) The placement of the offending school district ((~~or public charter school~~)) on probation with appropriate sanctions until such time as compliance is achieved or is assured, whichever is deemed appropriate in the particular case by ((~~the superintendent of public instruction~~)) OSPI.

AMENDATORY SECTION (Amending WSR 14-23-072, filed 11/18/14, effective 12/19/14)

WAC 392-190-081 Concurrent claims and remedies. (1) Except as provided in subsections (2) and (3) of this section, nothing in this chapter is intended to deny an aggrieved person from simultaneously pursuing other available administrative, civil, or criminal remedies for an alleged violation of the law.

(2) A complaint made under WAC 392-190-065 through 392-190-075 may be held in abeyance for a period of time pending the outcome of any proceeding in state or federal court or before a local, state or federal agency in which the same claim or claims are at issue, whether under RCW 28A.640.040, 28A.642.040, or any other law.

(3) Where the complainant elects to pursue simultaneous claims in more than one forum, the factual and legal determinations issued by the first tribunal to rule on the claims may, in some circumstances, be binding on all or portions of the claims pending before other tribunals.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 392-190-056	Sexual harassment——Definitions.
WAC 392-190-082	Informing citizens about complaint procedures.