**WSR 26-16-010**
**PROPOSED RULES**
**WASHINGTON STATE PATROL**
[Filed July 23, 2026, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-10-080.

Hearing Location(s): On September 8, 2026, at 10:00 a.m., at Washington State Patrol (WSP), Helen Somers Building, 106 11th Street S.E., Room 4020, Olympia, WA 98507 [98501].

Date of Intended Adoption: September 8, 2026.

Submit Written Comments to: Kimberly Mathis, Rules Coordinator, 106 11th Street S.E., Olympia, WA 98507 [98501], email wsprules@wsp.wa.gov, beginning July 23, 2026, 4:00 p.m., by September 8, 2026, 12:00 p.m.

Assistance for Persons with Disabilities: Contact Kimberly Mathis, Rules Coordinator, phone 360-596-4017, email wsprules@wsp.wa.gov, by September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 446-65-010(1) needs to be amended to bring all C.F.R. adopted by reference current to April 25, 2026.

Reasons Supporting Proposal: Failure to update WAC 446-65-010(1) to incorporate all of the recent amendments to C.F.R.s adopted by reference therein could jeopardize grant funding to the state. Therefore, the adoption of this rule change, which brings all C.F.R.s incorporated by reference current to April 25, 2026, will allow enforcement of all of the federal regulations contained in WAC and will enable the uninterrupted receipt of grant funds to Washington, both of which will preserve the public health, safety, and general welfare of our citizens.

Statutory Authority for Adoption: RCW 46.32.020 and 46.48.170.

Statute Being Implemented: RCW 46.32.020 and 46.48.170.

Rule is necessary because of federal law, Title 49 C.F.R.

Name of Proponent: WSP, governmental.

Name of Agency Personnel Responsible for Drafting: Kimberly Mathis, Olympia, Washington, 360-596-4017; Implementation and Enforcement: WSP, Olympia, Washington, 360-596-3807.

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

A cost-benefit analysis is not required under RCW 34.05.328. A cost-benefit analysis is not required per RCW 34.05.328 (5)(a)(i) - (ii) and (b)(iii).

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Title 49 C.F.R. The proposed rule will allow the permanent adoption of C.F.R.s identified in WAC 446-65-010(1) and the continued enforcement of all of the current federal regulations contained in WAC and will enable the uninterrupted receipt of grant funds to Washington.

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).
Scope of exemption for rule proposal:
Is fully exempt.

July 23, 2026
John R. Batiste
Chief

**RDS-7323.1**

AMENDATORY SECTION (Amending WSR 26-12-032, filed 5/27/26, effective 6/27/26)

**WAC 446-65-010 Transportation requirements.** (1) The Washington state patrol hereby adopts the following parts of Title 49 Code of Federal Regulations (C.F.R.), as they exist on April 25, ((~~2025~~)) 2026, for motor carriers used in intrastate or interstate commerce in their entirety:

(a) Part 40 Procedures for transportation workplace drug and alcohol testing programs.

(b) Part 325 Compliance with interstate motor carrier noise emission standards.

(c) Part 350 Commercial motor carrier safety assistance program.

(d) Part 355 Compatibility of state laws and regulations affecting interstate motor carrier operations.

(e) Part 365 Rules governing applications for operating authority.

(f) Part 367 Standards for registration with states.

(g) Part 372 Exemptions, commercial zones and terminal areas.

(h) Part 373 Receipts and bills.

(i) Part 376 Lease and interchange of vehicles.

(j) Part 379 Preservation of records.

(k) Part 380 Special training requirements.

(l) Part 381 Waivers, exemptions, and pilot programs.

(m) Part 382 Controlled substances and alcohol use and testing.

(n) Part 383 Compliance with commercial driver's license program.

(o) Part 385 Safety fitness procedures.

(p) Part 387 Minimum levels of financial responsibility for motor carriers.

(q) Part 390 General.

(r) Part 391 Qualification of drivers. Provided that 49 C.F.R. 391 subpart D (Tests), and E (Physical Qualifications and Examinations) do not apply to motor carriers operating vehicles with gross vehicle weight rating between 10,001 lbs. and 26,000 lbs. operating intrastate, and not used to transport hazardous materials in a quantity requiring placarding, and that 49 C.F.R. Sec. 391.11 (b)(1) (minimum age requirement) does not apply to drivers 18 through 20 years of age operating solely in intrastate commerce under these same conditions.

(s) Part 392 Driving of motor vehicles.

(t) Part 393 Parts and accessories necessary for safe operation.

(u) Part 395 Hours of service of drivers: Except if a company has drivers of commercial motor vehicle of any size, hauling logs from the

point of production or driving in dump truck operations in intrastate commerce provided that:

(i) The driver must:

(A) Operate within a 100 air-mile radius of the location where the driver reports to work and the driver must return to the work reporting location at the end of each duty tour;

(B) Have at least 10 consecutive hours off duty separating each on-duty period;

(C) Not drive:

• More than 12 hours following at least 10 hours off duty; or

• After the 14th hour after coming on duty on at least five days of any period of seven consecutive days; and

• After the 16th hour after coming on duty on no more than two days of any period of seven consecutive days; and

• After having been on duty for 80 hours in seven consecutive days if the employing motor carrier does not operate commercial motor vehicle every day of the week; or

• After having been on duty for 90 hours in eight consecutive days if the employing motor carrier operates commercial motor vehicle every day of the week; in any period of seven or eight consecutive days may end with the beginning of any off-duty period of 24 or more consecutive hours.

(ii) The motor carrier that employs the driver must maintain and retain for a period of 12 months accurate and true time recordings showing:

(A) The time the driver reports for duty each day;

(B) The total number of hours the driver is on duty each day;

(C) The total number of hours the driver drives each day;

(D) The time the driver is released from duty each day; and

(E) The total time the driver is driving and on duty for the preceding seven days.

(v) Part 396 Inspection, repair, and maintenance.

(w) Part 397 Transportation of hazardous materials; driving and parking rules.

(2) As provided in Part 395, exemption for agricultural transporters, the harvest dates are defined in RCW 46.32.130.

(3) Links to the C.F.R. are available on the Washington state patrol website at www.wsp.wa.gov. Copies of the C.F.R. may also be ordered through the United States Government Printing Office, 732 N. Capitol Street N.W., Washington, D.C. 20401.

**WSR 26-16-014**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
[Filed July 24, 2026, 9:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-20-070.

Title of Rule and Other Identifying Information: Applied behavior analysis continuing supervision and educational programs. The department of health (department), in consultation with the Washington state applied behavior analysis advisory committee, is proposing amendments to WAC 246-805-210, 246-805-240, and 246-805-330 to remove barriers for education and update the requirements for continuing supervision for certified behavior technicians (CBT) and licensed assistant behavior analysts (LABA).

Hearing Location(s): On September 22, 2026, at 10:00 a.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_gsedXNhIT_mTcFegRdvNjA. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 29, 2026.

Submit Written Comments to: Shelbee Scrimo, P.O. Box 47852, Olympia, WA 98504-7852, email ABA@doh.wa.gov, web https://fortress.wa.gov/doh/policyreview/, beginning the date and time of this filing, by September 22, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Shelbee Scrimo, phone 360-236-4723, TTY 711, email shelbee.scrimo@doh.wa.gov, by September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments will update the education requirement for LABA to allow applicants with education from foreign institutions to be eligible for licensure. The proposed rule aligns with the licensed behavior analyst education rules which allow accrediting institutions approved by the department. This is intended to remove a barrier for applicants whose education is from a foreign institution.

The proposed rules also establish standards that prevent conflicting supervisor relations with CBT and LABA providers that could pose patient safety situations. The proposed rules establish standards that prohibit supervisors from being related to, subordinate to, or employed by the person they are supervising. These amendments will better align with current practices and increase patient safety regarding continuing supervision requirements related to multiple conflicting types of relationships for LABA and CBT.

Reasons Supporting Proposal: The proposed amendments remove a licensing barrier for those who have education from a foreign institution and better align with current best practices which will lead to an increase in patient safety.

Statutory Authority for Adoption: RCW 18.380.110.

Statute Being Implemented: RCW 18.380.110 and 18.380.050.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Shelbee Scrimo, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4723.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Shelbee Scrimo, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4723, TTY 711, email shelbee.scrimo@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Although many licensees practice within small businesses, the proposed rules regulate only individual professional standards and do not impose requirements on business operations, staffing, equipment, or reporting.

Scope of exemption for rule proposal:

Is fully exempt.

July 24, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

**RDS-7264.1**

AMENDATORY SECTION (Amending WSR 17-08-018, filed 3/27/17, effective 4/27/17)

**WAC 246-805-210 Licensed assistant behavior analyst—Recognized educational programs.** The department will accept a bachelor's degree in any discipline from an institution accredited by the council for higher education accreditation or United States Department of Education or a similar accrediting institution approved by the department as meeting the requirements under RCW 18.380.050 (1)(b)(i) for applicants applying for an LABA credential.

AMENDATORY SECTION (Amending WSR 24-11-103, filed 5/17/24, effective 6/17/24)

**WAC 246-805-240 Licensed assistant behavior analyst—Continuing supervision.** (1) A LABA shall work under the supervision of an LBA or individual otherwise qualified to practice in ABA consistent with RCW 18.380.030(1) for each client receiving ABA services.

(2) A clinical supervisor shall:

(a) Hold an active license in good standing as a Washington state LBA or be otherwise qualified to practice in ABA consistent with RCW 18.380.030(1); and

(b) Be responsible and accountable for the services an LABA provides to clients; and

(c) Not be related to, subordinate to, or employed by the LABA being supervised.

(3) The LABA and the clinical supervisor shall develop a supervision agreement before the LABA begins to provide any behavior analytic tasks. A copy of the supervision agreement must be maintained by both the clinical supervisor and LABA. The supervision agreement must include, but not be limited to:

(a) Duties and responsibilities the LABA will perform;

(b) Mechanism for reporting caseload to the clinical supervisor;

(c) Type and frequency of supervision; and

(d) Signature of both the clinical supervisor and supervisee.

(4) The clinical supervisor shall review the LABA's progress with the LABA at least every six months.

(5) The supervision shall include:

(a) At least one face-to-face contact per month with the LABA. Face-to-face contact may occur in person, on-site, or by videoconferencing, and may include small group interaction; and

(b) Visually observing the LABA with clients on a quarterly basis for at least one treatment session. Observation may occur in person or by videoconferencing.

AMENDATORY SECTION (Amending WSR 24-11-103, filed 5/17/24, effective 6/17/24)

**WAC 246-805-330 Certified behavior technician—Continuing supervision.** (1) A CBT shall work under close, ongoing supervision of a clinical supervisor for each client receiving ABA services.

(2) A clinical supervisor:

(a) Shall hold an active license in good standing as an LBA, LABA, or a license issued by this state permitting the individual to practice ABA consistent with RCW 18.380.030(1); and

(b) Is responsible for the conduct of the CBT at all times when working with clients under his or her supervision; and

(c) Not be related to, subordinate to, or employed by the CBT being supervised.

(3) The CBT and the clinical supervisor shall develop a supervision agreement before the CBT begins to provide any behavior analytic tasks. A copy of the supervision agreement must be maintained both by the supervisor and CBT. The supervision agreement must include, but not be limited to:

(a) Duties and responsibilities the CBT will perform;

(b) Type and frequency of supervision, as described in subsection (5) of this section; and

(c) Signature of both the clinical supervisor and CBT.

(4) The clinical supervisor shall review the CBT's progress with the CBT as necessary and document the progress at least every six months.

(5) The clinical supervisor shall:

(a) Meet in person with the CBT to provide guidance in working with new clients;

(b) Conduct at least two face-to-face contacts per month with the CBT. Face-to-face contact may occur in person, on-site or by videoconferencing.

(c) Provide direct supervision and observation for a minimum of five percent of the CBT's hours each month including:

(i) Observing the CBT at least once per month when the CBT is providing ABA services to clients; and

(ii) Observing the CBT with each client on his or her caseload at least once every three months.

**WSR 26-16-025**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
[Filed July 28, 2026, 8:07 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-04-087.

Title of Rule and Other Identifying Information: Updating the osteopathic physician and surgeon fees in WAC 246-853-990.

The department of health (department), in consultation with the board of osteopathic medicine and surgery (board), is proposing amendments to WAC 246-853-990 to remove the Washington osteopathic principals and practices (OP&P) exam and reexam fee, add the Washington physicians health program (WPHP) impaired practitioner surcharge to initial licensure for osteopathic physicians, and to decrease fees to appropriate levels for the program's operating costs and reserve levels.

Hearing Location(s): On September 8, 2026, at 3:00 p.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_YkF5ubj_T8i8-USo9ObqkA. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 15, 2026.

Submit Written Comments to: Heather Cantrell, P.O. Box 47850, Olympia, WA 98504-7850, email HSQAfeerules@doh.wa.gov, web https://fortress.wa.gov/doh/policyreview, beginning the date and time of filing, by September 8, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Heather Cantrell, TTY 711, email HSQAfeerules@doh.wa.gov, by August 25, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: OP&P exam fee: On January 7, 2025, the board adopted amendments to the osteopathic physician examination requirements listed under WAC 246-853-020. The purpose of this rule project was to simplify the examination requirements for out-of-state applicants entering the Washington workforce. As a result, the board removed the OP&P exam as a requirement for licensure. In response to this update, the department is proposing an amendment that removes the OP&P exam and reexam fee from rule.

Impaired practitioner WPHP surcharge: As required by RCW 18.57.015, the board contracts with WPHP to implement and operate an impaired practitioner program. Contracts with WPHP are financed by a surcharge applied to the osteopathic physician license. Currently, WAC 246-853-990 only provides for collection of WPHP surcharge on license renewal. To adequately fund the board's contract with WPHP, the department is proposing an amendment that adds the surcharge to initial licensure as authorized by RCW 18.57.015.

Osteopathic licensing fees: RCW 43.70.250 requires that licensing fees cover regulatory program expenses which necessitates the program to be self-funding. Limited fee adjustments may be made to ensure revenue is adequate to support regulated activities and maintain sufficient reserve levels without generating a surplus.

Reasons Supporting Proposal: RCW 43.70.250 authorizes the department to establish fees associated with the licensing and regulation of professions. The purposes of these amendments are to align the fees with the board's recent rule changes related to the osteopathic state exam requirements; update the licensing fees to adequately fund the program's operating expenses; and establish the impaired practitioner

fee to the initial licensure requirements to adequately fund the board's contract with WPHP.

Statutory Authority for Adoption: RCW 18.57.015, 43.70.110, 43.70.250, and 43.70.280.

Statute Being Implemented: RCW 18.57.015.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Heather Cantrell, 111 Israel Road S.E., Tumwater, WA 98501; Implementation: Becky Cornwall, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4766; and Enforcement: James Chaney, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-2831.

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

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rule is exempt from an analysis under RCW 34.05.328 (5)(b)(vi): Rules that set or adjust fees.

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

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed rule is exempt from an analysis under RCW 34.05.310 (4)(f): Rules that set or adjust fees. The proposed rule impacts individual license holders and not small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

July 27, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

**RDS-7287.1**

AMENDATORY SECTION (Amending WSR 25-07-080, filed 3/17/25, effective 4/17/25)

**WAC 246-853-990 Osteopathic fees and renewal cycle.** (1) Licenses must be renewed every year on the physician's birthday as provided in chapter 246-12 WAC, except postgraduate training limited licenses.

(2) Postgraduate training limited licenses must be renewed every year to correspond to program dates.

(3) The following nonrefundable fees will be charged for osteopathic physicians:

| Title of Fee | Fee |
|---|---|
| Original application | |

| Title of Fee | Fee |
|---|---|
| Endorsement application | ((~~$375.00~~)) $300.00 |
| UW online access fee (HEAL-WA) | 16.00 |
| Substance use disorder monitoring surcharge | 70.00 |
| **Active license renewal** | |
| Renewal | ((~~375.00~~)) 300.00 |
| Late renewal penalty | ((~~190.00~~)) 150.00 |
| Expired license reissuance | ((~~250.00~~)) 150.00 |
| UW online access fee (HEAL-WA) | 16.00 |
| Substance use disorder monitoring surcharge | 70.00 |
| **Inactive license renewal** | |
| Renewal | ((~~310.00~~)) 240.00 |
| Expired license reissuance | ((~~225.00~~)) 120.00 |
| Late renewal penalty | ((~~155.00~~)) 120.00 |
| UW online access fee (HEAL-WA) | 16.00 |
| Substance use disorder monitoring surcharge | 70.00 |
| **Retired active license renewal** | |
| Renewal | ((~~195.00~~)) 120.00 |
| Late renewal penalty | ((~~100.00~~)) 60.00 |
| UW online access fee (HEAL-WA) | 16.00 |
| Substance use disorder monitoring surcharge | 70.00 |
| Expired reissuance | 60.00 |
| ((~~**Endorsement/state exam application**~~ | ~~500.00~~ |
| ~~**Reexam**~~ | ~~100.00~~)) |
| **Verification of license** | 50.00 |
| **Limited license** | |
| Application | ((~~285.00~~)) 210.00 |
| Renewal | 265.00 |
| UW online access fee (HEAL-WA) | 16.00 |
| Substance use disorder monitoring surcharge | 70.00 |
| **Temporary permit application** | 70.00 |
| **Duplicate certificate** | 20.00 |

**WSR 26-16-026A**
**WITHDRAWAL OF PROPOSED RULES**
**DEPARTMENT OF**
**LABOR AND INDUSTRIES**
[Filed July 28, 2026, 11:43 a.m.]

The department of labor and industries (L&I) is withdrawing the CR-102 proposed rule making filed on February 3, 2026, and published under WSR 26-04-112. The comment period for the proposed rule making was from February 4, 2026, to March 10, 2026.

Due to technology resource constraints and uncertainty about our ability to prioritize this work, L&I is not able to make system changes to support the requirements of this rule change. For this reason, we have decided to withdraw the rule making. L&I will revisit implementation and system options, consult with stakeholders, and file a new CR-101 preproposal if/when appropriate.

If you have any questions, contact Caitlin Gates, rules coordinator, at Caitlin.Gates@Lni.wa.gov or 360-902-6744.

Caitlin Gates
Rules Coordinator

**WSR 26-16-031**
**PROPOSED RULES**
**DEPARTMENT OF**
**CHILDREN, YOUTH, AND FAMILIES**
[Filed July 28, 2026, 4:05 p.m.]

Supplemental Notice to WSR 26-11-038.

Preproposal statement of inquiry was filed as WSR 25-09-075.

Title of Rule and Other Identifying Information: Juvenile rehabilitation division (JRD) is amending and repealing the following sections in chapter 110-730 WAC, Security classifications of young people in juvenile rehabilitation. Chapter 110-730 WAC was updated and finalized on July 31, 2027 [2026]. Following the finalization of the WAC, two issues were identified. There was an error in the title of WAC 110-730-0050 and WAC 110-730-0090 was inadvertently not repealed.

Amending WAC 110-730-0050 Secure facility ~~institutional~~ minimum security.

Repealing WAC 110-730-0090 Service provider penalty schedule.

Hearing Location(s): On September 8, 2026, telephonic. Comments can be made by calling 360-972-5385 and leaving a voicemail that includes the comment, emailing the rules coordinator, or submitting comments to the online comment application linked below. All comments must be received by the date and time listed below.

Date of Intended Adoption: September 9, 2026.

Submit Written Comments to: Department of children, youth, and families (DCYF) rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, web https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online, beginning 8:00 a.m. on August 10, 2026, by 11:59 p.m. on September 8, 2026.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, relay 711, by September 1, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: JRD is amending and repealing two WAC sections in this chapter, as errors were identified following the chapter 110-730 WAC revision that was finalized on July 31, 2026. There are no anticipated impacts.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: Chapters 13.40 and 72.05 RCW; and RCW 72.01.410, 72.01.412, and 74.15.210.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Jeff Indermark, 360-669-6353; Implementation and Enforcement: DCYF, statewide.

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

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 28, 2026

Brenda Villarreal
Rules Coordinator

**RDS-7327.1**

AMENDATORY SECTION (Amending WSR 26-14-095, filed 6/30/26, effective 7/31/26)

**WAC 110-730-0050 Secure facility ((~~institutional~~)) minimum security.** (1) The department will:

(a) Assign young people to the secure facility minimum security classification if determined by:

(i) Their intake security classification assessment; or

(ii) Meeting all community facility placement eligibility requirements; and

(b) Not assign young people to the secure facility minimum security classification if they are eligible in (a) of this subsection when they are convicted of a sex offense and:

(i) Meet the requirements for civil commitment referral as outlined in chapter 71.09 RCW; or

(ii) Are classified as a risk level III as outlined in RCW 13.40.217.

(2) Young people assigned to secure facility minimum security:

(a) Must:

(i) Reside in a secure facility with:

(A) Lockable exterior doors or fire exit doors fitted with alarms; and

(B) A security fence or windows that do not allow them to exit without being unlocked by the department; and

(ii) Be reviewed by a multidisciplinary review committee for eligibility and suitability to be transferred to minimum security when there is a community facility placement that is available and appropriate if:

(A) They have served at least 10 percent of their sentence and a minimum 30 calendar days in a secure facility; and

(B) All placement assessment requirements are met; and

(b) May be allowed to participate in:

(i) Work crews or other programs outside the secure facility with department employee escorts; and

(ii) The following activities without department escorts:

(A) Moving in the secure facility; and

(B) Authorized leave as outlined in RCW 13.40.205.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-730-0090 Service provider penalty schedule.

**WSR 26-16-036**
**PROPOSED RULES**
**DEPARTMENT OF**
**CHILDREN, YOUTH, AND FAMILIES**
[Filed July 29, 2026, 9:05 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-12-002.

Title of Rule and Other Identifying Information: Chapter 110-50 WAC, Child welfare; the child welfare division (CWD) is amending and repealing sections in chapter 110-50 WAC:

Amending WAC 110-50-0060 What must a parent do to place the child in foster care with the department?; and repealing WAC 110-50-0070 Under what circumstances may a parent sign a consent for voluntary placement of a child in foster care with the department?, 110-50-0080 How long may a voluntary placement last with the department?, and 110-50-0090 May the department grant an exception to the length of stay in a voluntary placement?

Hearing Location(s): On September 8, 2026, telephonic. Comments can be made by calling 360-972-5385 and leaving a voicemail that includes the comment, emailing the rules coordinator, or submitting comments to the online comment application linked below. All comments must be received by the date and time listed below.

Date of Intended Adoption: September 9, 2026.

Submit Written Comments to: Department of children, youth, and families (DCYF) rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, web https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online, beginning August 10, 2026, at 8:00 a.m., by September 8, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, relay 711, by September 1, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: CWD is amending and repealing the voluntary placement agreements (VPA) in chapter 110-50 WAC. The WAC amendment will decrease the time frames for VPAs from 180 to 90 calendars days to ensure DCYF is meeting the federal IV-E funding requirement. WAC will also be updated to align with current practice, clarify the requirements, reorganize, remove redundancy, and repeal WAC that are no longer needed.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 74.13.031.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Hannah Merley, Olympia, Washington, 253-254-3473; Implementation and Enforcement: DCYF, statewide.

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

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

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).
Scope of exemption for rule proposal:
Is fully exempt.

July 29, 2026
Brenda Villarreal
Rules Coordinator

**RDS-7331.1**

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

**WAC 110-50-0060 ((~~What must a parent do to place the child in foster care with the department?~~)) Voluntary placement agreements.**

((~~A child's parent may sign a Voluntary Placement Agreement (VPA), DSHS 09-004B(X), to voluntarily place a child in foster care. The consent for voluntary placement must agree with child welfare services as described under RCW 74.13.031. The consent becomes valid when signed by a representative of children's administration.~~)) (1) Parents or guardians:

(a) Must request child welfare services when seeking voluntary placement of their children and youth, as outlined in RCW 74.13.031; and

(b) May sign a consent to voluntarily place their children or youth in out-of-home care with the department on a voluntary placement agreement when:

(i) Alternative placement resources including social supports in the family home have been considered and eliminated by the department;

(ii) The department agrees that children or youth need to be placed; and

(iii) They are unable to care for their children or youth.

(2) Parents or guardians and the department must sign consents for voluntary placements to:

(a) Be valid; and

(b) Place children or youth with the department, unless RCW 13.34.245 applies.

(3) The department will follow RCW 13.34.245 if there is reason to know the children or youth being voluntarily placed have tribal affiliation when the requirement in subsection (1) of this section is met.

(4) Voluntary placement agreements cannot exceed 90 calendar days and children or youth must be returned to their parents or guardians at that time, unless the:

(a) Juvenile court determined that:

(i) Returning them is not in their best interest; and

(ii) Continued placement in out-of-home care is in their best interest; or

(b) Department approves an exception.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|---|---|
| WAC 110-50-0070 | Under what circumstances may a parent sign a consent for voluntary placement of a child in foster care with the department? |
| WAC 110-50-0080 | How long may a voluntary placement last with the department? |
| WAC 110-50-0090 | May the department grant an exception to the length of stay in voluntary placement? |

**WSR 26-16-047**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
[Filed July 30, 2026, 10:58 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-20-069.

Title of Rule and Other Identifying Information: Chapter 246-453 WAC, Hospital charity care. The department of health (department) is proposing to add four new sections, make housekeeping changes, and add an expiration date to WAC 246-453-050. Amendments are proposed throughout chapter 246-453 WAC to implement requirements in SSB 6273 (chapter 623, Laws of 2018) and SHB 1616 (chapter 197, Laws of 2022), codified at chapter 70.170 RCW, and to integrate housekeeping changes from other recent legislation and align the rules with current best practices.

Hearing Location(s): On September 8, 2026, at 11:00 a.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_VqxToU1AS9eZz_NwTHvJ-w. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 15, 2026.

Submit Written Comments to: Carrie Baranowski, P.O. Box 47852, Olympia, WA 98504-7852, email charitycare@doh.wa.gov, web https://fortress.wa.gov/doh/policyreview/, beginning the date and time of this filing, by September 8, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Carrie Baranowski, phone 360-236-4210, TTY 711, email charitycare@doh.wa.gov, by August 26, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update and modernize chapter 246-453 WAC to align with legislation that impacted chapter 70.170 RCW, Health data and charity care. The goal of the proposed changes is to establish uniform standards for charity care procedures and processes. To accomplish this, the department is proposing updates to chapter 246-453 WAC including:

- Amendments to the definitions within WAC 246-453-010 to align with changes made by SSB 6273 and SHB 1616, remove terms duplicated in the statute and rule, remove terms no longer used in the chapter, and make housekeeping changes. The proposed updates also remove the definition of "Initial determination of sponsorship status," "Final determination of sponsorship status," and "Publicly available." These definitions were removed and instead incorporated into new sections of rule to describe the minimum standards for each.
- New WAC 246-453-015 specifies the minimum standards regarding a hospital's notification of the availability of charity care.
- New WAC 246-453-019 creates general procedures that apply throughout the entire process of determining charity care eligibility.
- Amendments to WAC 246-453-020 standardize the initial determination of charity care eligibility process and minimum procedures.
- New WAC 246-453-021 provides a new section for existing final determination requirements and standardizes the process for the final determination of charity care eligibility.
- New WAC 246-453-025 provides a new section for existing appeal requirements and further specifies the appeal procedure for all

hospitals to provide an opportunity to submit additional information if denied charity care.

- Amendments to WAC 246-453-030 standardize the procedure for hospitals and charity care applicants to submit and review documentation of income for eligibility purposes.
- Amendments to WAC 246-453-040 incorporate income eligibility ranges, discounts, and asset data collection standards per chapter 70.170 RCW.
- Amendments to WAC 246-453-050 remove most of the section as it is no longer necessary due to SHB 1616, which specified prescriptive discounts for hospitals based on income and family size and removes any reference to a sliding fee schedule. One subsection remains, but it will expire on December 31, 2027. Additionally, the rule title was changed to reflect remaining content.
- Amendments to WAC 246-453-060 directly incorporate changes made by ESSB 5557 (chapter 182, Laws of 2025) and other housekeeping changes.
- Amendments to WAC 246-453-070 state that hospitals must also submit their asset consideration policies and procedures to the department for review if the hospital considers assets, as permitted under chapter 70.170 RCW. Additional changes include removal of specific time frames for submission in favor of a more general submission requirement.
- Amendments to WAC 246-453-080 require hospitals to retain records related to charity care screening and eligibility determination for a period of no less than six years.
- Amendments to WAC 246-453-090 simplify the section related to penalties and action that may be taken by the department due to violations by incorporating and referencing chapter 70.170 RCW.

The proposed changes to chapter 246-453 WAC are anticipated to improve the uniformity of charity care eligibility processes across all 103 of Washington's hospitals and provide patient protections while allowing for flexibility with implementation.

Reasons Supporting Proposal: In 2018 and 2022, legislation passed that amended chapter 70.170 RCW, providing flexibility on when a responsible party can apply for charity care and what income information could be used, new notification requirements, increasing the income thresholds for charity care eligibility, eliminating the sliding fee schedule of discounts, allowing for the consideration of patient or responsible party assets to reduce any discount, and requiring hospitals to identify and assist with eligibility and application to apple health and the Washington health benefit exchange.

Chapter 246-453 WAC was last amended in 1994, and the current rule does not align with changes that have been made to chapter 70.170 RCW in the subsequent years. The proposed rules are needed to ensure chapter 246-453 WAC conforms to chapter 70.170 RCW and provides procedural clarity for hospitals and applicants.

Additionally, RCW 70.170.060 provides the department with broad rule-making authority to establish and maintain uniform procedures, data requirements, criteria for identifying patients receiving charity care, and a definition of bad debt, including uniform standards for collection procedures to be used in efforts to collect unpaid portions of hospital charges. The current chapter of rule does not specify procedures for charity care eligibility determination or data requirements in a clear and uniform manner. This has led to several different interpretations and varying eligibility processes and requirements for

applicants. Beyond aligning with statute, these proposed rules are necessary to set clear minimum standards for notifications, create more uniformity in the processes and procedures for charity care eligibility determination, and establish modern data requirements for both proof of income and for tracking charity care applications and data.

Statutory Authority for Adoption: RCW 70.170.060.

Statute Being Implemented: SSB 6273 (chapter 623, Laws of 2018), codified at chapter 70.170 RCW; SHB 1616 (chapter 197, Laws of 2022), codified at chapter 70.170 RCW; and ESSB 5557 (chapter 182, Laws of 2025), codified in chapter 70.41 RCW and RCW 70.170.060.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Carrie Baranowski, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-4210.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Carrie Baranowski, P.O. Box 47852, Olympia, WA 98504-7852, phone 360-236-4210, TTY 711, email charitycare@doh.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The rule proposal applies only to hospitals, as defined in RCW 70.170.020(3), as any hospital licensed under chapter 70.41 RCW, or as a behavioral health hospital under chapter 71.12 RCW. There are no hospitals or behavioral health hospitals in Washington state that qualify as small businesses as defined under RCW 19.85.020(3).

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

**RDS-6528.8**

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

**WAC 246-453-010 Definitions.** ((~~As used in this chapter, unless the context requires otherwise,~~

~~(1) "Department" means the Washington state department of health created by chapter 43.70 RCW;~~

~~(2) "Hospital" means any health care institution which is required to qualify for a license under RCW 70.41.020(2); or as a psychiatric hospital under chapter 71.12 RCW;~~

~~(3) "Manual" means the *Washington State Department of Health Accounting and Reporting Manual for Hospitals*, adopted under WAC 246-454-020;~~

~~(4) "Indigent persons" means those patients who have exhausted any third-party sources, including medicare and medicaid, and whose income is equal to or below 200% of the federal poverty standards, adjusted for family size or is otherwise not sufficient to enable them to pay for the care or to pay deductibles or coinsurance amounts required by a third-party payor;~~

~~(5) "Charity care" means appropriate hospital-based medical services provided to indigent persons, as defined in this section;~~

~~(6) "Bad debts" means uncollectible amounts, excluding contractual adjustments, arising from failure to pay by patients whose care has not been classified as charity care;~~

~~(7) "Appropriate hospital-based medical services" means those hospital services which are reasonably calculated to diagnose, correct, cure, alleviate, or prevent the worsening of conditions that endanger life, or cause suffering or pain, or result in illness or infirmity, or threaten to cause or aggravate a handicap, or cause physical deformity or malfunction, and there is no other equally effective more conservative or substantially less costly course of treatment available or suitable for the person requesting the service. For purpose of this section, "course of treatment" may include mere observation or, where appropriate, no treatment at all;~~

~~(8) "Medical staff" means physicians, dentists, nurses, and other professional individuals who have admitting privileges to the hospital, and may also participate as members of the medical staff committees, serve as officers of the medical staff, and serve as directors or chiefs of hospital departments;~~

~~(9) "Third-party coverage" and "third-party sponsorship" means an obligation on the part of an insurance company or governmental program which contracts with hospitals and patients to pay for the care of covered patients and services, and may include settlements, judgments, or awards actually received related to the negligent acts of others which have resulted in the medical condition for which the patient has received hospital services;~~

~~(10) "Unusually costly or prolonged treatment" means those services or combinations of services which exceed two standard deviations above the average charge, and/or three standard deviations above the average length of stay, as determined by the department's discharge database;~~

~~(11) "Emergency care or emergency services" means services provided for care related to an emergency medical or mental condition;~~

~~(12) "Emergency department" and "emergency room" means that portion of the hospital facility organized for the purpose of providing emergency care or emergency services;~~

~~(13) "Emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, such that the absence of immediate medical attention could reasonably be expected to result in:~~

~~(a) Placing the health of the individual (or, with respect to a pregnant woman, the health of the woman or her unborn child) in serious jeopardy;~~

~~(b) Serious impairment of bodily functions;~~

~~(c) Serious dysfunction of any bodily organ or part.~~

~~With respect to a pregnant woman who is having contractions the term shall mean:~~

~~(d) That there is inadequate time to effect a safe transfer to another hospital before delivery; or~~

~~(e) That transfer may pose a threat to the health or safety of the woman or the unborn child;~~

~~(14) "Responsible party" means that individual who is responsible for the payment of any hospital charges which are not subject to third-party sponsorship;~~

~~(15) "Limited medical resources" means the nonavailability of services or medical expertise which are required or are expected to be required for the appropriate diagnosis, treatment, or stabilization per federal requirements of an individual's medical or mental situation;~~

~~(16) "Publicly available" means posted or prominently displayed within public areas of the hospital, and provided to the individual in writing and explained, at the time that the hospital requests information from the responsible party with regard to the availability of any third-party coverage, in any language spoken by more than ten percent of the population in the hospital's service area, and interpreted for other non-English speaking or limited-English speaking or other patients who can not read or understand the writing and explanation;~~

~~(17) "Income" means total cash receipts before taxes derived from wages and salaries, welfare payments, Social Security payments, strike benefits, unemployment or disability benefits, child support, alimony, and net earnings from business and investment activities paid to the individual;~~

~~(18) "Family" means a group of two or more persons related by birth, marriage, or adoption who live together; all such related persons are considered as members of one family;~~

~~(19) "Initial determination of sponsorship status" means an indication, pending verification, that the services provided by the hospital may or may not be covered by third party sponsorship, or an indication from the responsible party, pending verification, that he or she may meet the criteria for designation as an indigent person qualifying for charity care; and~~

~~(20) "Final determination of sponsorship status" means the verification of third party coverage or lack of third party coverage, as evidenced by payment received from the third party sponsor or denial of payment by the alleged third party sponsor, and verification of the responsible party's qualification for classification as an indigent person, subsequent to the completion of any appeals to which the responsible party may be entitled and which on their merits have a reasonable chance of achieving third-party sponsorship in full or in part.~~)) The definitions in this section and in RCW 70.170.020 apply throughout this chapter unless the context clearly requires otherwise:

(1) "Bad debts" means uncollectible amounts, excluding contractual adjustments, arising from failure to pay by patients whose care has not been classified as charity care.

(2) "Collection efforts" means any request or demand for any payment, including a deposit, or communication or transmission of account documents or information that is not clearly identified as being intended solely for the purpose of providing information to the responsible party and not for the purpose of requesting or demanding payment.

(3) "Emergency care" means health care services provided to evaluate or treat an emergency medical condition or active labor.

(4) "Emergency department" means that portion of the hospital facility organized for the purpose of providing emergency care.

(5) "Emergency medical condition" means:

(a) A condition of such severity that the absence of immediate medical attention could result in:

(i) Placing the health of an individual or, with respect to a pregnant person, the health of the pregnant person or their embryo or fetus in serious jeopardy;

(ii) Serious impairment to bodily functions; or

(iii) Serious dysfunction of a bodily organ or part;

(b) With respect to a pregnant person who is having contractions:

(i) That there is inadequate time to effect a safe transfer to another hospital before delivery; or

(ii) That transfer may pose a threat to the health or safety of the pregnant person or their embryo or fetus; or

(c) Any of the following conditions: Ectopic pregnancy; emergent complications resulting from pregnancy or of pregnancy loss; previable preterm premature rupture of membranes; emergent placental abnormalities; or emergent hypertensive disorders, such as preeclampsia.

(6) "Family" means an individual and their spouse or registered domestic partner, and any dependent children whether living with the individual or not.

(7) "Income" means total monetary payments received before taxes derived from wages and salaries, net earnings from business activities, temporary assistance for needy families (TANF), unemployment compensation, Social Security, veterans' payments, survivor benefits, pension or retirement income, interest, dividends, rental income, royalties, income from estates, trust distributions, spousal maintenance, and child support paid to the responsible party.

(8) "Medically necessary hospital health care" means those hospital services that a reasonably prudent qualified health care provider would provide to a patient for the purpose of preventing, diagnosing, or treating an illness, injury, disease, or its symptoms in a manner that is in accordance with generally accepted standards of medical practice and clinically appropriate in terms of type, frequency, extent, site, and duration.

(9) "Responsible party" means that individual who is responsible for the payment of any hospital charges that are not subject to third-party coverage.

NEW SECTION

**WAC 246-453-015 Standards for notification of charity care availability.** A hospital shall:

(1) Post and prominently display notice of charity care availability for medically necessary hospital health care in at least all languages spoken by more than 10 percent of the population of the hospital service area within public areas of the hospital, including at least the following:

(a) Areas where patients are admitted or registered;

(b) Emergency departments, if any; and

(c) Financial service or billing areas where accessible to patients;

(2) Using the notice issued by the department, provide notice of charity care availability for medically necessary hospital health care to every responsible party at the time that the hospital requests in-

formation about the availability of any third-party coverage or as soon thereafter as is reasonably possible;

(3) Post to the hospital's website current versions of the hospital's approved charity care policy, a plain language summary of the hospital's charity care policy, and the hospital's charity care application form, of which the summary and application form must be available in at least all languages spoken by more than 10 percent of the population of the hospital service area;

(4) Include on all hospital billing statements and other written communications concerning billing or collection of a hospital bill the following or a substantially similar statement prominently displayed on the first page of the statement in at least both English and the second most spoken language in the hospital's service area:

"You may qualify for free care or a discount on your hospital bill, whether or not you have insurance. Please contact our financial assistance office at [website] and [phone number].";

(5) Comply with hospital obligations under federal and state laws to provide meaningful access for limited-English proficiency and non-English-speaking patients that apply to information regarding billing and charity care. All notices must include instructions on how to request communication and accessibility options and explain that these services are free;

(6) Develop standardized training programs on the hospital's charity care policy and use of interpreter services, and provide regular training for appropriate staff, including the relevant and appropriate staff who perform functions relating to registration, admissions, or billing; and

(7) Comply with all directions issued by the department concerning the provision of any notice required under this section and provide any other notice as directed by the department.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 246-453-019 General procedures for determination of charity care eligibility.** (1) A hospital shall implement the requirements provided in WAC 246-453-020 and 246-453-021 and comply with this section.

(2) A hospital may use data-based software tools or information other than that provided by a responsible party to determine the existence of third-party coverage, to grant charity care for the full amount of the patient responsibility portion of the hospital charges, and for purposes of WAC 246-453-020 (3) and (7)(a).

(3) A hospital, whether directly or through a third party, may initiate collection efforts directed at a responsible party only as permitted in WAC 246-453-020 and 246-453-021 and only if the hospital has complied with the requirements of this chapter and chapter 70.170 RCW.

(4) A hospital may not impose procedures that place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies, language barriers, or other personal circumstances which may hinder the responsible party's capability of complying with hospital policy and procedures. It is an unreasonable burden to require a patient to apply for any state

or federal program where the patient is obviously or categorically ineligible or has been deemed ineligible in the prior 12 months.

(5) Upon the request of a responsible party, a hospital shall provide a reasonable extension of any applicable deadline.

(6) A hospital's charity care procedures must permit a responsible party to make submissions to the hospital by all reasonable means, including by submitting documents and information in hard copy in person and by mail and digitally by email and by a website accessible by smartphone and personal computer.

(7) Upon request, a hospital shall provide responsible parties timely and accurate assistance with applying for charity care, including via telephone and email.

(8) A responsible party is deemed to have made a submission on the date sent.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

**WAC 246-453-020 ((~~Uniform procedures for the identification of indigent persons.~~)) Procedures for initial determination of charity care eligibility.** ((~~For the purpose of identifying those patients that will be classified as indigent persons, all hospitals shall adopt and implement the following procedures:~~

~~(1) The initiation of collection efforts directed at the responsible party shall be precluded pending an initial determination of sponsorship status, provided that the responsible party is cooperative with the hospital's efforts to reach an initial determination of sponsorship status;~~

~~(a) Collection efforts shall include any demand for payment or transmission of account documents or information which is not clearly identified as being intended solely for the purpose of transmitting information to the responsible party;~~

~~(b) The initial determination of sponsorship status shall be completed at the time of admission or as soon as possible following the initiation of services to the patient;~~

~~(c) If the initial determination of sponsorship status indicates that the responsible party may meet the criteria for classification as an indigent person, as described in WAC 246-453-040, collection efforts directed at the responsible party will be precluded pending a final determination of that classification, provided that the responsible party is cooperative with the hospital's reasonable efforts to reach a final determination of sponsorship status;~~

~~(d) During the pendency of the initial determination of sponsorship status and/or the final determination of the applicability of indigent person criteria, hospitals may pursue reimbursement from any third-party coverage that may be identified to the hospital;~~

~~(e) The requirements of this subsection shall not apply to clinics operated by disproportionate share hospitals, as defined and identified by the department of social and health services, medical assistance services, provided that patients are advised of the availability of charity care at the time that services are provided and when presented with a request for payment.~~

~~(2) Notice shall be made publicly available that charges for services provided to those persons meeting the criteria established within WAC 246-453-040 may be waived or reduced.~~

~~(3) Any responsible party who has been initially determined to meet the criteria identified within WAC 246-453-040 shall be provided with at least fourteen calendar days or such time as the person's medical condition may require, or such time as may reasonably be necessary to secure and to present documentation as described within WAC 246-453-030 prior to receiving a final determination of sponsorship status.~~

~~(4) Hospitals must make every reasonable effort to determine the existence or nonexistence of third-party sponsorship that might cover in full or in part the charges for services provided to each patient.~~

~~(5) Hospitals may require potential indigent persons to use an application process attesting to the accuracy of the information provided to the hospital for purposes of determining the person's qualification for charity care sponsorship. Hospitals may not impose application procedures for charity care sponsorship which place an unreasonable burden upon the responsible party, taking into account any physical, mental, intellectual, or sensory deficiencies or language barriers which may hinder the responsible party's capability of complying with the application procedures. The failure of a responsible party to reasonably complete appropriate application procedures shall be sufficient grounds for the hospital to initiate collection efforts directed at the patient.~~

~~(6) Hospitals may not require deposits from those responsible parties meeting the criteria identified within WAC 246-453-040 (1) or (2), as indicated through an initial determination of sponsorship status.~~

~~(7) Hospitals must notify persons applying for charity care sponsorship of their final determination of sponsorship status within fourteen calendar days of receiving information in accordance with WAC 246-453-030; such notification must include a determination of the amount for which the responsible party will be held financially accountable.~~

~~(8) In the event that the hospital denies the responsible party's application for charity care sponsorship, the hospital must notify the responsible party of the denial and the basis for that denial.~~

~~(9) All responsible parties denied charity care sponsorship under WAC 246-453-040 (1) or (2) shall be provided with, and notified of, an appeals procedure that enables them to correct any deficiencies in documentation or request review of the denial and results in review of the determination by the hospital's chief financial officer or equivalent.~~

~~(a) Responsible parties shall be notified that they have thirty calendar days within which to request an appeal of the final determination of sponsorship status. Within the first fourteen days of this period, the hospital may not refer the account at issue to an external collection agency. After the fourteen day period, if no appeal has been filed, the hospital may initiate collection activities.~~

~~(b) If the hospital has initiated collection activities and discovers an appeal has been filed, they shall cease collection efforts until the appeal is finalized.~~

~~(c) In the event that the hospital's final decision upon appeal affirms the previous denial of charity care designation under the criteria described in WAC 246-453-040 (1) or (2), the responsible party and the department of health shall be notified in writing of the decision and the basis for the decision, and the department of health shall be provided with copies of documentation upon which the decision was based.~~

~~(d) The department will review the instances of denials of charity care. In the event of an inappropriate denial of charity care, the department may seek penalties as provided in RCW 70.170.070.~~

~~(10) Hospitals should make every reasonable effort to reach initial and final determinations of charity care designation in a timely manner; however, hospitals shall make those designations at any time upon learning of facts or receiving documentation, as described in WAC 246-453-030, indicating that the responsible party's income is equal to or below two hundred percent of the federal poverty standard as adjusted for family size. The timing of reaching a final determination of charity care status shall have no bearing on the identification of charity care deductions from revenue as distinct from bad debts.~~

~~(11) In the event that a responsible party pays a portion or all of the charges related to appropriate hospital-based medical care services, and is subsequently found to have met the charity care criteria at the time that services were provided, any payments in excess of the amount determined to be appropriate in accordance with WAC 246-453-040 shall be refunded to the patient within thirty days of achieving the charity care designation.~~)) Each hospital shall implement the following requirements for making an initial determination of charity care eligibility, except that a hospital may modify its procedures to be less burdensome for a responsible party:

(1) The hospital shall ask every responsible party what third-party coverage the patient or their guarantor has, if any, and request the minimum information necessary for the hospital to determine the extent of available coverage and seek reimbursement. The hospital may pursue co-payments and third-party coverage reimbursement.

(2) The hospital shall implement procedures for identifying patients who may be eligible for health care coverage through medical assistance programs under chapter 74.09 RCW or the Washington health benefit exchange and actively assisting patients to apply for any available coverage. If a hospital determines that a patient or their guarantor is qualified for retroactive health care coverage through the medical assistance programs under chapter 74.09 RCW, a hospital shall assist the patient or guarantor with applying for such coverage. If a hospital determines that a patient or their guarantor qualifies for retroactive health care coverage through the medical assistance programs under chapter 74.09 RCW, a hospital is not obligated to provide charity care to any patient or their guarantor if the patient or their guarantor fails to make reasonable efforts to cooperate with the hospital's efforts to assist them in applying for such coverage. If the hospital chooses not to provide charity care on this basis, the hospital shall proceed in accordance with subsection (8) of this section. A hospital may not impose application procedures for assistance with retroactive coverage applications which place an unreasonable burden upon the patient or guarantor, taking into account any physical, mental, intellectual, or sensory deficiencies, language barriers, or other personal circumstances which may hinder the responsible party's capability of complying with application procedures. It is an unreasonable burden to require a patient to apply for any state or federal program where the patient is obviously or categorically ineligible or has been deemed ineligible in the prior 12 months.

(3) The hospital shall notify the responsible party if the hospital has reason to believe, based on information in the hospital's possession, that the responsible party may be eligible for charity care.

(4) The hospital shall inform the responsible party that Washington law requires hospitals to provide a discount on medical bills to

people whose family income is under a certain amount as described in the notice of charity care availability provided under WAC 246-453-015(2), and offer the responsible party the opportunity to obtain an initial determination of charity care eligibility. The hospital shall document the date and method by which it provided the foregoing communications and the responsible party's choice whether to obtain an initial determination.

(5) If the responsible party accepts the offer to obtain an initial determination of charity care eligibility, the hospital shall permit the responsible party to choose to provide the following information orally, by selecting from a document, or by completing a form issued by the department or a form with equivalent information:

(a) Whether the responsible party is unhoused or is currently enrolled in a means-tested state or federal public assistance program with an income threshold for eligibility of 200 percent of the federal poverty level, adjusted for family size, or lower. The hospital shall provide the responsible party with clear written guidance on what public assistance programs meet these criteria. The hospital may require the responsible party to provide documentation of current enrollment by a reasonable deadline provided in MM/DD/YYYY format that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 30 days after the hospital sent the request;

(b) Within which income range in RCW 70.170.060(5) the responsible party's estimated annual family income falls. The hospital shall provide the responsible party with clear written guidance on how annual family income is determined under applicable law; and

(c) The responsible party's preferred method of receiving subsequent communications about the charity care eligibility determination process, whether mail, email, or electronic record.

(6) The hospital may require the responsible party to attest to the accuracy of the information provided under subsection (5) of this section. The hospital shall document any information the responsible party provides orally or by selecting from a form under subsection (5) of this section.

(7) In the event that a responsible party:

(a) Declines the offer to obtain an initial determination of charity care eligibility or starts the initial determination process but fails to make reasonable efforts to cooperate with the hospital's efforts to complete the process, the hospital shall make an initial determination of charity care eligibility based on the information in the hospital's possession and proceed in accordance with (b) or (c) of this subsection, or subsection (8) of this section, as applicable.

(b) Is unhoused, enrolled in a means-tested state or federal public assistance program as described in subsection (5)(a) of this section and has provided the hospital any documentation of current enrollment requested by the hospital under that subsection, or is eligible for health care coverage through a medical assistance program under chapter 74.09 RCW that requires a qualifying income at a level that qualifies for charity care in the full amount of the patient responsibility portion of the hospital charges, then the responsible party is initially and finally determined eligible for charity care and the hospital shall grant the responsible party charity care for the full amount of the patient responsibility portion of their hospital charges, provided the patient or their guarantor makes reasonable

efforts to cooperate with the hospital's efforts to assist them in applying for retroactive coverage, when applicable.

(i) The hospital may not require the responsible party to provide additional documentation or information or to complete the final determination process beyond that expressly provided for in this section.

(ii) The hospital shall provide prompt notice of the determination to the responsible party. The notice must include a statement indicating that the responsible party has been granted charity care for the full amount of the patient responsibility portion of their hospital charges, and the dates of past services and prospective services, if any, to which the grant of charity care will be applied.

(iii) If a responsible party fails to submit documentation of current enrollment requested by the hospital under subsection (5)(a) of this section but an alternative ground for qualifying for charity care under this subsection applies, the hospital shall grant charity care in accordance with this subsection. If no such alternative ground applies, the hospital shall make an initial determination of charity care eligibility based on the information provided under subsection (5) of this section and proceed in accordance with (c) of this subsection or subsection (8) of this section, as applicable.

(c) Has an estimated annual family income within an applicable income range specified in RCW 70.170.060(5), the responsible party is initially determined eligible for charity care and the hospital shall promptly provide the following to the responsible party:

(i) Notice that the responsible party has been initially determined eligible for charity care, including the applicable percentage discount;

(ii) A copy of the hospital's charity care application and instructions for completing and submitting the application;

(iii) Any request for documentation, as permitted under WAC 246-453-030;

(iv) The URL for the website where charity care information and materials can be accessed, as required under WAC 246-453-015;

(v) A reasonable deadline provided in MM/DD/YYYY format for the responsible party to submit a charity care application that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 30 days after the hospital sent the notice; and

(vi) The following statement: "You may request an extension of the deadline by emailing or calling our financial assistance office at [email address] or [telephone number]."

(8) If neither subsection (7)(b) nor (c) of this section applies to the responsible party or the patient or their guarantor fails to make reasonable efforts to cooperate with the hospital's efforts to assist the patient or their guarantor in applying for retroactive health care coverage under subsection (2) of this section, the responsible party is initially determined ineligible for charity care. The responsible party may obtain a final determination of charity care eligibility.

(a) The hospital shall promptly provide the following to a responsible party initially determined ineligible:

(i) Notice that the responsible party has been initially determined ineligible for charity care with an explanation of the basis for the determination, including the statement: "Even though you have been initially determined ineligible for charity care, you still have the

right to submit a full application to obtain a final determination of your eligibility for charity care.";

(ii) A copy of the hospital's charity care application and instructions for completing and submitting the application;

(iii) If applicable, information on how the patient or their guarantor can make reasonable efforts to cooperate in applying for retroactive health care coverage, as addressed in subsection (2) of this section;

(iv) Any request for documentation, as permitted under WAC 246-453-030;

(v) The URL for the website where charity care information and materials can be accessed, as required under WAC 246-453-015;

(vi) A reasonable deadline provided in MM/DD/YYYY format for the responsible party to submit a charity care application that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 30 days after the hospital sent the notice; and

(vii) The following statement: "You may request an extension of the deadline by emailing or calling our financial assistance office at [email address] or [telephone number]."

(b) The hospital may initiate collection efforts directed at the responsible party initially determined ineligible 30 days after the hospital sent the required notice. If the responsible party applies for a final determination of eligibility for charity care, the hospital may initiate or continue collection efforts directed at the responsible party while the final determination process is being completed, except that the hospital may not refer the responsible party's account to an external collection agency until collection efforts are permitted to be initiated under WAC 246-453-021(8), subject to WAC 246-453-021(9).

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 246-453-021 Procedures for final determination of charity care eligibility.** Each hospital shall implement the following requirements for making a final determination of charity care eligibility, except that a hospital may modify its process to be less burdensome for a responsible party:

(1) A hospital may require a responsible party who has been initially determined eligible for charity care under WAC 246-453-020 (7)(c) to complete the final determination process. A hospital, in its discretion, may deem an initial determination that a responsible party is eligible for charity care to be a final determination, though the hospital shall permit a responsible party to complete the final determination process if the responsible party so chooses.

(2) A hospital shall permit a responsible party who is initially determined ineligible for charity care under WAC 246-453-020(8) to complete the final determination process if the responsible party so chooses.

(3) A responsible party who was initially determined ineligible for the patient's or guarantor's failure to make reasonable efforts to cooperate with the hospital's efforts to assist the patient or guaran-

tor in applying for retroactive health care coverage under WAC 246-453-020(2) must be provided another opportunity during the final determination process to cooperate, and the hospital shall assist them in applying for retroactive health coverage and make a final determination in accordance with this section.

(4) A hospital may require a responsible party to submit a charity care application, including any requested documentation as permitted under WAC 246-453-030, by a reasonable deadline provided in MM/DD/YYYY format that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 30 days after the hospital sent the notice required under WAC 246-453-020 (7)(c) or (8), as applicable.

(a) A hospital may use the charity care application template issued by the department or an application that is equivalent to the department's template and does not request additional information or documentation beyond what is allowable in this chapter and chapter 70.170 RCW.

(b) The hospital shall assist the responsible party with completing the charity care application as needed.

(c) The hospital may require the responsible party to attest to the accuracy of the information provided.

(5) In making a final determination of charity care eligibility, the hospital shall rely on the information the responsible party provides on the charity care application and in any submitted documentation. The hospital shall determine within which, if any, of the applicable income ranges specified in RCW 70.170.060(5) the responsible party's annual income, adjusted for family size, falls. The hospital shall determine the patient responsibility portion of the hospital charges by applying to the hospital charges the applicable percentage discount under RCW 70.170.060(5) or the hospital's policy, whichever is higher, making, in the hospital's discretion, any permitted reduction to the amount of the discount for amounts reasonably related to assets. If the hospital is permitted to and chooses to consider the responsible party's assets to reduce the discount under RCW 70.170.060(5), the hospital may require the responsible party to submit asset information, as permitted under WAC 246-453-030, by a reasonable deadline provided in MM/DD/YYYY format that takes into account the responsible party's personal circumstances and the difficulty of securing and submitting the documentation requested by the hospital, though under no circumstances may the deadline be less than 30 days after the hospital sent the request.

(6) The hospital shall provide a responsible party notice of the final determination within 30 days of submission of the charity care application and supporting documentation, which must include the information listed in this subsection. If any of the information is not available at the time when notice is required to be provided, the hospital shall provide the responsible party an updated notice within 15 days of when the information becomes available.

(a) A statement indicating whether the responsible party has been granted or denied charity care;

(b) The responsible party's income, as determined by the hospital, presented as a total and broken down into the categories included in the definition of income in WAC 246-453-010;

(c) The composition of the responsible party's family, as determined by the hospital;

(d) The amount of the hospital charges;

(e) The amount of the patient responsibility portion of the hospital charges;

(f) If applicable, the percentage discount applied, the amount of the discount, and the amount of any reduction made to the discount for amounts reasonably related to assets;

(g) The dates of past services and prospective services, if any, to which the discounts will be applied; and

(h) Information about the opportunity to appeal under WAC 246-453-025.

(7) If a responsible party expressly declines to complete the final determination process, fails to meet an applicable deadline, or fails to make reasonable efforts to cooperate with the hospital's efforts to complete the final determination process, the responsible party is finally determined ineligible for charity care. The hospital shall provide the responsible party notice of the final determination, which must include:

(a) A statement that the responsible party has been finally determined ineligible for charity care with an explanation of the basis for the determination; and

(b) Information about the opportunity to appeal under WAC 246-453-025.

(8) Provided, that the hospital has complied with all applicable requirements, the hospital may initiate collection efforts directed at a responsible party who:

(a) Expressly declines to complete the final determination process, fails to meet an applicable deadline, or fails to make reasonable efforts to cooperate with the hospital's efforts to complete the final determination process, 30 days after the hospital sent the required notice;

(b) Is finally determined ineligible for charity care, 30 days after the hospital sent the required notice; or

(c) Is finally determined to be eligible for charity care, but responsible for a portion of the hospital charges, though such collection efforts may be directed only at the patient responsibility portion of the hospital charges and may commence only after 30 days after the date the hospital sent the required notice.

(9) A hospital may not refer the account of any responsible party who is entitled to appeal under WAC 246-453-025 to an external collection agency until the appeal period expires and any submitted appeal is decided.

(10) A hospital shall promptly cease any collection efforts directed at a responsible party who is finally determined eligible for charity care for the full amount of the patient responsibility portion of their hospital charges.

(11) A hospital shall reimburse within 30 days a responsible party who is finally determined eligible for charity care for any funds collected in excess of the patient responsibility portion of their hospital charges.

NEW SECTION

**WAC 246-453-025 Appeal procedures.** (1) Each hospital shall provide every responsible party who receives a final determination of charity care eligibility that includes any amount of patient responsibility, an opportunity to appeal under this section. The appeal proc-

ess must enable the responsible party to correct any deficiencies in documentation and provide for review of the final determination by the hospital's chief financial officer or equivalent or a delegate.

(2) The hospital shall give the responsible party at least 30 days after receiving a notice of final determination to submit an appeal. Upon request of a responsible party, a hospital shall provide a reasonable extension of the appeal deadline. A hospital's appeal procedure must permit a responsible party to make submissions to the hospital by all reasonable means, including by submitting documents and information in hard copy in person and by mail and digitally by email and by a website accessible by smartphone and personal computer.

(3) As required under WAC 246-453-021, a hospital shall provide information about the opportunity to appeal under this section. Such notice must include the following or a substantially similar statement: "If you disagree with the final determination of charity care eligibility, you may appeal by submitting additional documentation to correct deficiencies within your application or request review of the denial. Please submit your request and any additional documentation to our financial assistance office [insert relevant information]."

(4) A hospital shall provide a responsible party notice of its appeal decision within 30 days of submission of the appeal. The notice must include a detailed explanation of the basis for the decision and the information listed in WAC 246-453-021. An appeal may not result in an increase in the patient responsibility portion of the hospital charges.

(5) A hospital shall provide the department a copy of any appeal decision that does not grant the responsible party charity care for the full amount of the patient responsibility portion of their hospital charges and the documentation upon which the decision was based within 30 days of submission of the appeal.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

**WAC 246-453-030 Data requirements for the identification of indigent persons.** ((~~(1) For the purpose of reaching an initial determination of sponsorship status, hospitals shall rely upon information provided orally by the responsible party. The hospital may require the responsible party to sign a statement attesting to the accuracy of the information provided to the hospital for purposes of the initial determination of sponsorship status.~~

~~(2) Any one of the following documents shall be considered sufficient evidence upon which to base the final determination of charity care sponsorship status, when the income information is annualized as may be appropriate:~~

~~(a) A "W-2" withholding statement;~~

~~(b) Pay stubs;~~

~~(c) An income tax return from the most recently filed calendar year;~~

~~(d) Forms approving or denying eligibility for medicaid and/or state-funded medical assistance;~~

~~(e) Forms approving or denying unemployment compensation; or~~

~~(f) Written statements from employers or welfare agencies.~~

~~(3) In the event that the responsible party's identification as an indigent person is obvious to hospital personnel, and the hospital personnel are able to establish the position of the income level within the broad criteria described in WAC 246-453-040 or within income ranges included in the hospital's sliding fee schedule, the hospital is not obligated to establish the exact income level or to request the aforementioned documentation from the responsible party, unless the responsible party requests further review.~~

~~(4) In the event that the responsible party is not able to provide any of the documentation described above, the hospital shall rely upon written and signed statements from the responsible party for making a final determination of eligibility for classification as an indigent person.~~

~~(5) Information requests, from the hospital to the responsible party, for the verification of income and family size shall be limited to that which is reasonably necessary and readily available to substantiate the responsible party's qualification for charity sponsorship, and may not be used to discourage applications for such sponsorship. Only those facts relevant to eligibility may be verified, and duplicate forms of verification shall not be demanded.~~)) (1) A hospital shall base charity care eligibility determinations made under this chapter on the responsible party's annual family income as follows:

(a) If the charity care application is made within two years of the time of service and the responsible party has been making good faith efforts towards payment of health care services provided, which include the responsible party making reasonable efforts to reach an agreement with the hospital regarding payment and to make payments in accordance with such agreement, the hospital shall use the responsible party's income as of the time of application; or

(b) If subsection (a) of this section does not apply, the hospital shall use the responsible party's income as of the time the health care services were provided. The hospital, in its discretion, may use the responsible party's income as of the time of application, if lower.

(2) A hospital may consider only the categories of income included in the definition of income in WAC 246-453-010 and request documentation of income only as permitted in this chapter and chapter 70.170 RCW. A hospital may consider and request documentation of assets only as permitted in this chapter and chapter 70.170 RCW.

(3) A hospital may request only such documentation as is reasonably necessary to establish with reasonable accuracy the responsible party's income and assets at the applicable time under subsection (1) of this section. A hospital shall not make requests that place an unreasonable burden on the responsible party or discourage requests for charity care, and a hospital shall not request documentation that is not readily available, is unlikely to show the responsible party's income or assets at the applicable time under subsection (1) of this section, is irrelevant, or is duplicative. A hospital shall not request the responsible party's Social Security number for purposes of making charity care determinations.

(4) A hospital shall accept a representation from a responsible party that they do not have income in a category listed in WAC 246-453-010 or assets in a category about which the hospital has requested information. A hospital shall accept any reasonably reliable form of documentation provided by a responsible party even if different from the form of documentation requested by the hospital. A hospital shall accept a representation from a responsible party that they

do not have certain requested documentation and rely on the responsible party's representation as to the amount of such income or value of such asset.

(5) If a responsible party chooses to submit documentation that the hospital did not request, the hospital shall give due regard to such documentation in determining the responsible party's income and assets. The hospital shall provide the responsible party the opportunity to submit explanatory information about the responsible party's income and assets including, but not limited to, information about any recent changes that would make any requested documentation an inaccurate source of information, and the hospital shall give due regard to such information in determining the responsible party's income.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

**WAC 246-453-040 Uniform criteria for the identification of indigent persons.** For the purpose of identifying indigent persons, all hospitals shall use the following criteria:

(1) ((~~All responsible parties with family income equal to or below one hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for charity sponsorship for the full amount of hospital charges related to appropriate hospital-based medical services that are not covered by private or public third-party sponsorship;~~

~~(2) All responsible parties with family income between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall be determined to be indigent persons qualifying for discounts from charges related to appropriate hospital-based medical services in accordance with the hospital's sliding fee schedule and policies regarding individual financial circumstances;~~

~~(3) Hospitals may classify any individual responsible party whose income exceeds two hundred percent of the federal poverty standard, adjusted for family size, as an indigent person eligible for a discount from charges based upon that responsible party's individual financial circumstances.~~)) At a minimum, a hospital owned or operated by a health system that owns or operates three or more acute hospitals licensed under chapter 70.41 RCW, an acute care hospital with over 300 licensed beds located in the most populous county in Washington, or an acute care hospital with over 200 licensed beds located in a county with at least 450,000 residents and located on Washington's southern border shall grant charity care per the following guidelines:

(a) All patients and their guarantors whose income is not more than 300 percent of the federal poverty level, adjusted for family size, shall be deemed charity care patients for the full amount of the patient responsibility portion of their hospital charges;

(b) All patients and their guarantors whose income is between 301 and 350 percent of the federal poverty level, adjusted for family size, shall be entitled to a 75 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to subsection (3) of this section;

(c) All patients and their guarantors whose income is between 351 and 400 percent of the federal poverty level, adjusted for family size, shall be entitled to a 50 percent discount for the full amount

of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to subsection (3) of this section.

(2) At a minimum, a hospital not subject to subsection (1) of this section shall grant charity care per the following guidelines:

(a) All patients and their guarantors whose income is not more than 200 percent of the federal poverty level, adjusted for family size, shall be deemed charity care patients for the full amount of the patient responsibility portion of their hospital charges;

(b) All patients and their guarantors whose income is between 201 and 250 percent of the federal poverty level, adjusted for family size, shall be entitled to a 75 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to subsection (3) of this section; and

(c) All patients and their guarantors whose income is between 251 and 300 percent of the federal poverty level, adjusted for family size, shall be entitled to a 50 percent discount for the full amount of the patient responsibility portion of their hospital charges, which may be reduced by amounts reasonably related to assets considered pursuant to subsection (3) of this section.

(3)(a) If a hospital considers the existence, availability, and value of assets in order to reduce the discount extended, it must establish and make publicly available, as described in WAC 246-453-015, a policy on asset considerations and corresponding discount reductions.

(b) If a hospital considers assets, the following types of assets shall be excluded from consideration:

(i) The first $5,000 of monetary assets for an individual or $8,000 of monetary assets for a family of two, and $1,500 of monetary assets for each additional family member. The value of any asset that has a penalty for early withdrawal shall be the value of the asset after the penalty has been paid;

(ii) Any equity in a primary residence;

(iii) Retirement plans other than 401(k) plans;

(iv) One motor vehicle and a second motor vehicle if it is necessary for employment or medical purposes;

(v) Any prepaid burial contract or burial plot; and

(vi) Any life insurance policy with a face value of $10,000 or less.

(c) In considering assets, a hospital may not impose procedures which place an unreasonable burden on the responsible party. Information requests from the hospital to the responsible party for the verification of assets shall be limited to that which is reasonably necessary and readily available to substantiate the responsible party's qualification for charity sponsorship and may not be used to discourage application for such sponsorship. Only those facts relevant to eligibility may be verified and duplicate forms of verification may not be demanded.

(i) In considering monetary assets, one current account statement shall be considered sufficient for a hospital to verify a patient's assets.

(ii) In the event that no documentation for an asset is available, a hospital shall rely upon a written and signed statement from the responsible party.

(d) Asset information obtained by the hospital in evaluating a patient for charity care eligibility shall not be used for collection activities.

(e) Nothing in this section prevents a hospital from considering assets as required by the Centers for Medicare and Medicaid Services related to medicare cost reporting.

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

**WAC 246-453-050 ((~~Guidelines for the development of sliding fee schedules.~~)) Charges for professional medical staff services.** ((~~All hospitals shall, within ninety days of the adoption of these rules, implement a sliding fee schedule for determination of discounts from billed charges for responsible parties meeting the criteria in WAC 246-453-040(2). These sliding fee schedules must be made available upon request.~~

~~(1) In developing these sliding fee schedules, hospitals shall consider the following guidelines:~~

~~(a) The sliding fee schedule shall consider the level of charges that are not covered by any public or private sponsorship in relation to or as a percentage of the responsible party's family income;~~

~~(b) The sliding fee schedule shall determine the maximum amount of charges for which the responsible party will be expected to provide payment, with flexibility for hospital management to hold the responsible party accountable for a lesser amount after taking into account the specific financial situation of the responsible party;~~

~~(c) The sliding fee schedule shall take into account the potential necessity for allowing the responsible party to satisfy the maximum amount of charges for which the responsible party will be expected to provide payment over a reasonable period of time, without interest or late fees; and~~

~~(d) Hospital policies and procedures regarding the sliding fee schedule shall specify the individual financial circumstances which may be considered by appropriate hospital personnel for purposes of adjusting the amount resulting from the application of the sliding fee schedule, such as:~~

~~(i) Extraordinary nondiscretionary expenses relative to the amount of the responsible party's medical care expenses;~~

~~(ii) The existence and availability of family assets, which may only be considered with regard to the applicability of the sliding fee schedule;~~

~~(iii) The responsible party's future income earning capacity, especially where his or her ability to work in the future may be limited as a result of illness; and~~

~~(iv) The responsible party's ability to make payments over an extended period of time.~~

~~(2) Examples of sliding fee schedules which address the guidelines in the previous subsection are:~~

~~(a) A person whose annual family income is between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall have his/her hospital charges that are not covered by public or private sponsorship limited to forty percent of the excess of that person's annual family income over one hundred percent of the federal poverty standard, adjusted for family size. This re-~~

~~sponsibility may be adjusted by appropriate hospital personnel after taking into consideration the individual financial circumstances of the responsible party. The responsible party's financial obligation which remains after the application of this sliding fee schedule may be payable in monthly installments over a reasonable period of time, without interest or late fees, as negotiated between the hospital and the responsible party.~~

~~(b) A person whose family income is between one hundred one and two hundred percent of the federal poverty standard, adjusted for family size, shall have his/her hospital charges that are not covered by public or private sponsorship reduced according to the schedule below. The resulting responsibility may be adjusted by appropriate hospital personnel after taking into consideration the individual financial circumstances of the responsible party. The responsible party's financial obligation which remains after the application of this sliding fee schedule may be payable in monthly installments over a reasonable period of time, without interest or late fees, as negotiated between the hospital and the responsible party. The schedule is as follows:~~

| ~~INCOME AS A PERCENTAGE OF FEDERAL POVERTY LEVEL~~ | ~~PERCENTAGE DISCOUNT~~ |
|---|---|
| ~~One hundred one to one hundred thirty-three~~ | ~~Seventy-five percent~~ |
| ~~One hundred thirty-four to one hundred sixty-six~~ | ~~Fifty percent~~ |
| ~~One hundred sixty-seven to two hundred~~ | ~~Twenty-five percent~~ |

~~(3)~~)) (1) The provisions of ((~~this section and~~)) RCW 70.170.060(5) shall not apply to the professional services of the hospital's medical staff, provided that the charges for such services are either submitted by the individual medical staff or are separately identified within the hospital's billing system.

(2) This section expires December 31, 2027.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

**WAC 246-453-060 Denial of access to emergency care based upon ability to pay and transfer of patients with emergency medical conditions or active labor.** (1) No hospital or its medical staff shall adopt or maintain admission practices or policies which result in:

(a) A significant reduction in the proportion of patients who have no third-party coverage and who are unable to pay for hospital services;

(b) A significant reduction in the proportion of individuals admitted for inpatient hospital services for which payment is, or is likely to be, less than the anticipated charges for or costs of such services; or

(c) The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital.

(2) No hospital shall adopt or maintain practices or policies which would deny access to emergency care based on ability to pay. No hospital which maintains an emergency department shall transfer a pa-

tient with an emergency medical condition or who is in active labor unless the transfer is performed at the request of the patient or is due to the limited medical resources of the transferring hospital. Hospitals must make transfers to other hospitals in such circumstances and as promptly as dictated by the standard of care and follow reasonable procedures in making transfers to other hospitals including confirmation of acceptance of the transfer by the receiving hospital.

(3) The department shall monitor hospital compliance with subsections (1) and (2) of this section. The department shall report ((~~to the legislature and the governor on hospital compliance with these requirements and shall report~~)) individual instances of possible noncompliance to the state attorney general or the appropriate federal agency((~~. For purposes of monitoring compliance with subsection (2) of this section, the department is to follow all definitions and requirements of federal law~~)).

(4) Except as required by federal law and subsection (2) of this section, nothing in this section shall be interpreted to indicate that hospitals and their medical staff are required to provide ((~~appropriate hospital-based medical services~~)) medically necessary hospital health care, including experimental services, to any individual.

(5) For the purpose of this section:

(a) "Active labor" means a stage of labor during which a person is having contractions and:

(i) There is inadequate time to effect a safe transfer to another hospital before delivery; or

(ii) Transfer may pose a threat to the health or safety of the pregnant person or their embryo or fetus.

(b) "Limited medical resources" means the nonavailability of services or medical expertise which are required or are expected to be required for the appropriate diagnosis, treatment, or stabilization per federal requirements of an individual's medical or mental situation;

(c) "Medical staff" means health care providers delivering or overseeing the delivery of health care services in a hospital.

(d) "Unusually costly or prolonged treatment" means those services or combinations of services the cost of which is two standard deviations or more above the average charge or the duration of which is three standard deviations or more above the average length of stay, as determined by the department's discharge database.

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

**WAC 246-453-070 Standards for acceptability of hospital policies for charity care and bad debts.** (1) Each hospital shall develop((~~,~~)) and submit to the department((~~,~~)) prior to implementation by the hospital charity care policies((~~,~~)) and procedures((~~, and sliding fee schedules~~)) consistent with the requirements ((~~included in WAC 246-453-020, 246-453-030, 246-453-040, and 246-453-050~~)) of chapter 70.170 RCW and this chapter. Any subsequent modifications to ((~~those~~)) policies((~~,~~)) or procedures((~~, and sliding fee schedules~~)) must be submitted to the department ((~~no later than thirty days prior to their adoption~~)) prior to implementation by the hospital.

(2) Each hospital shall develop((~~,~~)) and submit to the department((~~,~~)) prior to implementation by the hospital bad debt policies

and procedures, including reasonable and uniform standards for collection of the unpaid portions of hospital charges that are the patient's responsibility. These standards are to be part of each hospital's system of accounts receivable management manuals, which support hospital collection policies. Manuals ((~~should~~)) must cover procedures for preadmission, admission, discharge, outpatient registration and discharge, billing, and credit and collections. All subsequent modifications to these bad debt policies must be submitted to the department ((~~no later than thirty days prior to their adoption~~)) prior to implementation by the hospital.

(3) Each hospital that considers the existence, availability, and value of assets in order to lower the charity care discount, as permitted under chapter 70.170 RCW and this chapter, shall develop and submit to the department prior to implementation by the hospital, asset consideration policies and procedures consistent with the requirements of chapter 70.170 RCW and this chapter. Any subsequent modifications to those policies and procedures must be submitted to the department prior to implementation by the hospital.

(4) The department shall review the ((~~charity care and bad debt~~)) submitted policies and procedures ((~~submitted in accordance with the provisions of this section~~)). If any of the policies and procedures ((~~do~~)) does not meet the requirements of ((~~this section or WAC 246-453-020, 246-453-030, 246-453-040, or 246-453-050~~)) chapter 70.170 RCW or this chapter, the department shall reject the policies and procedures and ((~~shall so~~)) notify the hospital. Such notification ((~~shall~~)) must be in writing, addressed to the hospital's chief executive officer or equivalent, and ((~~shall~~)) must specify the reason(s) that the policies and procedures have been rejected. ((~~Any such notification must be mailed within fourteen calendar days of the receipt of the hospital's policies and procedures. Within fourteen days of the date of the rejection notification,~~)) The hospital shall revise and resubmit the policies and procedures for review by the department. The hospital shall comply with any deadline for submitting, revising, or implementing a policy or procedure that the department may impose.

AMENDATORY SECTION (Amending WSR 91-05-048, filed 2/14/91, effective 3/17/91)

**WAC 246-453-080 Reporting requirements.** Each hospital shall:

(1) Compile and report data to the department with regard to the amount of charity care provided, in accordance with instructions issued by the department;

(2) Retain records related to charity care screening and eligibility determinations for a period of no less than six years from the date received; and

(3) Provide records or information related to charity care to the department as directed.

AMENDATORY SECTION (Amending WSR 94-12-089, filed 6/1/94, effective 7/2/94)

**WAC 246-453-090 Penalties for violation.** ((~~(1) Failure to file the policies, procedures, and sliding fee schedules as required by WAC~~

~~246-453-070 or the reports required by WAC 246-453-080 shall constitute a violation of RCW 70.170.060, and the department will levy a civil penalty of one thousand dollars per day for each day following official notice of the violation. The department may grant extensions of time to file the reports, in which cases failure to file the reports shall not constitute a violation until the extension period has expired.~~

~~(2) Failure to comply with other provisions of chapter 70.170 RCW, and chapter 246-453 WAC, shall result in civil penalties as provided within RCW 70.170.070(2), with the exception that the terms "not exceeding" and "not to exceed" will be read to mean "of."~~)) The department may take action under RCW 70.170.070 in response to a violation of this chapter or chapter 70.170 RCW. Chapter 246-10 WAC governs any proceedings initiated under this section.

**WSR 26-16-050**
**PROPOSED RULES**
**DEPARTMENT OF**
**FISH AND WILDLIFE**
[Order 26-10—Filed July 30, 2026, 4:53 p.m.]

Continuance of WSR 26-15-116 on July 21, 2026. The continuance is being filed with the code reviser's office to change the rule hearing date to August 17 from August 6. The department of fish and wildlife (department) needs additional time in its review of the proposed rules.

Preproposal statement of inquiry was filed as WSR 26-09-143 on April 22, 2026.

Title of Rule and Other Identifying Information: Hunting rules improvement project for chapters 220-400, 220-412, 220-413, 220-414, 220-415, and 220-417 WAC.

Hearing Location(s): On Thursday, August 17, 2026, at 2:30-4:30 p.m., via virtual director hearing by Zoom at https://us06web.zoom.us/webinar/register/WN_M3i9XmnxS4-rjv0wJht7bQ. To register to verbally comment at the public hearing, sign up at https://engage.wdfw.wa.gov/l76183 on or before August 14, by 1:00 p.m.

Date of Intended Adoption: On or after August 23, 2026.

Submit Written Comments to: Rules Coordinator, P.O. Box 43200, Olympia, WA 98504, email 2026huntingimprovementcr102@publicinput.com, fax 360-902-2162, web https://engage.wdfw.wa.gov/2026huntingimprovementcr102, phone 855-925-2801, project code 5821, beginning June 17, 2026, at 12:00 p.m., by August 17, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email Title6@dfw.wa.gov, web http://wdfw.wa.gov/accessibility/requests-accommodation, by August 10, 2026, at 11:59 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is seeking to update hunting rules to improve their enforceability and to ensure that they are better understood by the public.

Reasons Supporting Proposal: The department is seeking certain amendments to rules to improve their enforceability. By implementing these rule changes, the department will improve the clarity and understanding of these regulations to gain greater public compliance with the hunting laws. Improved compliance will ultimately yield better outcomes for preserving wildlife resources and improved public safety.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, and 77.12.047.

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

Name of Proponent: Department of fish and wildlife, governmental.

Name of Agency Personnel Responsible for Drafting: Thomas Knoll Jr., 1111 Washington Street S.E., Olympia, WA 98501, 360-951-3088; Implementation and Enforcement: Chief Mike Jewell, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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

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

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2026
Scott Bird
Rules Coordinator

**WSR 26-16-057**
**PROPOSED RULES**
**PUGET SOUND**
**CLEAN AIR AGENCY**
[Filed July 31, 2026, 2:41 p.m.]

Original Notice.

Proposal is exempt from the preproposal statement of inquiry under RCW 70A.15.2040.

Title of Rule and Other Identifying Information: Amend Puget Sound Clean Air Agency (PSCAA) Regulation I, Section 6.03, pertaining to exemptions from notice of construction permitting for new or modified sources of air pollution.

Section 6.03(b) Notifications:

Section 6.03 (b)(3) is amended to remove the permitting exemption for relocation of portable asphalt plants.

Section 6.03 (b)(6) is amended to remove the permitting exemption for wastewater evaporators.

Section 6.03 (b)(11) is amended to change the permitting exemption threshold for coffee roasters from 10 pounds per batch to 5 kilograms (kg) per batch.

Section 6.03(c) Exemptions:

Section 6.03 (c)(19)(A) is amended to clarify that thermal cutting of stainless steel installed on or before November 1, 2013, is exempt from permitting.

Section 6.03 (c)(21) is amended to add citric acid, carbonic acid, and methanesulfonic acid to the list of exempt acids and to add potassium hydroxide to the list of exempt oxidizing agents.

Section 6.03 (c)(29) is amended to add an exemption from permitting for filament-based three-dimensional printing, for resin-based three-dimensional printing where resin usage is less than 7,500 kg per year, and for laser sintering of nylon or plastic powders where powder usage is less than 7,500 kg per year, along with associated post-processing breakout.

Section 6.03 (c)(39) is amended to add an exemption for direct laser marking, etching, or engraving equipment controlled by high-efficiency particulate air (HEPA) filtration.

Section 6.03 (c)(51)(B) is amended to add air-cooled condensers to the types of condensers allowed in an exempt closed-loop solvent recovery system.

Section 6.03 (c)(53) is amended to clarify the various subsections are joined by the conjunction "or."

Section 6.03 (c)(78)(B) is amended to add asphalt storage and transfer terminals to the list of facility types at which storage of asphalt is not exempt from permitting.

Section 6.03 (c)(102) is amended to clarify the exemption for small bakery ovens for yeasted bread products.

Section 6.03 (c)(106) is amended to add cannabis to the list of materials for which grinding, blending, packaging, or storing is exempt from permitting, and to remove an inadvertent duplicated inclusion of spices in this list.

Section 6.03 (c)(108) is amended to add a permitting exemption for fermentation tanks for the production of distilled beverages, and for storage or aging of distilled alcoholic beverages if no more than 75,000 gallons of distilled alcoholic beverages are stored or aged in wood barrels.

Section 6.03 (c)(109) is amended to add a permitting exemption for the storage of wine if no more than 360,000 gallons of wine is stored or aged in wood barrels.

Section 6.03 (c)(132) is amended to clarify that the permitting exemption for nonproduction bench-scale research equipment is intended to apply to testing on a small spatial scale, such as on a laboratory bench or laboratory worktable or inside a laboratory hood.

Hearing Location(s): On September 24, 2026, at 8:45 a.m., via Zoom at https://us02web.zoom.us/j/87677729331, Webinar ID 876 7772 9331; or Call in 833-548-0282 US toll free; or in person at PSCAA, 1904 3rd Avenue, Suite 105, Seattle, WA.

Date of Intended Adoption: October 22, 2026.

Submit Written Comments to: John Dawson, PSCAA, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, email RegUpdates@pscleanair.gov, fax 206-343-7522, beginning August 17, 2026, 8:00 a.m., by September 25, 2026, 4:30 p.m.

Assistance for Persons with Disabilities: Contact agency receptionist, phone 206-343-8800, fax 206-343-7522, email RegUpdates@pscleanair.gov, by September 21, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amend PSCAA Regulation I, Section 6.03, pertaining to exemptions from notice of construction permitting for new or modified sources of air pollution. These updates adjust the exemptions from permitting, based on new technologies and new source categories and on questions and feedback received from businesses and from the public.

New or modified stationary sources of air pollution within the four-county PSCAA jurisdiction are required to go through the notice of construction permitting process, unless they fall under one of exemptions from permitting in PSCAA's regulations. These categorical exemptions from permitting are intended to minimize the regulatory burden on source categories that PSCAA has determined have minimal impact on air quality and to focus PSCAA resources on source categories with more impact on air quality.

PSCAA's Regulation I, Section 6.03 includes approximately 149 items in its list of notice of construction permitting. PSCAA is proposing adjustment of 15 of these items in the exemptions list.

Reasons Supporting Proposal: These exemptions from permitting are intended to minimize the regulatory burden on source categories that PSCAA has determined have minimal impact on air quality and to focus PSCAA resources on source categories with more impact on air quality. PSCAA's reasoning behind each change is described as follows.

Section 6.03(b) Notifications:

Section 6.03 (b)(3) is amended to remove the permitting exemption for relocation of portable asphalt plants. While in some areas of the country portable asphalt plants frequently relocate with large paving jobs, this appears to not be the case within PSCAA's four-county jurisdiction. In practice, asphalt plants that may be designed to be portable tend to stay in one location for many years. As a result, the major assumption behind allowing "portable" asphalt batch plants to relocate without new source review and permitting is not reasonably applicable within PSCAA's four-county jurisdiction. Additionally, asphalt plants are frequently cited by the public in complaints regarding odors. As a result, PSCAA has determined that including asphalt plants in this permitting exemption for portable sources is no longer

appropriate, and any impacts and regulatory requirements associated with a relocation should be addressed through full permitting review.

Section 6.03 (b)(6) is amended to remove the permitting exemption for wastewater evaporators. The current exemption for wastewater evaporators for which the owner is able to obtain a letter from the local sewer district documenting that the water would otherwise meet all discharge limits has in practice become very difficult to use. In practice, local sewer districts do not generally issue such letters. The presence of this exemption has essentially led to a false expectation that an evaporator might not need to go through permitting when, in fact, the required letter from the sewer district has become nearly impossible to obtain. As such, PSCAA proposes removing this exemption, which would result in all new or modified wastewater evaporators needing to go through the notice of construction permitting process.

Section 6.03 (b)(11) is amended to change the permitting exemption threshold for coffee roasters from 10 pounds per batch to 5 kg per batch. Most coffee roaster manufacturers size their roasters in kilograms, rather than pounds, since they are generally global, often European, businesses. PSCAA has decided to use these more common units in this exemption. Five kilograms is equal to 11 pounds, which would constitute a trivial increase in the size of roaster that can use this exemption.

Section 6.03(c) Exemptions:

Section 6.03 (c)(19)(A) is amended to clarify that thermal cutting of stainless steel installed on or before November 1, 2013, is exempt from permitting. This is a simple clarification of an existing exemption, rather than an actual change in the exemption criteria.

Section 6.03 (c)(21) is amended to add citric acid, carbonic acid, and methanesulfonic acid to the list of exempt acids. This exemption is related to surface preparation of metals, which often relies on the use of acids. The exemption aims to exclude certain lower-emitting and/or low-toxicity acids from requiring permitting. In recent years, PSCAA has issued case-by-case exemptions for acids that fit these criteria, but were not listed in this exemption. PSCAA has determined that these additional acids are appropriate to add to this exemption, because the use of these acids would have a minimal impact on air quality, consistent with the acids that are already included in this exemption. Additionally, while the use of potassium hydroxide is already covered under "alkaline oxidizing agents," PSCAA is adding it explicitly to the list of exempt materials for the sake of clarity.

Section 6.03 (c)(29) is amended to add an exemption from permitting for filament-based three-dimensional printing, for resin-based three-dimensional printing where resin usage is less than 7,500 kg per year, and laser sintering of nylon or plastic powders where powder usage is less than 7,500 kg per year, along with associated post-processing breakout. Three-dimensional printing is not addressed in PSCAA's permitting exemptions, which would imply that 3D printing is not currently exempt from permitting. However, PSCAA is unaware of any submitted applications for a permit from a 3D printer operator. The existing exemption for extrusion equipment could potentially be interpreted to include filament 3D printing, since this is essentially an extrusion process, in which plastic filament is melted and essentially squeezed through a nozzle to form the desired shape. Filament 3D printing is associated with emissions of small particles in the immediate vicinity of the printer, but has minimal associated volatile organic compound (VOC) emissions.

For resin-based 3D printing, there are often organic liquids involved that can result in emissions of VOCs and toxic air pollutants. Using the common example of a resin that contains styrene, and using the department of ecology's de minimis emissions rate for styrene of 3.2 pounds per day, along with the assumption that five percent of resin is volatilized off as styrene emissions, we calculate the following:

(3.2 lb styrene per day) × (260 workdays per year)/(0.05 lb styrene/lb resin) = 16,640 lb resin per year.

Resin is generally sold by the kilogram, so this is converted to 7,500 kg resin per year.

The styrene/VOC emissions factor is likely much lower than the five percent assumed for this analysis.

Similar logic was extended to the use of laser sintering of plastic powders. If a one percent emission rate is assumed, the use of 7,500 kg of powder yields approximately 165 lb/yr of VOC, which is a very small emission rate.

Small users such as individuals, schools, and makerspaces would be expected to remain well below this threshold. PSCAA believes that only large industrial users would potentially cross this resin threshold, in which case those 3D printing operations would be subject to regular notice of construction permitting.

Section 6.03 (c)(39) is amended to add an exemption for direct laser marking, etching, or engraving equipment controlled by HEPA filtration. Laser marking, etching, and engraving entail a superficial contact with the surface to be marked. This is in contrast to full laser cutting, which penetrates through the entire substance to be cut. As such, the emissions associated with marking, etching, and engraving are smaller than those associated with cutting. The best available control technology determinations for emissions associated with laser marking, etching, or engraving have generally included the use of HEPA filtration. This new exemption would only apply if HEPA filtration is used. Otherwise, the operation would be subject to full notice of construction permitting.

Section 6.03 (c)(51)(B) is amended to add air-cooled condensers to the types of condensers allowed in an exempt closed-loop solvent recovery system. This exemption is for closed-loop solvent recovery with condensers. Air-cooled condensers provide an option for condensing solvent vapors, thus preventing emissions.

Section 6.03 (c)(53) is amended to clarify the various subsections are joined by the conjunction "or." This is a simple clarification of an existing exemption, rather than an actual change in the exemption criteria.

Section 6.03 (c)(78)(B) is amended to add asphalt storage and transfer terminals to the list of facility types at which storage of asphalt is not exempt from permitting. In this exemption, asphalt tanks at sources other than the listed sources are exempt from permitting. This is meant to keep small tanks from requiring permits. One larger source that was not included in this list was asphalt storage and transfer terminals, which can have many tanks and can be a significant source of VOCs and odors. By adding this source type to this list, new or modified asphalt tanks at asphalt storage and transfer terminals would no longer be exempt from permitting and would go through normal notice of construction permitting. (Note that PSCAA is aware of just one such facility within its jurisdiction.)

Section 6.03 (c)(102) is amended to clarify the exemption for small bakery ovens for yeasted bread products. This is a simple clarification of an existing exemption, rather than an actual change in the exemption criteria.

Section 6.03 (c)(106) is amended to add cannabis to the list of materials for which grinding, blending, packaging, or storing is exempt from permitting, and to remove an inadvertent duplicated inclusion of spices in this list. PSCAA has recently become aware of a handful of businesses that simply repackage cannabis from larger containers to smaller ones. This type of activity alone does not cause air emissions that would require notice of construction review. This type of business is very similar to the other types listed in this exemption. Additionally, the storage of cannabis at, for example, a retail store is not an operation PSCAA has subject to permitting, and yet there is not currently a permitting exemption under which these types of operations would clearly fall. This clarifies that simple repackaging and storage of cannabis are not subject to permitting; while production, processing, and extraction will continue to be required to be permitted.

Section 6.03 (c)(108) is amended to add a permitting exemption for fermentation tanks for the production of distilled beverages, and for storage or aging of distilled alcoholic beverages if no more than 75,000 gallons of distilled alcoholic beverages are stored or aged in wood barrels. PSCAA's permitting exemptions do not currently list any operations related to distilled spirits, even though there are exemptions related to beer making and wine making. The wine exemption is for all fermentation to make wine, and the beer exemption is for all operations at facilities that produce less than three million gallons per year of beer.

This change to the exemptions will extend similar logic to distilled spirits. The actual fermentation is exempt at all wineries and almost all breweries. As such, it is logical to extend this fermentation exemption to distilleries. This exemption would cover the fermentation operation at distilleries, from which emissions are minimal, and the barrel aging of distilled beverages if no more than 75,000 gallons is stored, assuring that only operations that cause minimal emissions would be exempt from notice of construction permitting.

Much of the VOC emission from distilleries comes from the aging of product in wood barrels. This is usually in the form of evaporative losses of ethanol. In the Environmental Protection Agency's AP-42, Section 9.12.3, the evaporative emissions rate of 6.9 pounds per barrel per year was reported. Using a standard barrel size of 53 gallons, the storage of 75,000 gallons of distilled beverages yields approximately five tons per year of VOC (ethanol) emissions. Ethanol emissions from distilleries can be associated with "whiskey fungus" in the nearby community.

Note that distilleries are not currently exempt from permitting in PSCAA's jurisdiction. However, PSCAA has not received a permit application from a distillery, and it has issued one case-by-case exemption from permitting for a distillery that does not age product on-site.

Section 6.03 (c)(109) is amended to add a permitting exemption for the storage of wine if no more than 360,000 gallons of wine is stored or aged in wood barrels. PSCAA's permitting exemptions currently list fermentation tanks at wineries, but they do not include other operations at wineries. Presumably, then, aging of wine would be currently subject to permitting. However, PSCAA has not received an ap-

plication for a permit for winemaking in its jurisdiction. PSCAA staff believe wineries may be misinterpreting this exemption to include operations other than just fermentation.

Based on its exemption for most breweries, and its proposed exemption for fermentation at distilleries, PSCAA plans to maintain the exemption for fermentation at wineries. However, wine aging in barrels can be a significant source of VOC (ethanol) emissions. After an extensive literature review, Santa Barbara Air Pollution Control District determined an appropriate evaporative emissions factor for red wine aging in oak barrels to be 0.0278 pounds of VOC (ethanol) per gallon per year. Using this emissions factor, five tons per year of VOC emissions would result from the storage of 360,000 gallons of wine in wood barrels. For this reason, PSCAA set the exemption threshold at 360,000 gallons of wine stored in wood barrels. This threshold of five tons per year of VOC emissions is the same as the proposed threshold for distilleries. Storage of wine at facilities that store 360,000 gallons or more of wine in barrels would then require notice of construction review.

Section 6.03 (c)(132) is amended to clarify that the permitting exemption for nonproduction bench-scale research equipment is intended to apply to testing on a small spatial scale, such as on a laboratory bench or laboratory worktable or inside a laboratory hood. PSCAA staff receive many questions about the applicability of this exemption for laboratory testing and nonproduction bench-scale research equipment. Some sources have interpreted this to include any sort of prototype development, which is not PSCAA's intent. PSCAA hopes to emphasize the small spatial scale on which this exemption is intended to apply. PSCAA's definition of "bench-scale" was inspired by the metals engineering company Creative Engineers, Inc., to describe their small-scale research and development work.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: Chapter 70A.15 RCW.

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

Name of Proponent: PSCAA, governmental.

Name of Agency Personnel Responsible for Drafting: John Dawson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4060; Implementation and Enforcement: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4052.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70A.15.2040.

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

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 RCW does not appear to apply to local air agencies.

Scope of exemption for rule proposal:

Is fully exempt.

July 31, 2026
Christine Cooley
Executive Director

**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 26-16-061**
**PROPOSED RULES**
**WASHINGTON SAVES**
**GOVERNING BOARD**
[Filed August 3, 2026, 12:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-09-040.

Title of Rule and Other Identifying Information: Chapter 520-01 WAC, Washington saves.

Hearing Location(s): On September 22, 2026, at 2:00 p.m., via Zoom. Login information to access the hearing will be posted on the www.wasaves.wa.gov/rulemaking website.

Date of Intended Adoption: September 23, 2026.

Submit Written Comments to: Jill Vallely, P.O. Box 41200, Olympia, WA 98504-1200, email jill.vallely@dfi.wa.gov, beginning July 28, 2026, by September 21, 2026.

Assistance for Persons with Disabilities: Contact Keera Earskine, phone 360-902-8760, TTY 1-800-833-6384, email keera.earskine@dfi.wa.gov, by September 21, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington saves governing board (board) is proposing rules to implement Washington saves, chapter 19.05 RCW. Washington saves is a retirement program that will provide voluntary automatic payroll contributions to an individual retirement account (IRA) for persons who do not have a workplace retirement plan.

Reasons Supporting Proposal: Washington saves is a new retirement program that will launch by July 1, 2027. Chapter 19.05 RCW provides that the board may adopt rules to interpret, implement, and govern the Washington saves retirement program. The proposed rules will support the successful development and operation of the Washington saves retirement program. The proposed rules define the administrative duties of covered employers, establish the registration and enrollment processes, establish the employee alternative election process, set the default contribution rate, set the default escalation rate, establish a process by which persons who are not covered employees may participate in the program, and adopt other rules necessary to implement the program. The proposed rules will inform employers how to comply with the requirements of chapter 19.05 RCW, and will provide useful information regarding the program to individual participants and members of the public.

Statutory Authority for Adoption: Chapter 19.05 RCW.

Statute Being Implemented: Chapter 19.05 RCW.

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

Name of Proponent: Washington saves governing board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jonathan Herrera, 150 Israel Road S.W., Tumwater, WA 98501, 360-725-7814.

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

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

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Each of the rules in the proposed rules chapter is exempt under RCW 34.05.310 (4)(e) because the rules are dictated by the Washington saves statute, chapter 19.05 RCW. The statute at RCW 19.05.040(13) enables the board to adopt rules to implement the statute, including specific rules to establish registration and enrollment procedures, to establish opt out and alternative election procedures, to set the default contribution rate and default escalation rate, to create outreach and educational initiatives, and to establish a process for individuals to participate in the program. In addition, RCW 19.05.030 (1)-(3) and 19.05.050(1) instruct the board to adopt rules establishing registration procedures and other provisions for the program. The following table describes how each rule in the chapter is dictated by statute:

| Section of Proposed Rules | Dictated by Statute |
|---|---|
| WAC 520-01-010 Definitions | This section creates definitions used in the rule chapter for the administration of the program pursuant to RCW 19.05.040(13). |
| WAC 520-01-020 Determination of Covered Employer Status | This section interprets who is a "covered employer" under RCW 19.05.010(6) and incorporates language from RCW 19.05.030 (3)(a)(ii)(B). It also reflects the definition of "employment" under RCW 19.05.010(10). |
| WAC 520-01-030 Covered Employer Registration Process and Timeline | This section sets forth the registration process for covered employers consistent with RCW 19.05.030 (1)(b) and (3)(a)(i). The staggered approach is consistent with RCW 19.05.040 (12)(e). |
| WAC 520-01-040 Employer Exemption | This section states that the board may create a process to enable employers to claim an exemption by certifying that they are not covered employers. This is consistent with RCW 19.05.040 (12)(a). (The board must "ensure … that any employer that is not a covered employer shall have no reporting or registration obligation or requirement to take any action under the program other than to claim an exemption from coverage by the program.") |
| WAC 520-01-050 Employer Administrative Duties | This section defines covered employer administrative duties as required by RCW 19.05.030 (3)(a), 19.05.030 (3)(b), 19.05.040 (12)(a), and 19.05.090(1). |
| WAC 520-01-055 Employer Restrictions and Prohibitions | This section defines covered employer administrative duties as required by RCW 19.05.030 (3)(a) and (3)(b). |
| WAC 520-01-060 Program Informational Materials | This section specifies the content of the program materials required to be developed by the board under RCW 19.05.040(14). |
| WAC 520-01-070 Covered Employee Enrollment or Right to Opt Out | This section describes the covered employee enrollment or opt-out procedure consistent with RCW 19.05.030 (1)(a) and (c), 19.05.030 (2)(a), and 19.05.040 (13)(a) and (b). |
| WAC 520-01-080 Noncovered Employee Participant Enrollment Procedure | This section describes the process by which noncovered employees may participate in the program, consistent with RCW 19.05.040 (13)(e). |
| WAC 520-01-090 Contributions, Default Contribution Rate, Automatic Escalation, Default Investment Options, Alternative Elections, Non-Payroll Contributions, Withdrawals, and Portability | This section describes the employee's responsibilities regarding contributions consistent with RCW 19.05.040 (14)(b)(viii); sets default contribution rate consistent with RCW 19.05.030 (1)(d) and (2)(a); sets a default automatic escalation rate consistent with RCW 19.05.030 (1)(e); sets a default investment choice consistent with RCW 19.05.030 (2)(b); describes a procedure for alternative elections consistent with RCW19.05.030 (2)(a) and (b); describes a process for nonpayroll contributions consistent with RCW 19.05.030 (2)(c) and 19.05.040 (13)(e); describes the ability to withdraw, rollover, or transfer funds consistent with RCW 19.05.030 (2)(d); and describes the portability of accounts consistent with RCW 19.05.030 (2)(c). |
| WAC 520-01-100 Abandoned Accounts | This section addresses abandoned accounts and is reasonable to adopt under RCW 19.05.040(13) for the administration of the program. |

| Section of Proposed Rules | Dictated by Statute |
|---|---|
| WAC 520-01-110 Program Limitations | This section states the program limitations consistent with RCW 19.05.040 (14) and (18), 19.05.030 (3)(c), 19.05.050 (1)(b), and 19.05.010(8). |
| WAC 520-01-120 Termination of Covered Employer Status | This section creates a procedure that applies when a covered employer adopts a qualified retirement plan and thus no longer meets the definition of a covered employer under RCW 19.05.010. This is reasonable to adopt under RCW 19.05.040(13) for the administration of the program. |
| WAC 520-01-130 Enforcement of Employer Administrative Duties | This section interprets the enforcement provisions in RCW 19.05.030(3), 19.05.060(1), 19.05.070, and 19.05.080. |
| WAC 520-01-135 Enforcement of Amounts Due | This section interprets the enforcement provisions in RCW 19.050.060[19.05.060](1) and 19.05.090. |
| WAC 520-01-140 Privacy and Confidentiality | This section creates rules regarding privacy and confidentiality consistent with RCW 19.05.100 (4) and (5)(d). |
| WAC 520-01-150 Outreach, Marketing, and Education | This section summarizes the outreach, marketing, and education provisions under RCW 19.05.020(3), 19.05.040(10), 19.[05.]040 (12)(d), and 19.05.040 (13)(d). |

In addition, certain of the proposed rules apply solely to individual participants who will open IRAs under the Washington saves program. Therefore, certain of the proposed rules are exempt under RCW 19.05.025(4) because they do not affect small businesses as defined in RCW 19.85.020(3). The following proposed rules will not affect small businesses: WAC 520-01-070, 520-01-080, 520-01-090, and 520-01-100.

RCW 34.05.310 (4)(g)(ii) provides an exemption from the requirement to prepare an economic impact statement for "rules that adopt, amend, or repeal a filing or related process requirement for applying to an agency for a license or permit." This exemption is applicable to the proposed rule at WAC 520-01-030, which describes the registration process for covered employers.

Finally, the proposed rule chapter implements the provisions of the Washington saves statute as set forth in chapter 19.05 RCW, and does not impose additional costs on businesses as compared to the statute. The rules inform impacted businesses how to comply with the administrative duties imposed on them by the statute to register with the program, facilitate payroll deduction, and distribute program informational materials. The proposed rules chapter does not itself impose more-than-minor costs on businesses, so an economic impact statement is not required under RCW 19.85.030(1).

Scope of exemption for rule proposal:

Is fully exempt.

July 28, 2026
Jonathan Herrera
Washington Saves Program Manager

**RDS-7286.2**

## Title 520 WAC
## WASHINGTON SAVES GOVERNING BOARD

## Chapter 520-01 WAC

**WASHINGTON SAVES**

NEW SECTION

**WAC 520-01-010 Definitions.** The following definitions apply for the purpose of this chapter unless the context clearly requires otherwise.

(1) "Administrative account" means the Washington saves administrative trust account created in RCW 19.05.110.

(2) "Administrative agency" means the state agency or office that will provide administrative support to the governing board, beginning no later than July 1, 2027.

(3) "Automatic escalation" means an automatic annual increase in a covered employee's contributions pursuant to RCW 19.05.030 (1)(e) and WAC 520-01-090.

(4) "Beneficiary" means the individual(s), person(s), or entity(ies) entitled to receive the proceeds of an account upon the death of an individual participant.

(5) "Complainant" means a covered employee, or that employee's designee who has written or legal authority to act on behalf of the employee, who files a complaint alleging an employer administrative violation of RCW 19.05.030 who learned of the alleged violation by way of their employment with a covered employer.

(6) "Contribution" means any moneys contributed to an individual account.

(7) "Contribution rate" means the percentage of a covered employee's wages to be withheld and contributed to covered employee's individual account via payroll deduction under the program.

(8) "Consumer price index" means the consumer price index for all urban consumers, all items, for the Seattle area as calculated by the United States Bureau of Labor Statistics or its successor agency.

(9) "Covered employee" means an individual who is 18 years of age or older, who is employed by a covered employer.

(10) "Covered employer" means any employer that:

(a) Has been in business in this state for at least two years as of the immediately preceding calendar year;

(b) Maintains a physical presence;

(c) Does not offer a qualified retirement plan to any employees; and

(d) Employs, and at any point during the immediately preceding calendar year employed, employees working a combined minimum of 10,400 hours.

(11) "Department" means the department of labor and industries.

(12) "Electronic fund transfer" has the same meaning as the term established under 15 U.S.C. 1693a(7).

(13) "Employee" means any person who is working in employment as defined in RCW 50.04.100.

(14) "Employer" means a person or entity engaged in a business, profession, trade, or other enterprise in the state, whether for profit or not for profit. "Employer" does not include federal, state, or tribal entities, agencies, or instrumentalities, or any political subdivision thereof.

(15) "Employer administrative duties" include all requirements of covered employers under RCW 19.05.030 that do not involve amounts due to the employee.

(16) "Employment" has the same meaning as in RCW 50.04.100.

(17) "Governing board" means the board created in RCW 19.05.040.

(18) "Individual account" means an IRA established by or for an individual participant and owned by the individual participant pursuant to this chapter.

(19) "Individual participant" means any individual who is contributing to, or has a balance credited in, an IRA through the program.

(20) "Internal revenue code" means the federal Internal Revenue Code of 1986, as amended, or any successor law.

(21) "Investment manager" means the person(s) selected by the governing board to provide investment management services and self-directed investment options for the program.

(22) "IRA" means a traditional or Roth individual retirement account or individual retirement annuity described in section 408(a), 408(b), or 408A of the Internal Revenue Code.

(23) "Noncovered employee participant" means any person who enrolls in the program independent of an employment relationship with a covered employer, maintains an individual account, and is not a covered employee.

(24) "Nonpayroll contribution" means a contribution made by an individual participant to the individual participant's individual account remitted outside of payroll deduction.

(25) "Payroll deduction IRA agreement" or "payroll deduction" means an arrangement by which a participating employer makes payroll deductions authorized by this chapter and remits amounts deducted as contributions to IRAs on behalf of individual participants.

(26) "Program" means the Washington saves program established under chapter 19.05 RCW.

(27) "Program administrator" means the third-party person(s) selected by the governing board to administer the daily operations of the program and assist in carrying out the requirements of Washington Saves, chapter 19.05 RCW.

(28) "Program informational materials" means the disclosure document provided by the program administrator to individual participants that describes the program features including, but not limited to, the items set forth in WAC 520-01-060.

(29) "Qualified retirement plan" means a retirement plan in compliance with applicable federal law for employees including those described in section 401(a), 401(k), 403(a), 403(b), 408(k), or 408(p) of the Internal Revenue Code.

(30) "Wages" means any commission, compensation, salary, or other remuneration, as defined by section 219 (f)(1) of the Internal Revenue Code, received by a covered employee from a covered employer.

NEW SECTION

**WAC 520-01-020 Determination of covered employer status.** (1) An employer is a covered employer as defined in WAC 520-01-010 if:

(a) The employer has been in business in this state for at least two years as of the end of the immediately preceding calendar year;

(b) The employer currently maintains a physical presence in this state;

(c) The employer does not offer a qualified retirement plan to any employees, or has not enabled participation of any employees in a qualified retirement plan offered by a trade association, chamber of commerce, or professional employer organization; and

(d) The employer had employed employees working at least 10,400 combined hours in this state during the immediately preceding calendar year.

(2) An employer maintains a physical presence in this state if the employer has a substantial nexus with the state, which includes having employees in this state.

(3) An employee is working for an employer in this state if the employer is liable for paying unemployment tax for the employee in this state.

(4) If a professional employer organization as defined in RCW 50.04.298(1) enters into a professional employer agreement as defined in RCW 50.04.298(7) with a client employer as defined in RCW 50.04.298(2), then for the purposes of compliance with chapter 19.05 RCW and this chapter, the covered employer with respect to any employees defined in RCW 50.04.298(4) is the client employer.

(5) The number of employee hours worked for an employer is determined by the hours an employer reports to the Washington employment services department under a single federal employer identification number in the employer's quarterly tax and wage reports.

NEW SECTION

**WAC 520-01-030 Covered employer registration process and timeline.** (1) An employer that is a covered employer as described in WAC 520-01-020 as of July 1, 2027, must register with the program by the following dates:

(a) Covered employers who employed employees working more than 20,800 combined hours in the state during the preceding calendar year must enroll in the program no later than December 1, 2028; and

(b) All other covered employers must enroll in the program no later than December 1, 2029.

(2) An employer that becomes a covered employer after December 1, 2028, must register with the program no later than December 1st of the year in which the employer became a covered employer.

(3) To register with the program, covered employers must submit the following information to the program administrator through the program's website:

(a) Employer name, legal name, and "doing business as" name, if applicable;

(b) Federal employer identification number (FEIN);

(c) Employer mailing address;

(d) Employer physical address;

(e) Name, title, phone number, and email address of an individual designated by the employer as the primary contact for program correspondence; and

(f) Any additional information reasonably required by the program administrator for the purpose of administering the program.

NEW SECTION

**WAC 520-01-040 Employer exemption.** (1) The program or the program administrator may send employers a notice stating the program or program administrator has determined that the employer is a covered employer subject to registration under WAC 520-01-030.

(2) An employer contacted pursuant to subsection (1) of this section may certify an exemption from the registration requirement in WAC 520-010-030 by certifying through the program website that the employer either presently offers a qualified retirement plan or has enabled employee participation in a qualified retirement plan offered by a trade association, chamber of commerce, or professional employer organization.

(3) After an employer submits a satisfactory and complete certification pursuant to subsection (2) of this section, the program administrator will promptly provide a confirmation of exempt status that will remain in effect until the employer meets the criteria of a covered employer under WAC 520-01-020.

(4) If an employer certification is found to be inaccurate or incomplete, or the employer does not meet the program exemption standards, the program or department may pursue remedies pursuant to RCW 19.05.070.

NEW SECTION

**WAC 520-01-050 Covered employer administrative duties.** This section establishes the administrative duties of covered employers. To fulfill the requirements established for covered employers in RCW 19.05.030(3) and this chapter, a covered employer must complete or otherwise comply with the following administrative duties:

(1) By or before the registration deadline specified in WAC 520-01-030, covered employers must register with the program as described in WAC 520-010-030 or offer a qualified retirement plan or enable participation of employees in a qualified retirement plan offered by a trade association, chamber of commerce, or professional employer organization.

(2) Within 30 days of registration with the program, a covered employer must provide the following enrollment information to the program administrator for each covered employee:

(a) Covered employee's full legal name;

(b) Covered employee's Social Security number or individual taxpayer identification number;

(c) Covered employee's date of birth;

(d) Covered employee's physical address;

(e) Covered employee's phone number, if available;

(f) Covered employee's email address, if available; and

(g) Any other information reasonably required by the program administrator.

(3) For each covered employee hired by a covered employer after the covered employer's registration with the program, the covered employer must provide the information specified in subsection (2) of this section to the program administrator within 30 days of the covered employee's hire date.

(4) For each current employee who turns 18 years old and therefore becomes a covered employee, the covered employer must provide the

information specified in subsection (2) of this section to the program administrator no later than 30 days after the employee's 18th birthday.

(5) Each payroll period, a covered employer must remit the contributions of each participating employee to the program administrator at the applicable contribution rate. The applicable contribution rate, and any changes a covered employee subsequently makes to the contribution rate, will be reported to the covered employer by the program administrator through the program website or other means. A covered employer must remit all withheld contributions to the program administrator as soon as administratively practicable, generally not to exceed seven business days from the date of deduction. The covered employer must begin remitting the covered employee's contributions as soon as administratively practicable, but no later 30 days after notification by the program administrator of the covered employee's enrollment or change of contribution rate. The covered employer may not remit a covered employee's contributions prior to the expiration of the 30-day opt-out period for the covered employee.

NEW SECTION

**WAC 520-01-055 Employer restrictions and prohibitions.** A covered employer, and any employer voluntarily facilitating payroll deduction for noncovered employee participants in the program, must not:

(1) Prohibit, restrict, or discourage covered employee participation in the program;

(2) Provide individual participants or beneficiaries of deceased individual participants advice or direction regarding investment choices, contribution rates, participation in automatic escalation, or any other decision about the program;

(3) Remit any contributions for any covered employee who opted out of the program;

(4) Exercise any authority, control, or responsibility for the program, other than as set forth in WAC 520-01-050;

(5) Receive consideration in the form of cash or otherwise in connection with the program, other than reasonable compensation for services actually rendered in connection with payroll deductions or dues checkoffs;

(6) Contribute to a covered employee's or noncovered employee participant's individual account; or

(7) Withhold impermissibly any amounts due to an employee related to the employer's obligations under RCW 19.05.030.

NEW SECTION

**WAC 520-01-060 Program informational materials.** (1) The program administrator will provide informational materials regarding the program to each covered employee as soon as administratively possible after the program administrator has received the covered employee's enrollment information from the covered employer pursuant to WAC 520-01-050 (2) or (3).

(2) The informational materials will include instructions regarding how to opt out of the program, change contribution rates, select

investment options, adjust or opt out of automatic escalation, make nonpayroll contributions, rollover or transfer funds, make withdrawals, establish a traditional IRA, update contact information, add or change a beneficiary, and make other individual account changes. The informational materials will also disclose all fees and other legal and material information that a reasonable investor would want to know before contributing to an individual account by payroll deduction or nonpayroll contribution.

(3) In addition to the information described in subsection (2) of this section, the informational materials will include the following:

(a) A description of the benefits and risks associated with the program;

(b) Instructions about how to obtain additional information about the program;

(c) A description of the tax consequences of an IRA, which may consist of or include the disclosure statement required to be distributed by the trustee under the Internal Revenue Code and treasury regulations thereunder;

(d) A statement that covered employees seeking financial advice should contact their own financial advisers and that covered employers are not in a position to provide financial advice, and are not liable for decisions covered employees make regarding the program;

(e) A statement that the program is not an employer-sponsored retirement plan;

(f) A statement that covered employee's IRA established under the program is not guaranteed by the state;

(g) A statement that the program is voluntary for covered employees, and a covered employee may opt out of the program at any time;

(h) A statement that neither a covered employer nor the state will monitor or has an obligation to monitor a covered employee's or noncovered employee participant's eligibility under the Internal Revenue Code to make contributions to the IRA established for a covered employee or by a noncovered employee participant under the program or monitor whether a covered employee's or noncovered employee participant's contributions to the IRA established for a covered employee or by a noncovered employee participant under the program exceed the maximum permissible IRA contribution; that it is a covered employee's or noncovered employee participant's responsibility to monitor such matters; and that the state, the program, and the covered employer have no liability with respect to any failure of a covered employee or noncovered employee participant to be eligible to make IRA contributions or any contribution in excess of the maximum IRA contribution;

(i) A description of the annual contribution limits that apply to Roth IRAs and traditional IRAs, and a description of how an individual's modified adjusted gross income may limit eligibility to invest in a Roth IRA or lower the amount that an individual may contribute;

(j) A description of how the individual participant may commence the rollover or transfer process for an individual account; and

(k) A statement that withdrawals from an individual account may be subject to early withdrawal penalties under the Internal Revenue Code, and may be subject to income tax obligations.

(l) A statement that any moneys placed in individual accounts may not be counted as assets for the purposes of state or local means-tested program eligibility or levels of state means-tested program eligibility.

NEW SECTION

**WAC 520-01-070 Covered employee enrollment or right to opt out.** (1) A covered employee will be enrolled in the program unless the covered employee opts out within 30 days after the covered employer submits the covered employee's information to the program pursuant to WAC 520-01-050 (2) or (3). The disclosure information provided to the covered employee pursuant to WAC 520-01-060 will specify how to opt out of the program, and will include provisions to opt out electronically.

(2) A covered employee currently enrolled in the program by the covered employer may opt out of the program at any time. The disclosure information provided to the covered employee pursuant to WAC 520-01-060 will specify how to opt out of the program, which will include the ability to opt out electronically.

(3) Covered employees who opt out of the program may enroll at any time by following the procedure for enrollment specified in the program informational materials.

NEW SECTION

**WAC 520-01-080 Noncovered employee participant enrollment procedure.** (1) An individual who is at least 18 years of age and who is not a covered employee may elect to participate in the program as a noncovered employee participant. A noncovered employee participant may enroll in the program by submitting the following information to the program administrator:

(a) Full legal name;

(b) Social Security number or individual taxpayer identification number;

(c) Date of birth;

(d) Physical address;

(e) Email address, if available;

(f) Phone number, if available; and

(g) Any additional information reasonably required by the program administrator.

(2) The program administrator will provide the disclosure information regarding the program described in WAC 520-01-060 to the noncovered employee participant at the time of enrollment, or as soon as administratively possible thereafter.

(3) A noncovered employee participant must have earned income, as defined in the Internal Revenue Code and the rules adopted thereunder, during a calendar year to contribute to an IRA for that calendar year. Contributions may not exceed the noncovered employee participant's earned income, and are subject to the annual IRA contribution limits established by the Internal Revenue Service for the year. In addition, an individual's modified adjusted gross income determines eligibility to invest in a Roth IRA and the amount that an individual may invest in a calendar year.

(4) A noncovered employee participant may make recurring or nonrecurring contributions to an individual account by electronic fund transfer in accordance with procedures established by the program administrator. The program administrator may establish a minimum contribution amount for noncovered employee participants. An employer who is not currently a covered employer may, but is not required to, facilitate payroll deduction contributions for its employees.

NEW SECTION

**WAC 520-01-090 Contributions, default contribution rate, automatic escalation, default investment options, alternative elections, nonpayroll contributions, withdrawals, and portability.** (1) **Contributions.** It is the responsibility of each individual participant to determine whether the individual participant is eligible under the Internal Revenue Code to make contributions to an individual account, whether the amount of the individual participant's contributions to an individual account comply with the annual IRA contribution limits established under the Internal Revenue Code, and whether such contributions are deductible.

(2) **Individual account, default contribution rate, automatic escalation, and default investment choice.**

(a) **Individual account.** If a covered employee does not opt out as described in program informational materials, the program administrator will establish a Roth IRA individual account for the covered employee. The program administrator may additionally or alternately establish a traditional IRA individual account for a covered employee or a noncovered employee participant to receive a saver's match contribution under 26 U.S.C. 6433.

(b) **Default contribution rate.** Upon enrollment, a covered employee who has not made an alternative election as specified in subsection (3) of this section will make contributions to the covered employee's individual account at a default contribution rate of five percent of wages.

(c) **Automatic escalation.**

(i) Unless a covered employee has made an alternative election as specified in subsection (3) of this section, the contributions of covered employees who have been enrolled in the program for at least six consecutive months will automatically increase by an additional one percent of wages on each January 1, up to a maximum contribution rate of 10 percent.

(ii) Covered employees may opt out of automatic escalation at any time by following the opt-out procedure specified in the program informational materials, which will include the ability to opt out electronically.

(iii) The program administrator will notify covered employees 60 days in advance of any contribution increase due to automatic escalation to allow covered employees to opt out of automatic escalation or change their contribution rate.

(d) **Default investment choice.** Unless a covered employee has made an alternative election as specified in subsection (3) of this section, a covered employee's contributions will be invested in a capital preservation investment for 30 days. After those 30 days have elapsed, the participating employee's contributions will be invested in the default investment choice established by the governing board and disclosed in the program informational materials.

(3) **Alternative elections.** The program informational materials provided by the program administrator will instruct individual participants on how to make alternative elections regarding their individual accounts. Individual participants may establish a custom contribution rate, select alternate investment options, opt out of automatic escalation, make nonpayroll contributions, or establish a traditional IRA instead of a Roth IRA. These alternative elections may be made electronically, or by other means specified in the program informational materials.

(4) **Nonpayroll contributions.**

(a) Individual participants may choose to make nonpayroll contributions to their individual accounts. Such contributions must not exceed, in combination with payroll deduction contributions, the annual IRA contribution limits as determined by the Internal Revenue Code and related rules promulgated by the Internal Revenue Service.

(b) The program administrator will establish acceptable methods and procedures for making nonpayroll contributions and will disclose this information in the program informational materials.

(c) The program administrator may set a minimum initial nonpayroll contribution and a minimum recurring nonpayroll contribution for individual participants.

(5) **Withdrawals.**

(a) Individual participants may withdraw all or a portion of funds from their individual accounts at any time by submitting a request to the program administrator in a form or format established by the program administrator and permitted by the Internal Revenue Code.

(b) Withdrawals may be subject to early withdrawal penalties under the Internal Revenue Code, and may be subject to income tax obligations.

(6) **Portability.**

(a) **Rollover or transfer in.** An individual participant's individual account may receive rollovers and transfers from other retirement savings vehicles in accordance with the Internal Revenue Code and other applicable law.

(b) **Rollover or transfer out.** The program administrator will establish a process through which individual participants or beneficiaries may roll over or transfer all or a portion of an individual account to a different retirement savings vehicle in accordance with the Internal Revenue Code and other applicable law.

(c) The individual participant may commence the rollover or transfer process by following the procedures for rollovers or transfers as described in the program informational materials.

NEW SECTION

**WAC 520-01-100 Abandoned accounts.** An individual account will be presumed abandoned in accordance with the provisions of the unclaimed property law of the state of the last known address of the individual participant. If the last known address of the individual participant is in Washington, the provisions of the Revised Uniform Unclaimed Property Act, chapter 63.30 RCW, will apply. If there is no last known address of the individual participant in the program records, federal common law will determine the state with the first priority claim.

NEW SECTION

**WAC 520-01-110 Program limitations.** (1) The program is not an employer-sponsored retirement plan.

(2) The program is voluntary for covered employees, and a covered employee may opt out of the program at any time.

(3) A covered employee's IRA established under the program is not guaranteed by the state.

(4) Covered employees seeking financial advice should contact their own financial advisers. Covered employers are not in a position to provide financial advice, and are not liable for decisions covered employees make under this chapter.

(5) Neither a covered employer nor the state will monitor or has an obligation to monitor a covered employee's or noncovered employee participant's eligibility under the Internal Revenue Code to make contributions to the IRA established for a covered employee or by a noncovered employee participant under the program or monitor whether a covered employee's or noncovered employee participant's contributions to the IRA established for a covered employee or by a noncovered employee participant under the program exceed the maximum permissible IRA contribution. It is a covered employee's or noncovered employee participant's responsibility to monitor such matters. The state, the program, and the covered employer have no liability with respect to any failure of a covered employee or noncovered employee participant to be eligible to make IRA contributions or any contribution in excess of the maximum IRA contribution.

(6) The governing board, its members, and the administrative agency are not individually or collectively liable to the state, to the fund, or to any other person as a result of their activities as members or staff, whether ministerial or discretionary, except for willful dishonesty or intentional violation of laws.

(7) Employers are not fiduciaries with respect to, or are liable for the program, related information, educational materials, or forms or disclosures approved by the governing board, or the selection or performance of vendors selected by the governing board. An employer is not responsible for or obligated to monitor a covered employee's or individual participant's decision to participate in or opt out of the program, for contribution decisions, investment decisions, or failure to comply with the statutory eligibility conditions or limits on IRA contributions. An employer does not guarantee any investment, rate of return, or interest on assets in any individual participant account or the administrative account or is liable for any market losses, failure to realize gains, or any other adverse consequences, including the loss of favorable tax treatment or public assistance benefits, incurred by any person as a result of participating in the program. However, nothing in this subsection relieves an employer from liability for criminal, fraudulent, tortious, or otherwise actionable conduct including liability related to the failure to remit employee contributions.

(8) All investment and operating costs of the investment manager associated with making self-directed investments must be paid by participants and recovered under procedures agreed to by the governing board and the investment manager. All other expenses incurred in connection with self-directed investments must be paid by the participant in accordance with the rules established by the governing board.

(9) Federal, state, or tribal entities, agencies, or instrumentalities, or any political subdivision thereof may not participate in the program as a covered employer.

(10) Any moneys placed in individual accounts may not be counted as assets for the purposes of state or local means-tested program eligibility or levels of state means-tested program eligibility.

NEW SECTION

**WAC 520-01-120 Termination of covered employer status.** (1) A covered employer who begins offering employees a qualified retirement plan, and therefore will no longer be a covered employer pursuant to WAC 520-01-020, must notify the program administrator at least 60 days prior to the cessation of payroll deduction contributions.

(2) Unless otherwise elected by the covered employee pursuant to WAC 520-01-090(6), the covered employee's individual account will remain in the program after the former covered employer ceases payroll deduction contributions. Former covered employees may continue to make contributions as noncovered employee participants pursuant to WAC 520-01-080.

(3) The program administrator will notify covered employees of the covered employer's termination of participation in the program and provide further instructions for future interactions with their individual accounts.

(4) The covered employer must inform covered employees of the covered employer's intention to terminate participation in the program at least 30 days prior to cessation of payroll deduction contributions. The program administrator will provide hard copy informational materials for the covered employer to distribute to covered employees.

NEW SECTION

**WAC 520-01-130 Enforcement of covered employer administrative duties.** (1) Covered employers must register with the program by the timeline set forth in WAC 520-01-030, and must comply with the administrative duties set forth in RCW 19.05.030(3) and WAC 520-01-050.

(2) The department shall investigate complaints filed by complainants in accordance with chapter 19.05 RCW and the rules adopted thereunder. The program will maintain information on the program's website specifying how a covered employee may file a complaint regarding a covered employer's violation of RCW 19.05.030.

(3) Pursuant to chapter 19.05 RCW and the rules adopted thereunder, the department may investigate possible employer administrative violations relating to failure to register with the program and failure to comply with other administrative duties required under chapter 19.05 RCW or any rules adopted thereunder.

(4) If the department finds an employer administrative violation of chapter 19.05 RCW or the rules adopted thereunder, the department must first provide an educational letter to the employer outlining the violations and providing 90 days to remedy the violations as set forth in RCW 19.05.070(4).

(5) Beginning January 1, 2030, if an employer to which an educational letter described in RCW 19.05.070 (4)(a) and subsection (4) of this section has not come into compliance within 90 days of the date the letter was issued, the department may issue a citation and notice of assessment with a civil penalty for willful violations in accordance with the procedures set forth in RCW 19.05.070, 19.05.080, and 19.05.090. Pursuant to RCW 19.05.070(4), the employer may ask for an extension for good cause. The department may extend the period by providing written notice to the employee and the employer, specifying the duration of the extension. If the employer fails to remedy the viola-

tion within 90 days, the department may issue a citation and notice of assessment with a civil penalty.

(6) Administrative citations are subject to the procedures of RCW 19.05.080.

(7) The department may refer complaints regarding administrative violations under chapter 19.05 RCW and any rules adopted thereunder to the program for technical assistance and extend investigations for good cause as necessary to provide such assistance. The program may refer any alleged administrative violations under chapter 19.05 RCW and the rules adopted thereunder that the program discovers to the department for enforcement.

(8) The department and program may enter into an agreement for the purposes of sharing information and enforcing the provisions of chapter 19.05 RCW and the rules adopted thereunder.

NEW SECTION

**WAC 520-01-135 Enforcement of amounts due.** (1) Employers may not impermissibly withhold any amounts due to the employee related to the employer's obligations under chapter 19.05 RCW. If any employee files a complaint with the department alleging that the employer impermissibly withheld any amounts due to the employee related to the employer's obligations under chapter 19.05 RCW or any associated rules, the department shall investigate and otherwise enforce the complaint as an alleged violation of a wage payment requirement, as defined in RCW 49.48.082.

(2) Investigations and enforcement under subsection (1) of this section are subject to the procedures of RCW 19.05.090.

(3) The program may refer any alleged violations of amounts due under chapter 19.05 RCW and the rules adopted thereunder that the program discovers to the department for enforcement.

NEW SECTION

**WAC 520-01-140 Privacy and confidentiality.** (1) The governing board may disclose anonymized data which does not include information that is identifiable to an individual participant, beneficiary, or covered employer for the purposes of research associated with the program.

(2) The governing board may disclose information that it is required to disclose under the Washington Public Records Act, chapter 42.56 RCW.

(3) The governing board may disclose an individual participant's individual account information to the program administrator, the investment manager, regulatory agencies to the extent disclosure is required by law, and other persons or entities to the extent the governing board determines disclosure is necessary to administer the program.

NEW SECTION

**WAC 520-01-150 Outreach, marketing, and education.** The governing board will authorize outreach, marketing, and educational initiatives or publications reasonably designed to educate businesses and workers in Washington regarding the program, inform covered employers regarding their employer administrative duties, and encourage participation, retirement savings, and sound investment practices. The governing board will direct outreach and educational initiatives to diverse employer and employee communities, including historically socially vulnerable or marginalized communities who face cultural or language barriers to participation in workplace retirement savings programs. The outreach, marketing, and education initiatives will promote cultural humility. The governing board will work with various state commissions and agencies to develop culturally and linguistically relevant and responsive outreach, marketing, and educational initiatives.

**WSR 26-16-068**
**PROPOSED RULES**
**OLYMPIC REGION**
**CLEAN AIR AGENCY**
[Filed August 4, 2026, 8:47 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Olympic Region Clean Air Agency (ORCAA) regulations: Rule 1.11 Federal Regulation Reference Date; Rule 1.12 State Regulations Reference Date; Rule 6.3.4 Notification Requirements; Rule 8.14 Adoption of Federal Source Performance Standards (NSPS); Rule 8.15 Adoption of National Emission Standards for Hazardous Air Pollutants (NESHAPS); Rule 8.17 Adoption of National Emissions Standards for Hazardous Air Pollutants for Source Categories; Rule 8.18 Adoption of Federal Consolidated Requirements for the Synthetic Organic Chemical Manufacturing Industry; and repeal of Appendix A - Adopted Federal Regulations and Standards.

Hearing Location(s): On September 9, 2026, at 10:00 a.m., at ORCAA, 2940 Limited Lane N.W., Olympia, WA 98502. In addition to attending the hearing in person, remote participation via Zoom is also an option. See our website for log-in information at www.orcaa.org/about/board-of-directors.

Date of Intended Adoption: September 9, 2026.

Submit Written Comments to: Mike Shults, 2940 Limited Lane N.W., email mike.shults@orcaa.org, fax 360-491-6308, beginning 8:00 a.m., August 7, 2026, by 10:00 a.m., September 9, 2026.

Assistance for Persons with Disabilities: Contact Dan Nelson, phone 360-539-7610 ext. 111, fax 360-491-6308, email dan.nelson@orcaa.org, by 4:30 p.m., September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ORCAA proposes to update the effective date of previously adopted federal regulations and state regulations referenced in ORCAA rules. Currently, where federal and state rules are referenced in ORCAA regulations, the effective date of the regulations is July 1, 2024. ORCAA intends to update the federal regulation effective date to March 1, 2025, except for 40 C.F.R. Part 63, Subpart DDDD which will carry an effective date of July 6, 2026. The state regulation effective date will be updated to July 1, 2026, including revisions to the exception lists in Rules 8.14 and 8.17. Additionally, ORCAA proposes revisions to Rule 6.3.4 to simplify project reviews for asbestos and demolition notification requirements. Finally, Appendix A will be removed from ORCAA's regulations. The appendix served only as a reference document, and removal will have no effect on enforceable requirements. Rather, it will improve clarity and consistency within ORCAA's regulations.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: Chapter 70A.15 RCW.

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

Name of Proponent: ORCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Mike Shults, 2940 Limited Lane N.W., Olympia, 360-539-7610 ext. 113; Implementation and Enforcement: Jeff C. Johnston, Ph.D., 2940 Limited Lane N.W., Olympia, 360-539-7610 ext. 100.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 applies to state government. It does not apply to local air agencies per RCW 70A.15.2040.

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

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 RCW applies to "rules adopted by state agencies." RCW 70A.15.2040(1) states: "An air pollution control authority shall not be deemed to be a state agency." ORCAA is an air pollution control authority.

Scope of exemption for rule proposal:

Is fully exempt.

August 3, 2026
Jeff C. Johnston, Ph.D.
Executive Director

**AMENDATORY SECTION**
**RULE 1.11 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in ORCAA's rules, the effective date is ((~~July~~)) March 1, 202((~~4~~))5, unless otherwise specified.

**AMENDATORY SECTION**
**RULE 1.12 STATE REGULATION REFERENCE DATE**

Whenever state regulations are referenced in ORCAA's rules, the effective date is July 1, 202((~~4~~))6.

**AMENDATORY SECTION**
***Rule 6.3.4 Notification Requirements***

(a) It is unlawful for any person to cause or allow any work on an asbestos ((~~project~~)) or demolition project unless a complete notification, ((~~including~~)) the required fee. and any additional information requested by the Executive Director, or designee, has been submitted to ((~~the~~)) ORCAA on approved forms, in accordance with the notification period requirements contained in 6.3.4(c) Notification Period:

1. A separate notification is required for each structure being abated or demolished. Ancillary structures (i.e. barns, detached garage, garden sheds) on residential properties may be considered under one notification.

2. A notification is required for asbestos projects containing 10 or more, linear feet or 48 or more, square feet (per structure, per calendar year) of asbestos-containing material (ACM).

((~~1.~~)) 3. A ((~~N~~))notification is required for all demolitions of structures with a footprint of ((~~greater than~~)) 120, or more, square feet((~~, even if no ACM is present~~)). All other demolition requirements remain in effect.

((~~2.~~)) 4. Per Rule 3.5, the appropriate non-refundable fee must accompany ((~~the~~)) each notification.

((~~3.~~)) 5. A copy of ((~~the~~)) notifications, all amendments to the notifications, the asbestos surveys, and any work plans for an alternate means of compliance must be available for inspection at the asbestos ((~~project~~)) or demolition project site.

((~~Notification for multiple asbestos projects or demolitions may be filed by a property owner or agent on one form if all the following criteria are met:~~

~~i. The same contractor will perform the work continuously; and,~~

~~ii. A work plan is submitted that includes: a map clearly identifying the structures involved in the project; the amount and type of ACM in each structure; and the schedule for performing asbestos project and demolition work; and,~~

~~iii. The project must be bid as a group under the same contract; and~~

iv. ~~The structures must be on contiguous property.~~))

**Reviser's note:** The typographical errors in the above material occurred in the copy filed by Olympic Region Clean Air Agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

**AMENDATORY SECTION**

**Rule 8.14 Adoption of Federal New Source Performance Standards (NSPS)**

**(a)** The NSPS in 40 CFR Part 60 and its Appendices in effect on the date referenced in ORCAA Rule 1.11 are adopted by reference except for the subparts and sections listed in subsection (4). ((~~A current list of adopted federal standards is provided in Appendix A of ORCAA's Regulation.~~))

**(1)** The term "Administrator" in 40 CFR Part 60 means the Administrator of EPA and the Executive Director of the Agency.

**(2)** Where EPA has delegated to the Agency the authority to receive reports under 40 CFR Part 60 the affected facility is required to provide such reports only to the Agency, unless otherwise requested in writing by EPA.

**(3)** This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

**(4)** Exceptions. The following sections and subparts of 40 C((~~R~~))FR Part 60 are not adopted:

**(i)** Subpart B - Adoption and Submittal of State Plans for Designated Facilities;

**(ii)** Subpart Ba - Adoption and Submittal of State Plans for Designated Facilities;

((~~(ii)~~))**(iii)** Subpart C - Emission Guidelines and Compliance Times;

((~~(iii)~~))**(iv)** Subpart Cb - Large Municipal Waste Combustors that are Constructed on or before September 20, 1994 (Emission Guidelines and Compliance Times);

((~~(iv)~~))**(v)** Subpart Cc - Municipal Solid Waste Landfills (Emission Guidelines and Compliance Times);

((~~(v)~~))**(vi)** Subpart Cd - Sulfuric Acid Production Units (Emission Guidelines and Compliance Times);

((~~(vi)~~))**(vii)** Subpart Ce - Hospital/Medical/Infectious Waste Incinerators (Emission Guidelines and Compliance Times);

**(viii)** Subpart Cf - Municipal Solid Waste Landfills (Emission Guidelines and Compliance Times);

((~~(vii)~~))**(ix)** Subpart S - Primary Aluminum Reduction Plants;

((~~(viii)~~))**(x)** Subpart BB - Kraft Paper Mills;

**(xi)** Subpart BBa - Kraft Paper Mills Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013;

((~~(ix)~~))**(xii)** Subpart AAA - New Residential Wood Heaters - as it applies to non-Title V sources;

((~~(x)~~)) **(xiii)** Subpart BBBB - Small Municipal Waste Combustion Units Constructed on or before August 30, 1999 (Emission Guidelines and Compliance Times);

((~~(xi)~~)) **(xiv)** Subpart DDDD - Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999 (Emission Guidelines and Compliance Times);

((~~(xii)~~)) **(xv)** Subpart FFFF - Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units that Commenced Construction on or before December 9, 2004;

((~~(xiii)~~)) **(xvi)** Subpart IIII - Standards of Performance for Stationary Compression Ignition Internal Combustion Engines - as it applies to non-Title V sources;

((~~(xiv)~~)) **(xvii)** Subpart JJJJ - Standards of Performance for Stationary Spark Ignition Internal Combustion Engines - as it applies to non-Title V sources;

((~~(xv)~~)) **(xviii)** Subpart MMMM - Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units;

**(xix)** Subpart OOOOc - Existing Crude Oil and Natural Gas Facilities (Emission Guidelines);

((~~(xvi)~~)) **(xx)** Subpart QQQQ - Standards of Performance for New Residential Hydronic Heaters and Forced-Air Furnaces - as it applies to non-Title V sources;

((~~(xvii)~~))) **(xxi)** Subpart UUUUa - Reserved ~~- Emission Guidelines for Greenhouse Gas Emissions and Compliance Times for Electric Utility Generating Units~~))

((~~(xviii)~~)) **(xxii)** Subpart UUUUb - Greenhouse Gas Emissions for Electric Utility Generating Units (Emission Guidelines); and,

**(xxiii)** Appendix G - Provisions for an Alternative Method of Demonstrating Compliance with 40 CFR 60.43 for the Newton Power Station of Central Illinois Public Service Company.

**AMENDATORY SECTION**
**Rule 8.15 Adoption of National Emissions Standards for Hazardous Air Pollutants (NESHAP)**

**(a)** The NESHAP in 40 CFR Part 61 and its Appendices in effect on the date referenced in ORCAA Rule 1.11 are adopted by reference except for the subparts and sections listed in subsection (4). ((~~A current list of adopted federal standards is provided in Appendix A of ORCAA's Regulation.~~))

**(1)** The term "Administrator" in 40 CFR Part 61 means the Administrator of EPA and the Executive Director of the Agency.

**(2)** Where EPA has delegated to the Agency the authority to receive reports under 40 CFR Part 61 the affected facility is required to provide such reports only to the Agency, unless otherwise requested in writing by EPA.

**(3)** This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

**(4)** Exceptions. The following sections and subparts of 40 CFR Part 61 are not adopted:

**(i)** Subpart B - Radon from Underground Uranium Mines;

**(ii)** Subpart H - Radionuclide other than Radon from Dept. of Energy Facilities;

**(iii)** Subpart I - Radionuclide from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H;

**(iv)** Subpart K - Radionuclide from Elemental Phosphorus Plants;

**(v)** Subpart Q - Radon from Dept. of Energy Facilities;
**(vi)** Subpart R - Radon from Phosphogypsum Stacks;
**(vii)** Subpart T - Radon from Disposal Uranium Mill Tailings; and,
**(viii)** Subpart W - Radon from Operating Mill Tailings.

**AMENDATORY SECTION**
**Rule 8.17 Adoption of National Emissions Standards for Hazardous Air Pollutants (NESHAP) for Source Categories**

**(a)** The NESHAP for Source Categories in 40 CFR Part 63 and its Appendices in effect on the date referenced in ORCAA Rule 1.11 are adopted by reference except for the subparts and sections listed in subsections (4) and (5). ((~~A current list of adopted federal standards is provided in Appendix A of ORCAA's Regulation.~~))

**(1)** The term "Administrator" in 40 CFR Part 63 means the Administrator of EPA and the Executive Director of the Agency.

**(2)** Where EPA has delegated to the Agency the authority to receive reports under 40 CFR Part 63 the affected facility is required to provide such reports only to the Agency, unless otherwise requested in writing by EPA.

**(3)** This section does not apply to any source operating under a waiver granted by EPA or an exemption granted by the president of the United States.

**(4)** Exceptions. The following sections and subparts of 40 CFR Part 63((~~, as they apply to non-Title V sources,~~)) are not adopted:

**(i)** Subpart M - National Perchloroethylene Emission Standards for Dry Cleaning Facilities - as it applies to non-Title V sources;

**(ii)** Subpart LL - National Emission Standard for Hazardous Air Pollutants for Primary Aluminum Reduction Plants;

**(iii)** Subpart RRR - National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production - as it applies to non-Title V sources;

**(iv)** Subpart ZZZZ - Stationary Reciprocating Internal Combustion Engines - as it applies to non-Title V sources;

**(v)** Subpart - BBBBBB National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities - as it applies to non-Title V sources;

**(vi)** Subpart HHHHHH - Paint Stripping and Miscellaneous Surface Coating Operations at Area Sources - as it applies to non-Title V sources; and,

**(vii)** Subpart XXXXXX - Area Source Standards for Nine Metal Fabrication and Finishing Source Categories - as it applies to non-Title V sources.

(5) Subpart DDDD - National Emission Standards for Hazardous Air Pollutants for Plywood and Composite Wood Products, in effect on July 6, 2026, is adopted by reference.

**AMENDATORY SECTION**
**Rule 8.18 Adoption of Federal Consolidated Requirements for the Synthetic Organic Chemical Manufacturing Industry**

The Consolidated Requirements for the Synthetic Organic Chemical Manufacturing Industry in ((~~Section 2.18 of~~)) 40 CFR Part 65 in effect on the date referenced in ORCAA Rule 1.11 are adopted by reference.

**REPEALED SECTION**

Appendix A - Adopted Federal Regulations and Standards

**WSR 26-16-075**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
[Filed August 4, 2026, 1:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-09-067.

Title of Rule and Other Identifying Information: Chapter 246-275 WAC, On-site nonpotable water systems (ONWS). The department of health (department) is proposing to adopt a new chapter in Title 246 WAC, Department of health. The proposed rules establish general administrative procedures, treatment and performance requirements, allowable source water, end uses and implementation scales, design and construction standards, monitoring, reporting, and recordkeeping requirements, as well as operation and maintenance requirements for ONWS. The proposed rules also establish procedures for enforcement and violations, as well as set fees.

Hearing Location(s): On September 22, 2026, at 11:00 a.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_QMgaoMC7R0y7YWVbCfDY9g. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 29, 2026.

Submit Written Comments to: Kseniya Efremova, P.O. Box 47820, Olympia, WA 98504-7820, email kseniya.efremova@doh.wa.gov, web https://fortress.wa.gov/doh/policyreview/, beginning the date and time of filing, by September 22, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Kseniya Efremova, phone 360-236-3449, TTY 711, email kseniya.efremova@doh.wa.gov, by September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules create a new chapter in Title 246 WAC for the purpose of establishing regulations for ONWS. The chapter establishes risk-based standards, administrative, review, and approval processes for ONWS and use-based requirements for treated nonpotable water. Finally, the proposed rules provide an implementation timeline for legacy ONWS that accounts for the longer than anticipated development of these rules. Legacy ONWS will be required to come into compliance with the proposed rules 18 months after the rules become effective, to align with the intent of ESHB 1184 (chapter 156, Laws of 2021).

Reasons Supporting Proposal: ESHB 1184 directed the department to adopt rules to protect and improve public health, protect and enhance the environment, and conserve potable (drinking) water where nonpotable (not drinkable) water can safely be used on site or nearby. The proposed rules are needed to establish comprehensive standards for a statewide ONWS program in Washington.

Statutory Authority for Adoption: ESHB 1184 (chapter 156, Laws of 2021), codified as RCW 90.46.290 and 43.70.250.

Statute Being Implemented: ESHB 1184 (chapter 156, Laws of 2021), codified as RCW 90.46.290.

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

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

Name of Agency Personnel Responsible for Drafting: Kseniya Efremova, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3449; Imple-

mentation and Enforcement: Andrew Jones, 111 Israel Road S.E., Tumwater, WA 98501, 360-742-9233.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Kseniya Efremova, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3449, TTY 711, email kseniya.efremova@doh.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule; rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: WAC 246-275-100, 246-275-105, 246-275-110, 246-275-115, and 246-275-130 are exempt under RCW 34.05.310 (4)(d), as they clarify certain aspects of the proposed rule. WAC 246-275-135 is exempt under RCW 19.85.025(4) because the proposed rule applies to local health jurisdictions, which are a governmental entity that does not meet the definition of "small business" in RCW 19.85.020. WAC 246-275-610 is exempt under RCW 34.05.310 (4)(c), as the proposed rule incorporates by reference without material change Washington state statute that regulates the same subject matter and conduct. WAC 246-275-990 is exempt under RCW 34.05.310 (4)(f), as the proposed rule sets fees for the chapter.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: See exemptions above.

The proposed rule does impose more-than-minor costs on businesses.

## Small Business Economic Impact Statement (SBEIS)

**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.

The public may obtain a copy of the SBEIS or the detailed cost calculations by contacting Kseniya Efremova, P.O. Box 47820, Olympia, WA 98504-7820, phone 360-236-3449, TTY 711, email kseniya.efremova@doh.wa.gov.

August 4, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

RDS-7320.2

# Chapter 246-275 WAC
# ON-SITE NONPOTABLE WATER SYSTEMS

## PART 1 GENERAL PROVISIONS

NEW SECTION

**WAC 246-275-001 Purpose and scope.** (1) The purpose of this chapter is to set standards and requirements for the use of treated nonpotable water from on-site nonpotable water systems (ONWS).

(2) This chapter establishes risk-based standards, administrative, review, and approval processes for ONWS and use-based requirements for treated nonpotable water. This chapter establishes requirements for:

(a) General provisions including, but not limited to, those for applicability, waivers and extensions of compliance, variances, professional engineer requirements, and inspections;

(b) Treatment and performance, including risk-based log reduction targets for the removal of pathogens;

(c) Allowable source water, end uses, and implementation scales;

(d) Design and construction standards;

(e) Cross-connection control;

(f) Permitting;

(g) Water quality standards;

(h) Operation and maintenance;

(i) Malfunction notification and user confidence;

(j) Enforcement procedures;

(k) Monitoring, reporting, and recordkeeping; and

(l) Fees.

NEW SECTION

**WAC 246-275-005 Applicability.** (1) The requirements of this chapter apply to ONWS designed, constructed, operated, and maintained to collect and treat source waters for distribution and use as treated nonpotable water, and to a person, owner, and purveyor involved in these activities, including legacy ONWS as defined in this chapter.

(2) This chapter does not apply to:

(a) Single-family residences;

(b) Industrial reuse water;

(c) Closed loop water reuse, such as closed loop laundry recycling;

(d) Roof runoff and stormwater source water with no end uses inside a building;

(e) Reclaimed water facilities permitted or eligible for permitting under chapter 173-219 WAC; or

(f) Greywater facilities regulated under chapter 246-274 WAC.

NEW SECTION

**WAC 246-275-007 Relationship to other applicable laws, rules, and regulations.** (1) A purveyor shall obtain all applicable local building, plumbing, or other required permits from the local authority having jurisdiction.

(2) A person designing, constructing, altering, repairing, or operating and maintaining an ONWS shall comply with all applicable local ordinances and codes, federal and state statutes, rules, and regulations including, but not limited to, this chapter, chapters 90.46 and 19.27 RCW, and chapter 51-56 WAC.

NEW SECTION

**WAC 246-275-010 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Accredited laboratory" means an environmental laboratory accredited under chapter 173-50 WAC and operating within its scope of accreditation.

(2) "Air conditioning condensate (AC condensate)" means water extracted from atmospheric water vapor due to the operation of air conditioning or refrigeration.

(3) "ANSI" means the American National Standards Institute.

(4) "Annual report" means a department-supplied form summarizing the annual operational conditions and service population of an on-site nonpotable water system.

(5) "Approved air gap" means the same as in chapter 246-290 WAC.

(6) "Authority having jurisdiction" means local, state, or federal entities having regulatory authority over a specific aspect of the ONWS project.

(7) "$BOD_5$" means the five-day biochemical oxygen demand, typically expressed in mg/L.

(8) "Blackwater" means water-carried domestic human waste from toilets or urinals and includes liquid effluent from kitchen sinks or dishwashers.

(9) "Commercial building" means a structure with either or both of the following:

(a) Five or more residential units, also called a commercial multifamily building.

(b) A single occupancy classification and constructed under chapter 19.27 RCW, as implemented by chapter 51-50 WAC or local ordinance.

(10) "Conditional startup mode" means a period after the construction of the ONWS during which the treatment and distribution system's operations and performance are monitored and evaluated to validate design and performance assumptions.

(11) "CT" means the disinfectant residual concentration multiplied by contact time.

(12) "Continuous monitoring" means ongoing confirmation of system performance with the use of sensors, analyzers, meters, and other instrumentation, at least once every 15 minutes for the continuous observation of selected parameters, including surrogate parameters correlated with pathogen log reduction targets.

(13) "Data and monitoring report (DMR)" means a document containing the operation and water quality results of an ONWS permitted under this chapter.

(14) "Department" means the Washington state department of health.

(15) "Disability adjusted life years (DALYs)" means the measure of the health burden of a disease, calculated as the sum of years of life lost (YLL) due to premature death and years of life lived with disability (YLD) from illness (DALY=YLL+YLD).

(16) "Disinfection" means a physical or chemical process including, but not limited to, ultraviolet irradiation, ozonation, and chlorination used for the inactivation of pathogenic microorganisms.

(17) "District-scale agreement" means a written document required for a district-scale project that defines the roles and responsibilities of a property owner or entity acting as a purveyor or user of an ONWS, or both.

(18) "District-scale project" means a single project at the time of design consisting of two or more commercial, multifamily residential, or mixed-use buildings on one or more parcels near the point of treatment or use and sharing an ONWS.

(19) "Engineering report" means a technical document prepared under the direction, and bearing the seal, date, and signature of a professional engineer, describing the ONWS.

(20) "Facility inventory" means a document summarizing the characteristics of an ONWS.

(21) "First flush diverter" means a device operated by a mechanical float valve or other type of automatic control which redirects a quantity of roof runoff or stormwater collected from a surface following the onset of a rain event.

(22) "Foundation drainage" means shallow groundwater collected from the drainage around building foundations or sumps. Foundation drainage does not include nonpotable groundwater extracted for beneficial use.

(23) "Greywater" means liquid effluent collected from nonblackwater sources, such as bathroom sinks, showers, bathtubs, clothes washers, and laundry sinks. Greywater does not include flow from toilets or urinals and does not include liquid effluent from kitchen sinks or dishwashers.

(24) "HPC" means heterotrophic plate count.

(25) "Implementation scale" means the size of the ONWS in terms of the number and type of buildings it serves.

(26) "Inadequately treated nonpotable water" means a source water put through all or part of the ONWS's treatment process that does not satisfy the requirements of this chapter.

(27) "Industrial reuse water" means the same as in RCW 90.46.010.

(28) "Joint plan of responsibility" means a written agreement between the department and a local health jurisdiction, local health officer, or designee, as needed, to either partially or fully administer, enforce, and carry out the responsibilities under this chapter.

(29) "Legacy ONWS" means an on-site nonpotable water treatment system or alternate water source system under WAC 51-56-1500 or nonpotable rainwater catchment system under WAC 51-56-1600 that either was:

(a) In operation prior to January 1, 2022, and required to comply with this chapter under RCW 90.46.290 (3)(a); or

(b) Designed, constructed, permitted, or in operation prior to the effective date of this chapter and required to comply with this chapter.

(30) "Local health jurisdiction" means a local health department as defined in chapter 70.05 RCW, city-county health department as defined in chapter 70.08 RCW, or a health district as defined in chapter 70.05 RCW.

(31) "Local health officer" means the same as in RCW 70.05.010.

(32) "Log reduction" means the reduction in the concentration of infective pathogens or surrogate parameters through a treatment process expressed in $\log_{10}$ units. For example, a 1-log reduction equates to 90-percent removal, 2-log reduction to 99-percent removal, and 3-log reduction to 99.9-percent removal.

(33) "Log reduction credit (LRC)" means the $\log_{10}$ reduction value approved by the department or a local health jurisdiction under a joint plan of responsibility for a treatment technology based on the capability of the technology to remove or inactivate pathogens and proposed surrogate parameters for continuous monitoring.

(34) "Log reduction target (LRT)" means the required degree of pathogen reduction needed to achieve a risk of $10^{-6}$ DALYs per person per year (PPY) through exposure to treated nonpotable water.

(35) "Major modification" means changes from existing source waters, treatment unit processes, or implementation scales.

(36) "MBR" means membrane biological reactor.

(37) "Mixed-use building" means a structure containing two or more occupancy classifications and constructed under chapter 19.27 RCW, as implemented by chapter 51-50 WAC, or local ordinance.

(38) "Multifamily residential building" means the same as defined in chapter 19.27 RCW.

(39) "NWRI" means National Water Research Institute.

(40) "NTU" means nephelometric turbidity unit.

(41) "On-site nonpotable water system (ONWS)" means a system in which water from local sources is collected, treated, and used for nonpotable uses at the building to district/neighborhood-scale, generally at a location near the point of generation. ONWS includes "nonpotable reuse system" under chapter 173-219 WAC, "alternate water source system" under WAC 51-56-1500, and "nonpotable rainwater catchment system" under WAC 51-56-1600.

(42) "Operating permit" means a legally enforceable written document designed to improve compliance by clarifying the compliance obligations of this chapter for each ONWS.

(43) "Operations and maintenance manual (O&M manual)" means a document providing comprehensive information including, but not limited to, the ONWS's design, legal status, operation, maintenance, performance, and repair.

(44) "Operator" means a qualified individual or entity with routine duties that affect the treatment performance or water quality of the treated nonpotable water.

(45) "Owner" means one or more persons, jointly or severally, in whom is vested all or any part of the legal title to the ONWS.

(46) "Person" means any individual, government agency, political subdivision of the state, public or private corporation, firm, company, mutual or cooperative association, institution, partnership, or other legal entity.

(47) "Premises isolation" means a method of protecting a public water system by installation of approved air gaps or approved backflow prevention assemblies at or near the service connection to isolate the consumer's water system from the purveyor's distribution system.

(48) "Professional engineer" means a person licensed in the state of Washington under chapter 18.43 RCW or exempt under RCW 18.43.130, and having specific expertise appropriate to ONWS design, operation, and maintenance.

(49) "Purveyor" means a person, partnership, or other entity operating an ONWS. Purveyor also means the authorized agents of these entities.

(50) "Reclaimed water" means the same as defined in chapter 90.46 RCW.

(51) "Record drawing" means an accurate graphic and written record of the location and features that are needed to properly monitor, operate, and maintain the ONWS that bears the stamp and signature of a professional engineer.

(52) "RPBA" means reduced pressure backflow assembly.

(53) "RPDA" means reduced pressure detector assembly.

(54) "Regulatory authority" means the primary entity responsible for administering, enforcing, and carrying out the responsibilities under this chapter. The regulatory authority is either the department or a local health jurisdiction, local health officer, or designee as identified in a joint plan of responsibility under WAC 246-275-135.

(55) "Roof runoff" means precipitation from rain or snowmelt events collected directly from a rooftop not subject to frequent public access.

(56) "Rooftop" means a part of a fixed structure above the ground with a primary purpose other than the collection of roof runoff for beneficial use.

(57) "Source water" means blackwater, greywater, roof runoff, stormwater, foundation drainage, AC condensate, or other untreated, nonpotable water approved under WAC 246-275-210 that is captured for treatment and nonpotable end uses on-site or nearby.

(58) "Spray irrigation" means a method of applying water for use by plants where the water emits from a fixture or device into the air before contacting the soil, ground, or plant surface.

(59) "Stormwater" means precipitation runoff from rain or snowmelt events that flows over land or impervious surfaces, for example streets and parking lots, and does not soak into the ground. Stormwater also includes precipitation from rain or snowmelt events collected directly from a rooftop subject to frequent public access.

(60) "Subsurface irrigation" means a method of applying water for use by plants where the water is delivered beneath the soil surface.

(61) "Surface nonspray irrigation" means a method of applying water for use by plants where the water is delivered directly at the ground plane via hardware such as drip emitters or soaker hoses.

(62) "Surrogate parameter" means a measurable physical or chemical parameter that can assess the performance of a treatment unit process in the control of a specific group or groups of pathogens or chemicals.

(63) "TSS" means total suspended solids.

(64) "Treated nonpotable water" means the water generated by an ONWS that meets the log reduction targets and water quality limits established in this chapter which make it suitable for approved end uses and is an alternative water source identified as "on-site treated nonpotable water" under chapter 51-56 WAC.

(65) "Treatment process" means a combination of treatment unit processes and is also known as a treatment train.

(66) "Treatment unit process" means a physical, chemical, or biological system intended to improve water quality. Examples include filtration, oxidation, adsorption, disinfection, and membrane separation.

(67) "User" means people who use or otherwise interact with fixtures, appliances, or landscaping using treated nonpotable water from an ONWS including, but not limited to, property owners, residents, commercial tenants, employees, and visitors.

(68) "Validation engineering report" means a technical document prepared under the direction, and bearing the seal, date, and signature, of a professional engineer providing a detailed treatment technology evaluation study conducted by challenging the treatment technology over a wide range of operational conditions.

NEW SECTION

**WAC 246-275-120 Allowed source water.** This chapter applies to ONWS that collect, store, and treat the following source waters:

(1) AC condensate;
(2) Blackwater;
(3) Foundation drainage;
(4) Greywater;
(5) Roof runoff;
(6) Stormwater; and
(7) Other sources approved by a variance under WAC 246-275-160.

NEW SECTION

**WAC 246-275-125 Allowed end uses.** (1) This chapter applies to the following end uses:

(a) Clothes washing;
(b) Dust control and street cleaning;
(c) Priming drain traps;
(d) Subsurface irrigation, surface nonspray irrigation, and spray irrigation of nonfood plants;
(e) Toilet and urinal flushing; and
(f) Other end uses approved by a variance under WAC 246-275-160.

(2) End uses not allowed under this chapter or eligible for a variance under WAC 246-275-160 include, but are not limited to:

(a) Drinking;
(b) Food preparation and cooking;
(c) Patio misting systems for temperature and humidity control;
(d) Showering and bathing; and
(e) Handwashing or other sanitary uses, including bidets.

NEW SECTION

**WAC 246-275-130 Allowed implementation scales.** This chapter applies to the following implementation scales:

(1) Commercial building;
(2) District-scale project;
(3) Mixed-use building;
(4) Multi-family residential building; and
(5) Variance approved under WAC 246-275-160.

NEW SECTION

**WAC 246-275-135 General administration.** (1) The department shall administer, enforce, and carry out the responsibilities under this chapter.

(2) The department may establish a joint plan of responsibility with a local health jurisdiction, local health officer, or designee, to either partially or fully administer, enforce, and carry out the responsibilities under this chapter. A joint plan or responsibility must:

(a) List the roles and responsibilities of each jurisdiction and agency necessary to fulfill the purposes of this chapter including, but not limited to, the required number and type of full-time equivalent positions to administer, enforce, and carry out the responsibilities under this chapter;

(b) Specifically designate types or categories of ONWS for which the department and the local health jurisdiction, or local health officer, have primary responsibility;

(c) Establish an agreed-to level of ONWS oversight that fulfills the roles and responsibilities necessary to administer, enforce, and carry out the responsibilities under this chapter;

(d) Be signed by both parties; and

(e) Be reviewed at least once every five years and updated as needed.

(3) If permitted by the department and outlined in the joint plan of responsibility established under subsection (2) of this section and in accordance with RCW 39.34.030, a local health jurisdiction, local health officer, or designee may establish joint or cooperative action agreements with other local health jurisdictions, local health officers, or designees, to either partially or fully administer, enforce, and carry out the responsibilities under this chapter. The agreement must include, but is not limited to, a list of the roles and responsibilities of each jurisdiction and agency necessary to fulfill the purposes of this chapter, including the required number and type of full-time equivalent positions to administer, enforce, and carry out the responsibilities under this chapter.

(4) The local health jurisdiction, local health officer, or designee may use forms provided by the department or create their own forms to administer this chapter.

(5) Local health jurisdictions implementing all or part of this chapter shall provide required ONWS information and data annually to the department in a format specified by the department.

NEW SECTION

**WAC 246-275-140 Engineering qualifications.** All work required to be prepared under the direction of a professional engineer including, but not limited to, feasibility studies, engineering reports, validation engineering reports, construction documents, and construction completion reports must bear the seal, date, and signature of the professional engineer. The professional engineer shall have expertise commensurate with the complexity of the design, operation, and maintenance of the ONWS.

NEW SECTION

**WAC 246-275-145 Legacy ONWS.** The following requirements apply to legacy ONWS:

(1) A purveyor of a legacy ONWS shall submit the required engineering report under WAC 246-275-210 by June 1, 2028.

(2) A purveyor of a legacy ONWS shall submit to the regulatory authority the requirements under WAC 246-275-210(2) and include in the engineering report a description of the existing ONWS and the required modifications necessary to comply with this chapter and RCW 90.46.290 (3)(a) and, if applicable, (b).

(3) A purveyor of a legacy ONWS may apply for a waiver if compliance requiring engineering, repair, or replacement of the system is cost prohibitive under RCW 90.46.290. The applicant shall:

(a) Identify the specific requirements proposed to be waived;

(b) Identify and describe the cost prohibitive engineering, repair, or replacement necessary to achieve compliance;

(c) Attest that no major modifications have been made to the ONWS after the effective date of this chapter;

(d) Provide any additional information requested by the regulatory authority including, but not limited to, the anticipated cost for the engineering, repair, or replacement necessary to comply with the requirement for which the waiver is sought; and

(e) Pay a review fee in accordance with WAC 246-275-990.

(4) A waiver may not apply to greater than a three-year term. Upon expiration, a purveyor shall comply with this chapter or reapply for a waiver of compliance under subsection (3) of this section.

(5) A purveyor granted a waiver of compliance under subsection (3) of this section shall deliver annual, dated notice to all users via mail, email, or publicly posted notice. The notice must:

(a) Identify the requirements for which the legacy ONWS has received the waiver;

(b) The costs associated with coming into compliance; and

(c) The expiration date of the waiver.

NEW SECTION

**WAC 246-275-150 Waivers.** (1) The purveyor of an ONWS may request a waiver from a specific requirement of this chapter. The request must:

(a) Be in writing;

(b) Identify the requirement requested to be waived;

(c) State the reason for the waiver; and
(d) Provide supporting information.
(2) The department may grant a waiver request if it:
(a) Is consistent with the applicable standards and the intent of this chapter; and
(b) Provides a comparable level of public health and environmental protection to the requirement being waived.
(3) If the department approves a waiver request, the department shall notify the requestor of the decision in writing.
(4) If the department denies a waiver request, the department shall notify the requestor of the decision in writing stating the reasons for the denial.
(5) A purveyor granted a waiver of compliance under this section shall deliver annual, dated notice to all users via mail, email, or publicly posted notice. The notice must identify:
(a) The requirements for which the ONWS has received the waiver of compliance; and
(b) The expiration date of the waiver.

NEW SECTION

**WAC 246-275-155 Extensions.** (1) The owner or purveyor may not begin construction until receiving the department's written approval to construct.
(2) If construction does not begin within two years following the date of the department's approval of the plans and specifications, the approval for plans and specifications, and notice to construct, expire and become null and void. If these approvals expire, the purveyor shall resubmit the project for approval, following the requirements in WAC 246-275-200(2).
(3) The owner may request a single extension of up to two years of the plans and specifications approval and all subsequent approvals prior to the two-year expiration date by submitting a written request including a status report and construction schedule with the anticipated completion date.
(4) The department may impose additional terms and conditions consistent with the purpose of this chapter and necessary to protect public health if it grants an extension.
(5) An owner granted an extension under this section shall deliver annual, dated notice to all users via mail, email, or publicly posted notice. The notice must identify:
(a) The reason for the extension; and
(b) When construction is anticipated to be completed.

NEW SECTION

**WAC 246-275-160 Variances.** (1) A purveyor may apply to the department for a variance from certain requirements of this chapter. The request must:
(a) Be in writing;
(b) Identify the requested variance;
(c) State the reason for the variance; and
(d) Provide supporting information.

(2) Except for the end uses listed under WAC 246-275-125(2), the department may grant a variance for:

(a) Additional water sources and end uses under WAC 246-275-120 and 246-275-125;

(b) End uses established under WAC 51-56-1500 or 51-56-1600 with no established risk-based water quality standards under this chapter, if:

(i) Analogous system performance data is provided;

(ii) The purveyor submits a quantitative microbial risk assessment (QMRA) that determines the LRT for the proposed end use;

(iii) The department determines that proposed water quality standards are protective of public health and the environment; and

(iv) Ongoing monitoring results demonstrate that the water meets the expected water quality for source waters and treatment; and

(c) Additional implementation scales under WAC 246-275-130, if:

(i) The proposed implementation scale is consistent with the purpose of this chapter;

(ii) The purveyor provides a copy of the feasibility study required under WAC 246-275-205 to the department of ecology to evaluate the need for a water right impairment review under RCW 90.46.290 (2)(i);

(iii) The purveyor provides other relevant documents requested by the regulatory authority, or the department of ecology; and

(iv) The engineering report under WAC 246-275-210 satisfies all relevant requirements from the regulatory authority including, if applicable, department of ecology requirements to mitigate, compensate, or otherwise address a water right impairment.

(3) The department may approve alternative sampling requirements and reporting frequencies.

(4) If the department approves a variance request, the department shall notify the requestor of the decision in writing.

(5) If the department denies a variance request, the department shall notify the requestor of the decision in writing, stating the reasons for the denial.

NEW SECTION

**WAC 246-275-165 Inspection—Site and document access.** An owner, purveyor, and user shall allow the department or local health jurisdiction under a joint plan of responsibility to enter and inspect any ONWS governed by this chapter.

(1) A property served by an ONWS, including a property that provides source waters or is served treated nonpotable water, are subject to inspection.

(2) The department or local health jurisdiction under a joint plan of responsibility may enter and inspect any ONWS governed by this chapter to determine compliance with this chapter:

(a) On any weekday that is not a legal holiday between the hours of 8:00 a.m. and 5:00 p.m.; and

(b) At any time with the consent of the owner or purveyor.

(3) The department or local health jurisdiction under a joint plan of responsibility may inspect:

(a) All records, including records of O&M;

(b) All data submitted;

(c) All permits; and

(d) The ONWS, all ONWS components, and all ONWS performance equipment.

(4) During an inspection, the department or local health jurisdiction under a joint plan of responsibility shall have free and unimpeded access to all:

(a) Buildings, warehouses, storage facilities, and other places reasonably considered to be or to have been part of the ONWS;

(b) Ledgers, books, accounts, memorandums, or records required to be compiled or maintained in this chapter; and

(c) Products, components, maintenance supplies, or other material used in connection with the ONWS.

(5) During an inspection, the department or local health jurisdiction under a joint plan of responsibility may take such samples as may be reasonably necessary to verify compliance.

(6) The purveyor shall take preventative or corrective action as directed by the department or local health jurisdiction under a joint plan of responsibility when results of an inspection indicate conditions which may harm or are harming ONWS operation or which are in violation of any requirements of this chapter.

## PART 2 PLANNING, REVIEW, APPROVAL, AND PERMITTING PROCESS

NEW SECTION

**WAC 246-275-200 New systems and major modifications to approved ONWS.** (1) An owner and purveyor proposing a new ONWS or major modifications to an approved ONWS shall follow the sequence provided in this section unless the regulatory authority determines a different order is necessary to satisfy the requirements of this chapter. The owner or purveyor must receive notice of approval from the regulatory authority prior to proceeding to each step in this sequence.

(2) Before construction of an ONWS, a purveyor shall pay applicable fees required by WAC 246-275-990 and submit to the regulatory authority for review and approval the following:

(a) A feasibility study under WAC 246-275-205;

(b) An engineering report under WAC 246-275-210;

(c) Construction documents under WAC 246-275-215; and

(d) All applicable permits issued by authorities having jurisdiction including, but not limited to, all construction and plumbing permits.

(3) During construction, a purveyor shall make the site available for inspection by the regulatory authority, or an authority having jurisdiction, as required under WAC 246-275-165.

(4) Within 60 calendar days of the completion of construction, a purveyor shall provide to the regulatory authority:

(a) A construction completion report under WAC 246-275-220;

(b) Record drawings under WAC 246-275-220; and

(c) A facility inventory under WAC 246-275-220.

(5) A purveyor shall:

(a) Test, in the presence of the authority having jurisdiction, to confirm that no cross-connections exist under WAC 246-275-415; and

(b) Request and receive notice to proceed to conditional startup mode from the regulatory authority under WAC 246-275-400(3).

(6) While operating in conditional startup mode, a purveyor shall:

(a) Operate, monitor, and report pursuant to the conditional startup mode requirements of this chapter, including WAC 246-275-400 and 246-275-500; and

(b) If required, submit the validation engineering reports to the regulatory authority for review and approval under WAC 246-275-305(2).

(7) To complete the conditional startup mode performance period, a purveyor shall comply with the requirements under WAC 246-275-400 including, but not limited to, the following submittals to the regulatory authority for review and approval:

(a) A conditional startup mode final report; and

(b) The O&M manual.

(8) A purveyor shall, after the conditional startup mode performance period is complete:

(a) Submit an operating permit application under WAC 246-275-405 and the documentation required under WAC 246-275-405 (3)(a) through (e) to the regulatory authority; and

(b) Pay applicable fees required by WAC 246-275-990.

(9) A purveyor shall operate, maintain, monitor, keep records, and report on the ONWS pursuant to the following:

(a) The final use mode requirements in this chapter;

(b) The approved O&M manual; and

(c) The operating permit issue by the regulatory authority.

(10) An owner shall renew the operating permit annually under WAC 246-275-405 and pay applicable fees required by WAC 246-275-990.

NEW SECTION

**WAC 246-275-205 Feasibility study.** An owner or their designee may request a preproject meeting with the regulatory authority to discuss the scope of the project and the feasibility study required in this section.

(1) An owner or their designee shall submit a feasibility study to the regulatory authority for review and approval before submitting the engineering report or construction documents, or the installation of any ONWS component.

(2) The feasibility study must include, but is not limited to, a description of the proposed new ONWS project, including:

(a) Contact information for the owner, purveyor, and design engineer, if applicable;

(b) Site address, legal description, and name of the county where the project is located;

(c) Vicinity map showing:

(i) The project site;

(ii) Project property boundaries; and

(iii) Parcels surrounding and adjoining the project property boundaries;

(d) Site map scaled to clearly show project boundaries;

(e) The expected operator qualifications, skills, and experience needed to operate and maintain the ONWS in compliance with this chapter;

(f) Proposed source water;

(g) Proposed treatment unit processes with corresponding proposed log reduction credit values that demonstrate compliance with the appropriate risk-based and water quality standards under WAC 246-275-300;

(h) Proposed end uses;

(i) Consideration of financial and staffing requirements for the proposed ONWS;

(j) Identification of all local permits and requirements affecting the project; and

(k) Other data and information deemed necessary by the regulatory authority to show the feasibility of the proposed project.

NEW SECTION

**WAC 246-275-210 Engineering report submittal.** (1) A purveyor shall submit engineering reports consistent with the standards in WAC 246-275-300, 246-275-305, 246-275-310, 246-275-315, 246-275-320, 246-275-325, and 246-275-330 compatible with component replacement, long-term operation and maintenance, and potential abandonment of the ONWS. Engineering reports are required for a legacy ONWS, new ONWS, or major modification to any ONWS.

(2) Engineering reports must specify necessary operating conditions and identify surrogate parameters requiring continuous monitoring. Engineering reports must show required log reduction credits are achieved by treatment processes and are consistent with WAC 246-275-305, Table 2. The engineering report must include, but is not limited to:

(a) Contact information for the owner, purveyor, and design engineer, if applicable;

(b) Site address, legal description, and name of the county where the project is located;

(c) Vicinity map showing:

(i) The project site;

(ii) Project property boundaries; and

(iii) Parcels surrounding and adjoining the project property boundaries;

(d) Site map scaled to clearly show project boundaries;

(e) Basis of design for ONWS including:

(i) Estimated 24-hour minimum, peak, and average source water flow rate;

(ii) Estimated treated nonpotable demand;

(iii) Source water quality; and

(iv) Treated nonpotable water quality;

(f) Treatment process design criteria, including:

(i) Process flow diagram;

(ii) Contingency plan for treatment of source water during partial occupancy periods or when environmental conditions or other limiting factors would impact treatment performance;

(iii) Pathogen log reduction credit under WAC 246-275-305;

(iv) Treatment process flow summary;

(v) Treatment unit process design criteria;

(vi) Secondary disinfection;

(vii) Chemical use and handling; and

(viii) Solids handling and disposal.

(g) Operations and maintenance details including, but not limited to:

(i) Wastewater source control for biological treatment systems including prevention of hazardous waste disposal that kills treatment microbes;

(ii) Treatment prescreening to capture and remove hair, sanitary wipes, including those that are marked as flushable, and similar non-degradable contaminants that is easy and safe to access;

(iii) Consideration for treatment equipment maintenance, repair, and replacement access including full access to storage tank hatches;

(iv) Workspace odor control and air quality safety;

(v) Reliability features;

(vi) Workplace safety equipment including, but not limited to, chemical showers, eye wash stations, spill, and first-aid kits; and

(vii) O&M training program and employee notification procedures;

(h) System control strategy for monitoring and alarms including, but not limited to:

(i) Alarms and automatic diversions;

(ii) Remote monitoring;

(iii) Grab sampling with safe and easy access to sampling ports; and

(iv) Providing full access to critical equipment components and control points;

(i) Supplemental water supply and cross-connection control under WAC 246-275-415;

(j) Description of pathways for potential exposure and impacts to the public;

(k) Detailed conditional startup mode operations testing and monitoring plan in accordance with WAC 246-275-400 and 246-275-500, including Table 5. These plans must demonstrate that the ONWS will function as intended, reliably and consistently achieve the LRTs and water quality limits established in this chapter, and must include:

(i) Hydraulic load during the test;

(ii) Location and schedule for all sampling or measurements;

(iii) Methods used to analyze samples or make measurements;

(iv) Persons responsible for conducting the test and processing samples;

(v) Indicators of steady-state operation;

(vi) Method used to verify required pathogen log reduction targets are achieved;

(vii) Test plan for the monitoring, alarm, alarm response, and control systems;

(viii) If required under WAC 246-275-305, a validation engineering report for log reduction targets, including the surrogate parameters for field verification to determine log reduction performance and a process for accounting for variability in the ONWS during field verification. Field verification must consist of at least three test runs during which the water quality, influent flow rate to the treatment process, or both, is the most difficult for treatment process efficacy or for the subsequent treatment unit process; and

(ix) Consideration of partial occupancy periods and environmental or other limitations that will impact the quantity of available source water or otherwise impact the timing and the duration of the performance period;

(l) Environmental documentation including, but not limited to, a final environmental impact statement, determination of nonsignificance, or mitigated determination of nonsignificance under chapters 43.21C RCW and 197-11 WAC or water right impairment documentation if required under WAC 246-275-155; and

(m) Other data and information deemed necessary to show a complete engineering report.

NEW SECTION

**WAC 246-275-215 Construction documents submittal.** An owner or purveyor shall submit to the regulatory authority all construction documents for review and approval before beginning construction on ONWS major modifications or requesting a notice to proceed to conditional startup mode under WAC 246-275-400(3).

(1) ONWS construction documents must show how the project was or will be modified or constructed in accordance with the approved engineering report. Construction documents must be consistent with the design requirements in WAC 246-275-300, 246-275-305, 246-275-310, 246-275-315, 246-275-320, 246-275-325, and 246-275-330 and must include, but are not limited to:

(a) Detailed drawings of each project component;

(b) Detailed material specifications for each project component;

(c) Detailed construction specifications and assembly techniques for conducting the project;

(d) Testing criteria and procedures for each applicable portion of the project;

(e) Disinfection procedures that conform with the American Water Works Association (AWWA) standards or other standards acceptable to the department; and

(f) Provisions for inspection of the installation of each project component.

NEW SECTION

**WAC 246-275-220 Construction completion report and facility inventory.** A purveyor shall submit a construction completion report and record drawings to the department after construction is completed. The construction completion report and record drawings must bear the seal, date, and signature of a professional engineer stating that the ONWS was constructed in accordance with the approved engineering report and construction documents. A purveyor shall submit a facility inventory with the construction completion report.

## PART 3 DESIGN, $LOG_{10}$ REDUCTION TARGETS AND CREDITS, AND WATER QUALITY LIMITS

NEW SECTION

**WAC 246-275-300 Pathogen log reduction targets (LRT).** (1) ONWS must have a treatment process design to achieve the log reduction targets in Table 1 of this section.

(2) Inadequately treated nonpotable water not meeting log reduction targets in Table 1 of this section must automatically divert to sanitary or storm sewer appropriate for the source of inadequately treated water as described under WAC 246-275-315(4).

**Table 1: Pathogen $Log_{10}$ Reduction Targets (LRT)**

| Source Water | Virus | Protozoa | Bacteria |
|---|---|---|---|
| Blackwater (wastewater) | 10.0 | 6.5 | 5.5 |
| Greywater | 7.5 | 4.0 | 3.5 |
| Stormwater (10% wastewater) | 8.0 | 6.0 | 5.5 |
| Stormwater (0.01% wastewater) | 5.0 | 3.0 | 2.5 |
| Roof runoff | N/A | 1.0 | 3.5 |
| Foundation | 5.0 | 3.0 | 2.5 |
| AC condensate | N/A | N/A | 3.5 |

NEW SECTION

**WAC 246-275-305 Log reduction credits.** (1) Log reduction credits (LRC) are assigned by the department based on the ability of each treatment unit process to achieve an assigned or validated log reduction credit. Table 2 of this section summarizes the log reduction credits assigned for each treatment unit process. Projects may seek, and the department may approve, higher log reduction credits than Table 2 with site-specific validation, surrogate parameters, or other approved methods.

(2) Other treatment unit processes not included in Table 2 of this section may receive LRC if verifiable evidence is provided in an approved validation engineering report. The validation engineering report must characterize and quantify ONWS treatment performance under low flow, high flow, and treatment upset conditions, include evidence the treatment unit process can reliably and consistently achieve a specific LRT, and provide information on the required operating conditions and surrogate parameters that require continuous monitoring.

(3) UV log reduction credits are reactor-specific and dose dependent. The UV validation report must document results. Validation testing must be based on one of the following:

(a) United States Environmental Protection Agency (US EPA) UV Disinfection Guidance Manual (US EPA 2006);

(b) NWRI UV Disinfection: Guidelines for Drinking Water and Water Reuse, third edition (NWRI 2012);

(c) NSF/ANSI 55 Standard for UV Water Treatment Systems (NSF/ANSI 2022);

(d) DVGW W294 (Deutsche Vereinigung des Gas und Wasserfaches);

(e) ÖNORM M5873-1 or ÖNORM M5873-2 protocol (Österreichisches Normungsinstitut - Austrian Standards Institute); or

(f) A published protocol submitted to the regulatory authority for approval.

(4) The following treatment-specific information must be included in the engineering report for each of the following treatment unit processes used:

(a) Microfiltration or ultrafiltration:

(i) Description and calculation of how the system defines an acceptable pressure decay test value per the US EPA's Membrane Filtration Guidance Manual (US EPA 815-R-06-009);

(b) Membrane biological reactor (MBR):

(i) Full description of the operating envelope including operation with the Tier 1 operating envelope as defined in the *Membrane Bioreactor Validation Protocols for Water Reuse* (*WRF project 4997*);

(c) Reverse osmosis:

(i) Full description of the log removal credits as described in the US EPA RO pathogen crediting framework; and

(ii) Rationale for surrogate parameter used to calculate log removal credits;

(d) UV light disinfection:

(i) Full description of LRCs as described in the selected framework under this subsection; and

(ii) Documentation describing the validated operating envelope and how the UV system will be designed and operated to stay within the acceptable limits for flow, UVT, and other relevant parameters;

(e) Chlorine disinfection:

(i) Full descriptions of LRCs as described in US EPA free chlorine CT tables or Australian WaterVal Validation Protocol; and

(ii) Specifics on how concentration and contact time will be determined;

(f) Ozone disinfection:

(i) Full description of LRCs based on contact time framework as described in EPA Disinfection Profiling and Benchmarking Guidance Manual (1999).

**Table 2: Treatment Unit Process $Log_{10}$ Reduction Credits**

| Treatment Unit Process | $Log_{10}$ Reduction Credits Virus/Protozoa/ Bacteria | Crediting Framework | Example Continuous Monitoring Methods |
|---|---|---|---|
| Microfiltration or ultrafiltration | 0.0/4.0/0.0 | US EPA Membrane Filtration Guidance Manual | Daily pressure decay test to detect breach of 3 µm or larger<br>Effluent turbidity |
| MBR | 1.5/2.0/4.0 | Membrane Bioreactor Validation Protocols for Water Reuse (WRF project 4997) | Effluent turbidity equal to or less than 0.2 NTU 95% of the time and always below 0.5 NTU |

| Treatment Unit Process | $Log_{10}$ Reduction Credits Virus/Protozoa/ Bacteria | Crediting Framework | Example Continuous Monitoring Methods |
|---|---|---|---|
| Reverse osmosis | Up to 2.0/2.0/2.0 (Surrogate parameter dependent) | US EPA RO pathogen crediting framework | Influent and effluent total organic carbon<br>Influent and effluent electrical conductivity |
| UV light disinfection | Up to 6.0/6.0/6.0 (Dose dependent) | US EPA UV Disinfection Guidance Manual or NSF 55 Class A validation | UV intensity<br>Flow rate<br>UV dose |
| Chlorine disinfection | Up to 5.0/0/5.0 (CT dependent) | US EPA free chlorine CT tables<br>Australian WaterVal Validation Protocol | Chlorine residual<br>Flow rate |
| Ozone disinfection | Up to 4.0/3.0/4.0 (CT dependent) | EPA Disinfection Profiling and Benchmarking Guidance Manual (1999) | Ozone residual<br>Flow rate |

NEW SECTION

**WAC 246-275-310 Water quality limits.** ONWS must have a treatment process design to continuously achieve the water quality limits in Table 3 of this section and the automatic diversion requirements in WAC 246-275-300(2) and 246-275-315(4).

**Table 3: Water Quality Limits**

| Parameter | Limit | Automatic Diversion |
|---|---|---|
| $Log_{10}$ reduction targets (LRT) | See WAC 246-275-300, Table 1 | Yes |
| Free Chlorine Residual for secondary disinfection minimum, when required by WAC 246-275-315(7) | 0.5 mg/L (at entry to distribution)<br>0.2 mg/L (at a representative location at end of distribution) | No |
| pH | 6.0-9.0 | No |
| Turbidity (95% maximum) | 0.2 NTU | No |
| Turbidity (absolute maximum) | 0.5 NTU | Yes |
| 5-day Biological Oxygen Demand ($BOD_5$) | 30 mg/L | No |
| Total Suspended Solids (TSS) | 30 mg/L | No |

NEW SECTION

**WAC 246-275-315 Design requirements for all ONWS.** An ONWS must:

(1) Be designed to prevent unintentional contact with humans;

(2) Be designed and equipped with features that result in a controlled and nonhazardous automatic shutdown of the treatment process in case of a treatment or physical malfunction or failure;

(3) Use a licensed plumber to install all distribution piping, fixtures, equipment, appliances, and appurtenances according to project type: Commercial or multifamily residential;

(4) Include automatic diversion and overflow connections to the sanitary or stormwater system, when appropriate, with an approved air

gap or other approved backflow prevention assembly. ONWS that treat blackwater or greywater must automatically divert to sanitary sewers. If allowed by the local stormwater authority, an ONWS that only treats roof runoff, stormwater, or both, may divert to stormwater systems. The ONWS must always be capable of automatically diverting when:

(a) Operating during conditional startup mode;

(b) The required log reduction targets under WAC 246-275-300, Table 1, or applicable water quality limits in WAC 246-275-310, Table 3, are not met; or

(c) There is an ONWS malfunction or failure;

(5) Provide and maintain signage as required by chapter 51-56 WAC. Signage must be included on a property collecting, treating, receiving, or distributing water from an ONWS. Signage must be in a language that is understood by the populations served, maintained in good condition, and free from damage;

(6) Be designed with and have:

(a) Appropriate flow meters to verify and control flow rates and contact times required to meet the LRTs; and

(b) Totalizing flow meters to separately measure the volume of:

(i) Treated water for permitted end uses; and

(ii) Makeup water for permitted end uses;

(7) Have sample taps installed before and after each treatment unit process and at critical points in the distribution system, as approved by the regulatory authority;

(8) Except for ONWS permitted solely for subsurface irrigation as an end use or when using makeup water, include a treatment unit process to achieve a free chlorine concentration in the treated nonpotable water. The free chlorine concentration must be a minimum of:

(a) 0.5 mg/L at the entry to the distribution system; and

(b) 0.2 mg/L at a representative location at the end of the distribution system;

(9) Be designed and operated to control odors and comply with applicable federal, state, and local indoor air quality standards;

(10) Be designed so that all air vents for ONWS water tanks or collection tanks are screened with a durable, noncorrosive, fine mesh screen;

(11) Include seals for all gaps around pipes feeding the water tank with a durable, waterproof, nonporous material. A durable gasket with no gaps must be installed around the door openings to the tank;

(12) Prevent cross-connections with potable and reclaimed water supplies as required by WAC 246-275-415;

(13) Be designed to continuously monitor:

(a) LRT surrogate parameters at locations identified in the approved engineering report;

(b) Free chlorine residual at entry to the distribution system when a free chlorine residual is required under subsection (8) of this section, unless a reduced monitoring frequency using a grab sample is approved in the engineering report under WAC 246-275-210;

(c) pH at entry to distribution; and

(d) Turbidity in filter output;

(14) Excluding irrigation-only systems, include a source of makeup water. Makeup water must be provided via an approved air gap. The makeup water source must be either:

(a) A public water system approved by the department under chapter 246-290 or 246-291 WAC; or

(b) A reclaimed water facility permitted under chapter 173-219 WAC for the end uses supplied by the ONWS.

NEW SECTION

**WAC 246-275-320 Design requirements based on source water.** ONWS must include design features specific to each approved source water as described in this section.

(1) ONWS treating blackwater or greywater must be designed to include, at a minimum, the following treatment unit processes:

(a) Biological treatment resulting in stabilized, nonputrescible nonpotable water that contains dissolved oxygen;

(b) Filtration; and

(c) Properly vented storage tanks as required under chapter 51-56 WAC.

(2) ONWS treating roof runoff or stormwater must:

(a) Include a first flush diverter or debris excluder as required under chapter 51-56 WAC; and

(b) Address corrosivity of the treated nonpotable water on end use plumbing and fixtures.

(3) ONWS treating AC condensate must address corrosivity of the treated nonpotable water on end use plumbing and fixtures.

NEW SECTION

**WAC 246-275-325 Design requirements for irrigation end use.** ONWS supplying treated nonpotable water for irrigation must include design features so the treated nonpotable water does not:

(1) Leave the approved irrigation area as spray or surface flow or runoff, including when soils are saturated;

(2) Enter a dwelling or food handling facility; or

(3) Contact a drinking water fountain.

NEW SECTION

**WAC 246-275-330 Design requirements for district-scale implementation.** ONWS collecting, treating, receiving, or distributing water for a district-scale project must include lockable valves which can be activated to control the flow of water from any source originating from another property and lockable valves which can be activated to control the flow of water to any property.

## PART 4 OPERATIONS

NEW SECTION

**WAC 246-275-400 Conditional startup mode operations.** (1) Conditional startup mode must begin after construction or major modification is completed but before obtaining an operating permit.

(a) The ONWS must operate in conditional startup mode for 12 months.

(b) A purveyor may request, and the regulatory authority may allow, a reduction of the duration of the required conditional startup mode performance period in this subsection on a case-by-case basis.

(2) Before conditionally operating the ONWS, cross-connection testing must confirm the ONWS is not cross-connected in any manner with the potable water system under WAC 246-275-415.

(3) All new ONWS and all ONWS having completed major modifications must operate in a conditional startup mode during which the system's operation and performance must be verified in accordance with WAC 246-275-210 (2)(k).

(4) After satisfactory completion of subsection (2) of this section and upon request by the purveyor, the regulatory authority may issue a notice to proceed to conditional startup mode.

(5) Prior to distribution and use, all treated nonpotable water must be automatically diverted, as described in WAC 246-275-315(4), and all fixtures must be operated using makeup water until the LRTs in WAC 246-275-300, Table 1, and water quality limits in WAC 246-275-310, Table 3, are met, continuously for 30 days.

(6) After 30 days of continuously meeting the requirements, the purveyor may distribute and use the treated nonpotable water for the remainder of the conditional use startup mode performance period.

(7) For the remainder of the conditional use startup mode performance period, inadequately treated nonpotable water must be diverted when not achieving the LRTs in WAC 246-247-300, Table 1, and water quality limits in WAC 246-275-310, Table 3.

(a) A purveyor may request, and the regulatory authority may allow, a reduction of the duration of the required diversion in this subsection on a case-by-case basis. The request must be in writing and demonstrate that the system is capable of meeting the LRTs in WAC 246-275-300, Table 1, and water quality limits in WAC 246-275-310, Table 3.

(8) A purveyor must meet the conditional startup mode requirements in this section within two years of the issuance of the notice to proceed to conditional startup mode unless the regulatory authority approves an extension.

(9) Once conditional startup mode requirements approved under WAC 246-275-210 (2)(k) are met, a purveyor must submit a conditional startup mode final report to the regulatory authority for review and approval. The report must:

(a) Summarize the LRT and water quality compliance required under WAC 246-275-300, Table 1, and WAC 246-275-310, Table 3;

(b) Be signed and stamped by the project's professional engineer under WAC 246-275-140; and

(c) Be submitted with the finalized O&M manual in compliance with the requirements under WAC 246-275-440.

(10) If the conditional startup mode requirements are not met, the purveyor must submit to the regulatory authority for review and approval the necessary changes to fully address LRT, water quality, and other performance deficiencies.

(11) An operating permit will not be issued until the requirements of this section are met.

(12) The regulatory authority may extend the duration of the required diversion, the conditional startup mode performance period, or both, if necessary to fulfill the purpose of this section.

NEW SECTION

**WAC 246-275-405 Operating permit.** (1) The regulatory authority may issue an operating permit in accordance with this section and chapter.

(2) The purveyor shall obtain an operating permit before operating an ONWS, unless authorized by the regulatory authority to operate in conditional startup mode.

(3) To get an operating permit, the purveyor shall:

(a) Submit a complete affidavit of qualifications signed by the purveyor stating the operator's expertise is commensurate for the complexity of the operation and maintenance of the permitted ONWS, in accordance with WAC 246-275-410;

(b) Submit a current facility inventory signed by the purveyor;

(c) Provide an approved conditional startup mode final report under WAC 246-275-400(9) and finalized O&M manual satisfying the requirements of WAC 246-275-440;

(d) For ONWS granted a waiver of compliance under WAC 246-275-150 or an extension of compliance under WAC 246-275-155, provide a copy of the notice sent to all users satisfying the requirements of WAC 246-275-150(5) or 246-275-155(5) and dated within the previous 12 months; and

(e) Pay the applicable fee required by WAC 246-275-990.

(4) The operating permit must, at a minimum, contain the following terms and conditions:

(a) Issue date and expiration date;

(b) Approved design capacity;

(c) The owner shall employ a purveyor at all times and notify the regulatory authority of any change in the purveyor;

(d) The purveyor shall employ one or more operators meeting the requirements of WAC 246-275-410 at all times and shall notify the regulatory authority of any change in the operator;

(e) A purveyor shall notify the regulatory authority by email and phone within 24 hours when a source water or inadequately treated nonpotable water enters the treated nonpotable water distribution system, whether in conditional startup or final use mode;

(f) With appropriate notice to the owner or purveyor, the regulatory authority may enter in or onto the ONWS site or ONWS facility at reasonable times during normal business hours as necessary to verify compliance with permit conditions or to investigate public health or environmental concerns;

(g) The purveyor shall maintain at least five years of accurate records of all monitoring and maintenance-related activities and provide them to the regulatory authority upon request;

(h) Water quality limits, including sample type, method, and point of compliance;

(i) Limit the distribution and use of treated nonpotable water to approved end uses and locations;

(j) Prohibit the release or distribution of inadequately treated nonpotable water, including water quality limits that qualify treated nonpotable water for diversion or shutoff in case of ONWS malfunction or failure; and

(k) Follow cross-connection control requirements.

(5) The operating permit may include use-specific conditions including, but not limited to, specific conditions authorizing and controlling the storage, treatment, distribution, and permitted end uses of treated nonpotable water in accordance with this chapter and in a manner that protects public health and the environment.

(6) Operating permit conditions may include, but are not limited to, requiring:

(a) Monitoring information;

(b) Annual reports;

(c) New or modified documents such as O&M manual, engineering report, engineering inspection and evaluation of the ONWS, plans and specifications, record drawings, or other information to the regulatory authority; and

(d) ONWS component repairs or replacement.

(7) A purveyor, including a purveyor with ONWS in conditional startup mode due to major modifications, shall renew the ONWS operating permit annually and comply with subsection (3) of this section. If the purveyor fails to renew the operating permit or pay the required fees, the operating permit is no longer valid, and the purveyor shall:

(a) Cease operations; and

(b) Notify the regulatory authority.

(8) To renew an operating permit, the purveyor shall:

(a) Submit a completed operating permit renewal application, annual report, and all other permit requirements to the regulatory authority at least 30 days prior to the expiration date of the current operating permit; and

(b) Pay the applicable fee required by WAC 246-275-990.

(9) Upon receiving the completed renewal packet, the regulatory authority shall:

(a) Review the completed renewal application, submitted information, the existing permit, and other relevant information to determine compliance with this chapter and existing operating permit conditions and requirements;

(b) Issue, deny, or modify a renewal operating permit within 30 days of receiving the complete renewal form and other required items, or notify the owner of any delay within 30 days; and

(c) Impose conditions or requirements it determines are necessary to demonstrate the ONWS is properly operated and maintained to protect public health and the environment.

(10) During the regulatory authority's review of the completed renewal application and other materials, the current ONWS operating permit shall remain in full force and effect until the owner is notified of the regulatory authority's decision.

(11) For an operating permit to remain valid, the owner shall continuously meet the permit terms and conditions required by this section.

NEW SECTION

**WAC 246-275-410 Operator qualifications and duties.** (1) The owner or purveyor shall directly employ or maintain a service contract with a qualified operator who will be in charge of the daily and ongoing operations and maintenance of the ONWS.

(2) The owner or purveyor shall notify the regulatory authority in writing within 30 days of replacement of the operator.

(3) The operator must be duly qualified to conduct the operations, maintenance, and monitoring required to ensure continuous compliance with the requirements of this chapter.

(4) The operator must have expertise commensurate with the complexity of the operation and maintenance of the ONWS and hold a valid department-issued certification as a cross-connection control specialist. Expertise may include, but is not limited to:

(a) For ONWS that use blackwater or greywater as a source water, any of the following:

(i) Relevant experience with each treatment unit process of the ONWS;

(ii) A wastewater, reclaimed water, or on-site nonpotable reuse system certification issued by a U.S. state agency; or

(iii) National ONWS operator certification for blackwater and greywater systems;

(b) For ONWS that do not use blackwater or greywater as a source water, any of the following:

(i) Relevant experience with each treatment unit process of the ONWS;

(ii) A wastewater, reclaimed water, or on-site nonpotable reuse system certification issued by a U.S. state agency; or

(iii) National ONWS operator certification.

(5) An operator shall:

(a) Operate the ONWS according to acceptable public health practices, industry standards, and with due care and diligence to protect public health and the environment in compliance with this chapter, the operating permit, approved O&M manual, any applicable local ordinances and codes, and federal and state laws, rules, or regulations;

(b) Only perform the duties consistent with the operator's experience, skills, abilities, or level of certification;

(c) Inform the purveyor if a required action or correction is inconsistent with the operator's experience, skills, abilities, or level of certification;

(d) Be available either on-site or able to be contacted by telephone or other electronic communication 24 hours per day and able to initiate appropriate action within two hours. Appropriate action may include, but is not limited to:

(i) Making necessary repairs or resolving problems; or

(ii) Directing staff or contractors to make necessary repairs or resolve problems;

(e) Conduct water quality monitoring as required by the O&M manual and WAC 246-275-500, maintain adequate water quality records as required by WAC 246-275-520, and take follow-up action, if necessary, to comply with permit requirements and federal, state, and local ONWS laws and regulations;

(f) Implement preventive maintenance programs, inspect treatment, collection, and distribution systems, and other ONWS components for malfunctions as required by the O&M manual, maintain adequate mainte-

nance and inspection records as required by WAC 246-275-520, and make needed repairs;

(g) Analyze, review, and maintain records of instrument readings and laboratory test results as required by the O&M manual and WAC 246-275-520, determine the location and causes of any malfunctions, and adjust various treatment unit processes or other components as needed;

(h) Implement a cross-connection control program, under WAC 246-275-415;

(i) Determine and implement remedial actions in an emergency and, if applicable, follow directives from the regulatory authority;

(j) Provide free and unimpeded access during an inspection under WAC 246-275-165;

(k) Maintain and provide required records and reports to the regulatory authority or its representative as required by WAC 246-272-520 and upon request;

(l) Report system issues, nonfunctioning ONWS components, and any other condition that jeopardizes public health, the environment, or operating permit compliance to the purveyor or regulatory authority as required by this chapter; and

(m) Provide written notification to the regulatory authority within 30 calendar days of either:

(i) Starting operations of an ONWS; or

(ii) Ending operations of an ONWS in accordance with WAC 246-275-430.

(6) The duties of an operator required in this chapter do not relieve the owner or purveyor of the responsibility to comply with the requirements of this chapter.

NEW SECTION

**WAC 246-275-415 Cross-connection control and makeup water supply.** (1) All potable water connections to potable drinking water systems serving premises with treated nonpotable water must have either an:

(a) Approved air gap installed for premises isolation; or

(b) Approved reduced pressure backflow assembly or reduced pressure detector assembly installed for premises isolation in combination with an approved air gap at any nonpotable water storage tanks.

(2) Cross-connection testing must be completed in accordance with WAC 51-56-1500 and 51-56-1600.

(3) Excluding irrigation-only systems, ONWS must include a source of makeup water. Makeup water must be provided via an approved air gap. When temporarily operating with makeup water, the ONWS is not required to maintain a chlorine residual.

NEW SECTION

**WAC 246-275-420 Operations and maintenance.** (1) The purveyor shall operate and maintain ONWS, distribution systems, and other systems of control installed by the purveyor to achieve compliance with this chapter and the terms and conditions of the operating permit.

(2) The treatment, collection, storage, or distribution of source water, the diversion of inadequately treated nonpotable water, or the use of treated nonpotable water must not create a nuisance. For the purposes of this chapter, a nuisance is water that is undesirable in odor or appearance.

(3) Treated nonpotable water must continuously achieve the log reduction targets under WAC 246-275-300, Table 1, and meet water quality standards under WAC 246-275-310, Table 3. Inadequately treated nonpotable water that does not meet log reduction targets or water quality standards must be diverted as specified in WAC 246-275-315(4).

(4) A purveyor shall operate the system based on the site-specific O&M manual for the ONWS under WAC 246-275-440.

(5) The operator shall conduct periodic inspections of all facilities to monitor and ensure compliance with conditions of the operating permit, the O&M manual, chapter 51-56 WAC, this chapter, and, for district-scale projects, the district-scale agreement.

NEW SECTION

**WAC 246-275-425 Change of ownership.** (1) ONWS permits are nontransferable and any change in owner must meet the following requirements:

(a) ONWS owners shall report any change in purveyor to the regulatory authority a minimum of 30 days prior to the change taking effect; and

(b) Any new owner shall submit a complete application for a new operating permit that includes the permit fee and a facility inventory 30 days prior to assuming ownership.

(2) The regulatory authority may approve or deny the change in ownership, notifying the owner of the decision in writing.

(3) If the regulatory authority approves the change in ownership, it shall issue the new owner an operating permit within 30 days of receiving a complete application.

(4) If the regulatory authority denies the change in ownership, the notice of the decision must include the reasons for the decision.

(5) If the change in ownership is denied:

(a) The owner to whom the operating permit is issued may continue to operate the ONWS;

(b) The regulatory authority may allow another person to operate the ONWS under a compliance agreement or order; or

(c) The regulatory authority may direct the person operating the ONWS without a valid operating permit to discontinue operating the ONWS.

NEW SECTION

**WAC 246-275-430 Abandonment.** A purveyor shall have an abandonment plan to be reviewed and approved as an element of the O&M manual under WAC 246-275-440. The abandonment plan must include the following:

(1) Written notice of the abandonment to the regulatory authority;

(2) Notification to users of system abandonment. The notification must:

(a) Describe the components being abandoned;

(b) Describe expected impacts to the user, such as change in service or water quality;

(c) Provide a timeline for abandonment; and

(d) Be made available to all users via mail, email, or publicly posted notice;

(3) Removal and disposal of all sewage according to local requirements;

(4) Removal of all mechanical and electrical equipment no longer in use;

(5) Disconnection of all abandoned components from remaining systems, draining, plugging, and capping in an approved manner;

(6) Removal or crushing in place of underground storage tanks that have been abandoned or otherwise discontinued from use in the system. Remaining voids must be filled with earth, sand, gravel, concrete, or other approved materials.

NEW SECTION

**WAC 246-275-435 District-scale agreement.** A purveyor of a district-scale project shall enter an executed, enforceable, legal agreement defining the roles and responsibilities of each property owner or entity in relation to the maintenance and use of the system. The district-scale agreement must require that only the purveyor and authorized qualified operators are allowed to alter or maintain the ONWS. The purveyor shall include the district-scale agreement in the O&M manual under WAC 246-275-440.

NEW SECTION

**WAC 246-275-440 Operations and maintenance manual (O&M manual).** (1) The regulatory authority may approve the O&M manual in accordance with this section.

(2) A purveyor shall develop and implement a site-specific O&M manual for the ONWS. The O&M manual must be:

(a) Submitted for review and approval before beginning final use mode and following any revision;

(b) Reviewed annually and updated as appropriate and upon request by the regulatory authority; and

(c) Kept on the premises in one or more locations specified in the O&M manual.

(3) O&M manual content and details must be consistent with the size, complexity, past performance, implementation scale, source waters, and end uses of the ONWS and include:

(a) A detailed diagram of the entire system and the location of the ONWS components including, but not limited to:

(i) General facility information including, but not limited to:

(A) Location of approved air gaps, other approved backflow prevention assemblies, flow meters, treatment components, sample ports, and diversion location(s); and

(B) Exact locations where the O&M manual and copies will be kept;

(ii) Makeup water source under WAC 246-275-415; and

(iii) Public access restrictions in place to minimize human contact with treated nonpotable water;

(b) Instructions for operating and maintaining the system including, but not limited to:

(i) ONWS operations, including treatment process operations, instruments and alarms, and any chemicals used;

(ii) Equipment and instrument product manufacturer literature that specifically addresses product installation, recommendations, and maintenance; and

(iii) End use water management plan;

(c) Details on maintaining the required water quality as determined by the regulatory authority including, but not limited to:

(i) Conditional startup mode final report;

(ii) Compliance monitoring plan including treatment system monitoring, pathogen reduction compliance, and water quality sampling; and

(iii) Provisions for monitoring and managing failure of treatment unit processes;

(d) Details on deactivating the system for maintenance, repair, or other purposes including, at a minimum, an abandonment plan in compliance with WAC 246-275-430;

(e) Applicable testing, inspection, and maintenance frequencies for treatment and monitoring equipment, approved air gaps, and approved backflow prevention assemblies;

(f) Names, contact information and contact methods for key personnel, qualified operator(s), installer, engineer, and manufacturer of the primary treatment system;

(g) A record of completion or certification of training; and

(h) System records including, but not limited to:

(i) Current and signed facility inventory;

(ii) Operating permit;

(iii) Annual reports from the past five years;

(iv) Current and signed affidavit of qualification form;

(v) Manufacturer cut sheets for all components requiring routine or periodic maintenance;

(vi) For ONWS that serve district-scale projects, the legal agreement under WAC 246-275-435; and

(vii) For systems granted a waiver of compliance under WAC 246-275-150 or an extension of compliance under WAC 246-275-155, a copy of the waiver and the most recent notice satisfying WAC 246-275-150 and 246-275-155.

(4) The regulatory authority may require additional information or changes to an O&M manual or its components as necessary to protect public health and the environment.

## PART 5 MONITORING, REPORTING, NOTIFICATION, AND RECORDKEEPING

NEW SECTION

**WAC 246-275-500 Monitoring and sampling.** (1) An operator shall monitor water quality parameters at the locations and frequencies in Table 4 of this section during the conditional startup mode performance period and in Table 5 of this section during final use mode.

(2) Sample collection, transportation, and analysis must meet quality assurance and quality control procedures of an accredited laboratory, including maintenance of required hold times and temperatures. The purveyor shall allow the regulatory authority to be present during required water quality sample collections.

(3) Equipment and instruments used to comply with the treatment and monitoring requirements under this chapter must be calibrated, maintained, and operated consistent with manufacturer's installation, operating and maintenance instructions, and recommendations.

(4) Microbial, $BOD_5$, TSS, and any other parameters that require laboratory capability must be analyzed by an accredited laboratory in accordance with an approved standard method or through continuous monitoring devices as detailed in the engineering report required under WAC 246-275-210.

**Table 4: Conditional Startup Mode Monitoring Frequencies and Locations**

| Parameter | Roof runoff, stormwater, foundation drainage, AC condensate | Greywater | Blackwater | Other |
|---|---|---|---|---|
| LRTs | Continuously using surrogate parameters at locations identified in the approved engineering report.[1] | | | |
| Secondary Free Chlorine Residual[2] | Daily or continuously prior to entry to distribution system, and;<br>Weekly at a representative location at the end of distribution system, described in engineering report. | | | |
| HPC | One sample monthly, for 12 months, prior to entry to distribution system, and;<br>One sample monthly, for 12 months, at a representative location at the end of distribution system, described in engineering report.[3] | | | As determined by the regulatory authority. |
| pH | Continuously prior to entry to distribution system. | | | |
| Turbidity - Media or membrane filter | Continuously in filter outlet. | | | |
| $BOD_5$ and TSS | N/A | Weekly prior to entry to distribution system. | | As determined by the regulatory authority. |
| Total source water treated/flow rates | As described in the engineering report under WAC 246-275-210. | | | |

1 Refer to WAC 246-275-305
2 If required by WAC 246-275-315(8)
3 Same location as secondary chlorine residual if WAC 246-275-315(8) requires a residual

**Table 5: Final Use Mode Monitoring Frequencies and Locations**

| Parameter | Roof runoff, stormwater, foundation drainage, AC condensate | Greywater | Blackwater | Other |
|---|---|---|---|---|
| LRTs | Continuously using surrogate parameters at locations identified in the approved engineering report.[1] | | | |
| Secondary Disinfection - Free Chlorine Residual[2] | Daily or continuously prior to entry to distribution system, and;<br>Weekly at a representative location at the end of distribution system, described in engineering report. | | | |

| Parameter | Roof runoff, stormwater, foundation drainage, AC condensate | Greywater | Blackwater | Other |
|---|---|---|---|---|
| HPC | One sample monthly, for 12 months, prior to entry to distribution system, and;<br>One sample monthly, for 12 months, at a representative location at the end of distribution system, described in engineering report.[3] | | | |
| pH | Continuously prior to entry to distribution system. | | | |
| Turbidity - Media or membrane filter | Continuously in filter outlet. | | | |
| $BOD_5$ and TSS | N/A | Monthly prior to entry to distribution system. | | |
| Total source water treated/flow rates | As described in the engineering report under WAC 246-275-210. | | | |

1 Refer to WAC 246-275-305
2 If required by WAC 246-275-315(8)
3 Same location as secondary chlorine residual if WAC 246-275-315(8) requires a residual

NEW SECTION

**WAC 246-275-505 Routine water quality reporting.** (1) By the 10th day of each month during conditional startup, the purveyor shall report to the regulatory authority all required water quality laboratory results and surrogate parameters instrumentation summaries from the previous month on a signed data and monitoring report (DMR) form. The form must include descriptions of any component failures, treatment upsets or disruptions, bypasses, odors, complaints, or other system operation anomalies.

(2) During final use mode, a purveyor shall submit the following:

(a) An annual report to the regulatory authority under WAC 246-275-510 in addition to notification requirements in WAC 246-275-515; and

(b) A quarterly DMR to the regulatory authority, if blackwater is a source water for the ONWS.

NEW SECTION

**WAC 246-275-510 Annual reporting.** A purveyor shall submit an annual report each calendar year to the regulatory authority by a date specified by the regulatory authority. The annual report must contain, at a minimum:

(1) A description of compliance with this chapter and the terms and conditions established in the operating permit;

(2) A summary of complaints received from users and responses;

(3) A complete list of malfunctions requiring diversion, including:

(a) The date of each malfunction;

(b) A description of the malfunction;

(c) Actions taken to resolve the malfunction; and

(d) Whether the malfunction has been resolved and the date;

(4) A water quality summary, including:

(a) Required HPC, $BOD_5$, and TSS sample results;

(b) Monthly maximum and minimum values from LRT surrogate parameters, free chlorine residual, pH, and turbidity monitoring;
(c) Period of time that treatment operations were diverted;
(d) Monitoring results outside of applicable water quality limits in WAC 246-275-310, Table 3, that did not require automatic diversion and what corrections were made; and
(e) HPC results compared to conditional startup mode HPC results;
(5) Population served including, but not limited to:
(a) Number of occupied, full-time domestic units;
(b) Approximate daily employee population; and
(c) Approximate daily transient population;
(6) Annual volume of:
(a) Potable water from the public water systems;
(b) Treated nonpotable water for approved end uses; and
(c) Makeup water for approved end uses; and
(7) Signature of the purveyor.

NEW SECTION

**WAC 246-275-515 Malfunction notification and reporting.** (1) The purveyor shall notify the regulatory authority within 24 hours when a source water or inadequately treated nonpotable water enters the treated nonpotable water distribution system, whether in conditional startup or final use mode.
(2) The purveyor shall provide initial notification to the regulatory authority within 24 hours of becoming aware of a malfunction and include, as applicable:
(a) A description of the malfunction, including a location description;
(b) A description of any component involved in the malfunction;
(c) A description of the suspected causes;
(d) Planned diagnostic and mitigation steps;
(e) The estimated date and time when the malfunction started;
(f) The estimated date and time when the malfunction was stopped or will be stopped; and
(g) The estimated date and time when the system returned to normal operations or will return to normal operations.
(3) The purveyor shall notify the regulatory authority within 10 business days of any corrective action, violation, penalty, or a failure to obtain required permits from any authority having jurisdiction other than the regulatory authority.
(4) A purveyor shall notify all users by mail, email, and posted notices within 15 business days of notifying the regulatory authority and upon request of the regulatory authority when a source water or inadequately treated nonpotable water enters the treated nonpotable water distribution system. The notification must:
(a) Describe in an accurate and understandable manner the circumstances in which a source water or inadequately treated nonpotable water entered the treated nonpotable water distribution system;
(b) Comply with WAC 246-275-525(2); and
(c) Include, at a minimum:
(i) A description of what occurred;
(ii) The location of where it occurred;
(iii) The impact to the user; and
(iv) When service is expected to resume.

(5) Malfunctions must be reported in data and monitoring report (DMR) and annual report submittals.

NEW SECTION

**WAC 246-275-520 Recordkeeping.** (1) The purveyor shall keep system records on-site including, but not limited to:

(a) Current ONWS operating permit;

(b) Signed results delivered by the accredited laboratory and evidence of chain of custody;

(c) Data and monitoring report (DMR);

(d) Annual report;

(e) Notifications as described in WAC 246-275-515;

(f) A log of all calibrations, maintenance, and major changes in operation;

(g) A log of all system auto-generated alarms, causes, and corrective actions; and

(h) A complete list of user complaints and responses, as required in WAC 246-275-525.

(2) A purveyor must retain engineering documents describing any part of the ONWS, including the O&M manual, record drawings, engineering reports, construction documents, validation engineering reports, and conditional startup mode final reports until the system is abandoned. Other ONWS records must be kept for at least five years.

(3) ONWS records must be made available for inspection by the department and the local health jurisdiction under a JPR.

NEW SECTION

**WAC 246-275-525 User communications.** (1) Signage must be provided and maintained as required by chapter 51-56 WAC.

(2) All communication with users must use clear, concise, and simple language, and be provided in languages commonly understood by the population served.

(3) User notification of a malfunction must be provided under WAC 246-275-515(4).

(4) The purveyor shall maintain a complete list of user complaints and responses. The purveyor shall address user complaints in a timely manner and provide a written response to the user if user contact information is provided.

(5) A purveyor shall provide a copy of the most recent annual report satisfying WAC 246-275-510 to any ONWS user upon request.

## PART 6 COMPLIANCE AND ENFORCEMENT

NEW SECTION

**WAC 246-275-600 Modification, suspension, and revocation of operating permits.** (1) The generation, distribution, or use of treated nonpotable water from an ONWS without an operating permit, or in a manner that violates this chapter, the terms and conditions of an operating permit, order, or directive issued under this chapter, is prohibited.

(2) The regulatory authority may immediately revoke or suspend an operating permit issued under this chapter if there is an immediate and unacceptable risk to public health.

(3) The regulatory authority may modify, revoke, suspend, or deny an operating permit issued for an ONWS, as authorized by RCW 43.70.115, for good cause including, but not limited to, when:

(a) There is a change in any condition that requires the ONWS to temporarily or permanently limit or stop operating;

(b) An ONWS fails or there is need for repair or replacement of any ONWS component that is the result of neglect or poor management practices;

(c) The operating permit was obtained by fraud or with any material misrepresentation;

(d) The ONWS was built without applicable building and plumbing permits issued by the local authorities within its jurisdiction. This includes permits issued by local authorities having jurisdiction for systems that serve district-scale projects with collection or distribution pipes within the public right-of-way;

(e) It is necessary or becomes necessary to comply with applicable water quality standards under chapter 90.48 RCW;

(f) The owner has not paid the operating permit fee under WAC 246-275-990;

(g) A purveyor or any employee of a purveyor has violated any federal or state laws, regulations, or rules, or local ordinances or codes while operating ONWS and the purveyor had, or should have had, actual or constructive knowledge the illegal conduct was occurring;

(h) The ONWS is being managed, conducted, or maintained in any way that does not protect public health or the environment; or

(i) The purveyor, any employee of the purveyor, or any entity identified in a legal agreement with the purveyor refused to allow the department or the local health jurisdiction under a joint plan of responsibility to inspect the premises or the operations of the ONWS.

NEW SECTION

**WAC 246-275-605 Notice of violations, enforcement actions, and penalties.** (1) When an ONWS is out of compliance with any rule or law regulating the ONWS and administered by the regulatory authority, the regulatory authority may initiate enforcement action. Enforcement action may include, but is not limited to:

(a) A notice of correction describing the condition that is not in compliance and the text of the specific section or subsection of the applicable state or federal law or rule, a statement of what is required to achieve compliance, and the date by which compliance is to be achieved;

(b) A notice of violation with or without a civil penalty;

(c) An order requiring specific actions or ceasing unacceptable activities within a designated time period;

(d) Modification, revocation, suspension, or denial of permits under WAC 246-275-600; and

(e) Civil or criminal penalties authorized under chapter 70.05 RCW and RCW 43.70.190.

(2) An informal conference may be held at the request of any party to resolve disputes arising from enforcement of this chapter.

(3) Notices and orders issued under this section must:

(a) Be in writing;

(b) Name the person or persons to whom the order is directed;

(c) Briefly describe each action or inaction constituting a violation of the rules of this chapter, or applicable local rules;

(d) Specify any required corrective action, if applicable;

(e) Specify the effective date of the order, with the date or time frame required for coming into compliance; and

(f) Provide notice of the consequences of failure to comply or repeated violation, as appropriate.

(4) Enforcement orders must be served in the manner of service of a summons in a civil action or in another manner showing proof of receipt.

NEW SECTION

**WAC 246-275-610 Appeals and adjudicative proceedings.** The owner of an ONWS that has had an approval or permit modified, revoked, suspended, or denied by the department may request an adjudicative proceeding under chapters 34.05 RCW and 246-10 WAC. A request for an adjudicative proceeding must be filed with the department within 28 calendar days of service of the department's notice of decision.

## PART 9 FEES

NEW SECTION

**WAC 246-275-990 Fees.** (1) A local health jurisdiction or local health officer may charge service fees and operating permit fees as authorized under RCW 70.05.060 or 70.46.120 to either partially or fully administer, enforce, and carry out the responsibilities under this chapter when:

(a) A joint plan of responsibility has been established between the department and a local health jurisdiction or local health officer under WAC 246-275-135(2) to either partially or fully administer, enforce, and carry out the responsibilities under this chapter; or

(b) A joint or shared services agreement is established between local health jurisdictions or local health officers, or both, under WAC 246-275-135(3) to either partially or fully administer, enforce,

and carry out the responsibilities under this chapter on behalf of other local health jurisdictions or local health officers, or both.

(2) The department shall collect the following nonrefundable fees:

(a) $1,548 for initial design review for a minor project. This includes four hours of engineer review. Additional time will be billed at the hourly rate listed in (c) of this subsection.

(b) $3,096 for initial design review for a major project. This includes eight hours of engineer review. Additional time will be billed at the hourly rate listed in (c) of this subsection.

(c) $387 per hour for engineer review.

(d) $2,572 for an annual operating permit.

(e) $466 for a late permit fee for applications submitted after the renewal application due date.

(f) $1,280 for an expired permit fee for applications submitted after the operating permit has expired. This fee consists of a late fee and abbreviated design review to repermit an expired ONWS. This fee is in addition to the annual operating permit fee.

**WSR 26-16-076**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
[Filed August 4, 2026, 1:41 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Temporary worker housing; the department of health (department) is proposing amendments to WAC 246-358-010, 246-358-025, 246-358-027, 246-358-080, 246-358-990, and 246-359-550 to add a definition for "site operation date," add the term in the applicable section, remove gendered language, make editorial updates to align with the code reviser's 2025 Bill Drafting Guide without changing the effect of the rules, and align requirements for carbon monoxide alarms and smoke detectors with the state building code, chapter 51-51 WAC.

Hearing Location(s): On September 22, 2026, at 9:00 a.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_LtxB_kwMR962nxUOY9rKcA. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: September 29, 2026.

Submit Written Comments to: Zehra Siddiqui, P.O. Box 47820, Olympia, WA 98504-7820, email zehra.siddiqui@doh.wa.gov, web https://fortress.wa.gov/doh/policyreview/, beginning the date and time of filing, by September 22, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Zehra Siddiqui, phone 360-236-3010, TTY 711, email zehra.siddiqui@doh.wa.gov, by September 15, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing amendments to add a new definition, update requirements to align with the state building code, and align the rule with the code reviser's 2025 Bill Drafting Guide.

Reasons Supporting Proposal: The proposed changes are intended to increase clarity and ensure consistency with existing state standards.

Statutory Authority for Adoption: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340.

Statute Being Implemented: Chapter 70.114A RCW and RCW 43.70.334 through 43.70.340.

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

Name of Proponent: Governmental.

Name of Agency Personnel Responsible for Drafting: Zehra Siddiqui, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3010; Implementation: Juan Gamez Briceno, 111 Israel Road S.E., Tumwater, WA 98501, 360-628-6620; and Enforcement: Gerald Caird, 111 Israel Road S.E., Tumwater, WA 98501, 564-999-3115.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(b)(iv) exempts rules that only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

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

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

Explanation of exemptions: The proposed amendments are exempt under RCW 19.85.025(3) and 34.05.310 (4)(d) because their scope is limited to corrections, clarifications, and editorial changes to align with the code reviser's drafting guide. The proposal is also exempt under RCW 34.05.310 (4)(c) because it incorporates by reference the state building code.

Scope of exemption for rule proposal:

Is fully exempt.

August 4, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

**RDS-7053.4**

AMENDATORY SECTION (Amending WSR 23-19-080, filed 9/19/23, effective 11/1/23)

**WAC 246-358-010 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates otherwise:

(1) "Agricultural employee" means any person who renders personal services to, or under the direction of, an agricultural employer in connection with the employer's agricultural activity.

(2) "Agricultural employer" means any person engaged in agricultural activity, including the growing, producing, or harvesting of farm or nursery products, or engaged in the forestation or reforestation of lands, which includes, but is not limited to, the planting, transplanting, tubing, precommercial thinning, and thinning of trees and seedlings, the clearing, piling, and disposal of brush and slash, the harvest of Christmas trees, and other related activities.

(3) "Bathing facility" means an enclosed area provided by the operator for occupants to bathe or shower, and may be located within a family shelter or a common facility.

(4) "Building" means any structure used or intended by the operator to be used by occupants for cooking, eating, sleeping, sanitation, or other facilities.

(5) "Cherry harvest camp" means a place where housing and related facilities are provided to agricultural employees by agricultural em-

ployers or TWH operators for their use while employed for the harvest of cherries in the state of Washington.

(6) "Common" means a shared facility provided by the operator for all occupants of the TWH.

(7) "Communicable disease" means an illness caused by an infectious agent that can be transmitted from a person, animal, or object to a person by direct or indirect means including, but not limited to, transmission via an intermediate host or vector, food, water, or air.

(8) "Community-based outreach worker" means a legal aid representative, a union representative, or a representative from other community-based advocacy organizations.

(9) "Community health worker" means a frontline public health worker who is a trusted member of or has a close understanding of the community served.

(10) "Dining hall" means a cafeteria-type eating place with food furnished by and prepared under the direction of the operator for consumption, with or without charge, by occupants.

(11) "Drinking fountain" means a fixture equal to a nationally recognized standard or a designed-to-drain faucet which provides potable drinking water under pressure. "Drinking fountain" does not mean a bubble-type water dispenser.

(12) "Dwelling unit" means a shelter, tent, building, or portion of a building, which may include cooking and eating facilities, that is:

(a) Provided and designated by the operator as either a sleeping area, living area, or both, for occupants; and

(b) Physically separated from other sleeping and common areas. As used in this subsection, "physically separated" means a physical wall separating rooms.

(13) "Family shelter" means a dwelling unit with sleeping facilities for up to 15 occupants that may include toilet or cooking facilities. If services such as bathing, food-handling, or toilet facilities are provided in the family shelter, they are for the sole use of the occupants of the family shelter.

(14) "First-aid trained" means the person holds a current certificate of first-aid training.

(15) "Floor space" means the area within a dwelling unit with a minimum ceiling height of seven feet.

(16) "Food-handling facility" means an enclosed area provided by the operator for occupants to prepare their own food, and may be within a family shelter or common facility.

(17) "Group A public water system" means a public water system as defined under WAC 246-290-020.

(18) "Group B public water system" means a public water system that is not a Group A public water system, and is defined under WAC 246-291-005.

(19) "Habitable room" means a room or space in a structure used for living, sleeping, eating, or cooking. Bathing facilities, toilet facilities, closets, halls, storage or utility space, and similar areas are not considered habitable rooms.

(20) "Livestock" means horses, cows, pigs, sheep, goats, poultry, etc.

(21) "Local health jurisdiction" or "LHJ" means a county health department under chapter 70.05 RCW, city-county health department under chapter 70.08 RCW, or health district under chapter 70.46 RCW.

(22) "Mechanical ventilation system" means a mechanism that actively processes supplying air to or removing air from an indoor space

by powered equipment such as motor-driven fans and blowers but not by devices such as kitchen or bathroom exhaust fans, wind-driven turbine ventilators, and mechanically operated windows.

(23) "Occupant" means a temporary worker or a person who resides with a temporary worker at the TWH.

(24) "Operating license" or "license" means a document issued annually by the department of health.

(25) "Operator" means a person holding legal title to the land on which the TWH is located. However, if the legal title and the right to possession are in different persons, "operator" means a person having the lawful control or supervision over the TWH.

(26) "Outbreak" means the occurrence of a condition in an area over a given period of time in excess of the expected number of occurrences including, but not limited to, foodborne disease, waterborne disease, and health care-associated infection.

(27) "Recreational park trailers" means a trailer-type unit that is primarily designed to provide temporary living quarters for recreational, camping, or seasonal use, that meets the following criteria:

(a) Built on a single chassis, mounted on wheels;

(b) Having a gross trailer area not exceeding 400 square feet (37.15 square meters) in the set-up mode;

(c) Certified by the manufacturer as complying with American National Standards Institute standards A119.5; and

(d) Compliant with chapter 296-150P WAC.

(28) "Recreational vehicle" means a vehicular type unit that is compliant with chapter 296-150R WAC and primarily designed as temporary living quarters for recreational camping, travel, or seasonal use that either has its own motive of power or is mounted on, or towed by, another vehicle. Recreational vehicles include: Camping trailers, fifth-wheel trailers, motor homes, travel trailers, and truck campers, but does not include pickup trucks with camper shells, canopies, or other similar coverings.

(29) "Refuse" means solid wastes, rubbish, or garbage.

(30) "Site operation date" means the first date the licensed facility is occupied or used for its intended operational purpose, including housing occupants or conducting approved activities under the license.

(31) "Suspected case" means a person that is suspected by a medical provider or public health provider of having a notifiable condition, but the diagnosis has not yet been confirmed by the medical provider.

((~~(31)~~)) (32) "Temporary worker" or "worker" means an agricultural employee employed intermittently and not residing year-round at the same TWH site.

((~~(32)~~)) (33) "Temporary worker housing (TWH)" or "housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an agricultural employer for ((~~his or her~~)) agricultural employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees for temporary, seasonal occupancy. TWH includes cherry harvest camps.

((~~(33)~~)) (34) "Tent" means an enclosure or shelter used at a cherry harvest camp that is constructed of fabric or pliable material composed of rigid framework to support a tensioned membrane that provides a weather barrier.

((~~(34)~~)) (35) "Worker-supplied housing" means housing provided by the worker and made available to the same worker on the operator's TWH site. Worker-supplied housing includes recreational park trailers,

recreational vehicles, tents, or other structures that meet the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 7/16/15)

**WAC 246-358-025 Licensure.** (1) Any operator providing TWH shall apply for a TWH operating license from the department of health when:

(a) The TWH consists of:

(i) Five or more dwelling units; or

(ii) Any combination of dwelling units, or spaces that house ((~~ten~~)) 10 or more occupants;

(b) Compliance with the Migrant and Seasonal Agricultural Worker Protection Act (96 Sta. 2583; 29 U.S.C. Sec. 1801 et. seq.) requires a license; or

(c) The operator provides housing consisting of four or fewer dwelling units or any combination of dwelling units or spaces that house nine or fewer occupants and elects to comply with chapter 246-359 WAC.

(2) The operator shall submit to the department of health a completed application that:

(a) Is on a form provided by the department of health;

(b) Identifies the maximum number of occupants during the period of licensure. This number must not exceed the maximum capacity as determined by WAC 246-358-029;

(c) Proves the TWH is permitted for occupancy by the department of health or the local government building department with jurisdiction;

(d) Proves that the water system((~~(s)~~)) serving the TWH is in compliance with chapter 246-290 or 246-291 WAC, or local board of health rules. Operators using a Group B public water system ((~~must~~)) shall also provide water quality test results from a certified laboratory accredited under chapter 173-50 WAC with an official scope of accreditation for drinking water analytical parameters. Water quality test results must document compliance with the following water quality standards and frequency on a form produced by the laboratory conducting the test:

(i) Satisfactory coliform within the previous ((~~twelve~~)) 12 months; and

(ii) Ten milligrams per liter or less nitrate within the previous three years; and

(e) Includes a fee as specified in WAC 246-358-990.

(3) The operator ((~~will~~)) shall receive a TWH license for the maximum number of occupants identified in the application. This number must not exceed the maximum capacity as determined by WAC 246-358-029.

(4) The operator ((~~will~~)) shall receive a TWH license when:

(a) The application requirements from subsections (2) and (5) of this section are met;

(b) The TWH is in compliance with this chapter as demonstrated by:

(i) A prelicensure inspection completed by the department of health; or

(ii) Except as provided for in subsection (10) of this section, a self-survey completed by the operator and approved by the department of health; and

(c) The operator complies with any corrective action plan established by the department of health.

(5) The operator shall submit the documentation in subsection (2) of this section:

(a) For a new TWH site, by at least ((~~forty-five~~)) 45 days prior to the new TWH site operation date; or

(b) For a previously licensed TWH site, by February 28th of the year the operator intends to operate the TWH.

(6) Except as provided for in subsection (10) of this section, the department of health may allow the use of TWH without a renewed license when all of the following conditions exist:

(a) The operator timely applied for renewal of an operating license in accordance with this section as evidenced by the post mark;

(b) The department of health has not inspected the TWH or issued an operating license;

(c) Other local, state, or federal laws, rules, or codes do not prohibit use of the TWH; and

(d) The operator provides and maintains the TWH in compliance with this chapter.

(7) An operating license is not transferable.

(8) The operator shall post the operating license or a copy of the operating license in a place readily accessible to occupants of the TWH.

(9) ((~~The operator will receive an annual occupancy inspection completed and approved by~~)) The department of health shall provide the operator with an annual occupancy inspection.

(10) For licensure and operation of cherry harvest camps:

(a) Subsections (4)(b)(ii) and (6) of this section do not apply; and

(b) A TWH license to operate a cherry harvest camp is limited to one week before the start through one week following the conclusion of the cherry harvest.

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 7/16/15)

**WAC 246-358-027 Requirements for self-survey program.** Except for an operator of a cherry harvest camp, an operator meeting the requirements provided in this section may participate in the self-survey program.

(1) The cycle of the self-survey program is as follows:

(a) The operator may qualify to conduct self-surveys for up to two consecutive years.

(b) During the third year, the department of health ((~~will~~)) shall conduct an on-site inspection(s) to ensure compliance with this chapter.

(c) If the department of health determines the TWH site still meets the requirements of the self-survey program after the on-site inspection, the operator shall be eligible for a new self-survey program cycle as described in this subsection.

(2) To be in the self-survey program the operator shall:

(a) Meet the requirements of WAC 246-358-025; and

(b) Be licensed for two consecutive years without any deficiencies.

(3) To remain in the self-survey program, the operator shall:

(a) Continue to comply with subsections (1) and (2) of this section;

(b) Complete the department of health self-survey form and return the completed form to the department of health prior to temporary worker occupancy;

(c) Remain free from all deficiencies;

(d) Ensure modifications to any building or structure on the TWH made during the self-survey period meets the conditions of this chapter; and

(e) Not have a change in ownership.

(4) When a licensed TWH changes ownership, the new operator shall comply with the requirements of subsection (2) of this section before being eligible to be on the self-survey program.

(5) A TWH licensee who qualifies for the self-survey program shall pay a reduced fee as specified in WAC 246-358-990.

(6) The department of health or department of labor and industries are authorized to conduct inspections based on complaints or to verify compliance with this chapter.

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 1/1/16)

**WAC 246-358-080 Carbon monoxide alarms, smoke detectors, and fire extinguishers.** (1) An operator shall provide, locate, and maintain working carbon monoxide alarms that are((~~:~~

~~(a) Located in each dwelling unit with a sleeping area; and~~

~~(b) Installed in accordance~~)) in compliance with the manufacturer's recommendations and ((~~in compliance with~~)) the building code, WAC 51-51-0315.

(2) An operator shall provide, locate, and maintain working smoke detectors that((~~:~~

~~(a) Are located in each sleeping area;~~

~~(b) Are located on each level of dwelling units with a sleeping area;~~

~~(c) Are located in each cooking facility area;~~

~~(d) Emits a signal when the batteries are low;~~

~~(e) Are placed on the ceiling or wall, but not on the wall above any door; and~~

~~(f)~~)) are in compliance with the manufacturer's recommendations and the building code, WAC 51-51-0314.

(3) An operator shall provide properly working fire extinguishers in dwelling units where occupants sleep if the dwelling unit does not have a second means of emergency egress. Fire extinguishers must be:

(a) A minimum 2A:10BC;

(b) Installed and maintained according to the manufacturer's instructions;

(c) Installed in accordance with local ordinances, codes, and regulations when applicable.

AMENDATORY SECTION (Amending WSR 25-22-068, filed 10/31/25, effective 12/1/25)

**WAC 246-358-990 Fees.** (1) The department shall charge the following fees prior to issuing a TWH operating license:

(a) $170 for the administrative portion of licensing plus $14 per occupant at maximum annual occupancy for the facility portion. The maximum annual occupancy is the greatest number of occupants approved to reside in the TWH during the calendar year; or

(b) $310 for the minimum operating licensing fee.

(2) If the department approves a self-survey program as outlined in WAC 246-358-027, the operator shall pay $170.

(3) The department may charge $232 for on-site preapplication technical assistance upon request. This includes two hours of assistance time. Additional time will be billed at the rate of $116 per hour.

(4) The department shall charge a $340 late fee in addition to the licensing fee when:

(a) The application packet and licensing fee for a new license are not received by the department at least 45 days prior to the new TWH ((~~opening~~)) site operation date; or

(b) The renewal packet and licensing fee for a previously licensed TWH are not received by the department by February 28th of the year the operator intends to operate the TWH.

(5) The operator shall submit additional funds to the department in the amount of $14 for each additional occupant and a $170 administrative processing fee when the following occurs:

(a) If, at any time, the operator or the department determines there are more occupants than the maximum occupants identified on the application for an operating license according to WAC 246-358-025;

(b) If the operator requests additional occupants that do not exceed the maximum capacity; or

(c) If the operator requests to increase occupants based on the maximum capacity.

(6) Funds for the occupancy adjustment increase outlined in subsection (5)(a) of this section must be submitted to the department within 30 calendar days of the operator being made aware of the discrepancy.

(7) Additional occupants accounted for in subsection (5) of this section may not contribute to exceeding the maximum capacity of the TWH according to WAC 246-358-029.

(8) To request a refund from the department, the operator must submit a written request and provide documentation that the TWH was not occupied during the license period. The department shall refund:

(a) Two-thirds of the licensing fees paid, minus $170 refund processing fee, if an application or renewal form was received but no prelicensure inspection was performed by the department; or

(b) One-third of the licensing fees paid, minus $170 refund processing fee, if an application or renewal form was received and a prelicensure inspection was performed by the department.

(9) The department shall refund fees paid by the operator if the operator provides documentation of fewer occupants than the maximum occupants identified on the application or renewal form for an operating license according to WAC 246-358-025, according to the following conditions:

(a) If an application or renewal form has been received and no prelicensure inspection has been conducted, the department will refund

the amount of $14 for every occupant fewer than the maximum number of occupants identified on the application or renewal form; or

(b) If an application or renewal form has been received and a prelicensure inspection has been conducted, the department will refund the amount of $7 for every occupant fewer than the maximum number of occupants identified on the application or renewal form.

(10) The department will not refund facility licensing fees if:

(a) The department has performed more than one on-site inspection for any purpose; or

(b) One year has elapsed since a license application was received by the department, but no license was issued because of failure to complete licensing requirements.

(11) The department may assess an operator a civil fine according to RCW 43.70.335.

**RDS-7202.3**

AMENDATORY SECTION (Amending WSR 15-13-091, filed 6/15/15, effective 1/1/16)

**WAC 246-359-550 Smoke detectors and carbon monoxide detectors.** (1) TWH must be provided with approved smoke detectors installed according to the manufacturer's instructions and located according to the building code, WAC 51-51-0314.

(2) ((~~Smoke detectors must:~~

~~(a) Be installed in each sleeping room;~~

~~(b) Be installed at a central point in a corridor or area which gives access to each separate sleeping room; and~~

~~(c) Emit a signal when the batteries are low.~~

~~(3)~~)) In new construction, required smoke detectors must((~~:~~

~~(a) Receive their primary power from the building wiring, when the wiring is served from a commercial source; and~~

~~(b) Be equipped with a battery backup~~)) be installed according to the manufacturer's instructions and located according to the building code, WAC 51-51-0314.

((~~(4)~~)) (3) Smoke detector wiring must be permanent and without a disconnecting switch except as required for overcurrent protection.

((~~(5)~~)) (4) Battery operated smoke detectors will be accepted:

(a) In existing buildings;

(b) In buildings without commercial power; or

(c) During when alteration, repairs or additions are being conducted to a building.

((~~(6) An approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units or one on each level of the dwelling. The approved carbon monoxide alarms must be installed in accordance~~))

(5) TWH must be provided with approved carbon monoxide alarms installed in compliance with the manufacturer's recommendations ((~~in compliance~~)) and with the building code, WAC 51-51-0315 ((~~and 246-358-080~~)).

**WSR 26-16-078**
**PROPOSED RULES**
**DEPARTMENT OF**
**LABOR AND INDUSTRIES**
[Order 25-31—Filed August 4, 2026, 3:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-01-100.

Title of Rule and Other Identifying Information: Chapter 296-46B WAC, Electrical safety standards, administration, and installation.

Hearing Location(s): On September 14, 2026, at 9:00 a.m., at the Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501; or join electronically at https://lni-wa-gov.zoom.us/j/86070773859?pwd=CYHMiInCEIprRb2gp4PHvSckkdBmZa.1, Passcode ElectCA!1; or join by phone (audio only) 253-215-8782, Meeting ID 860 7077 3859, Passcode 432966118. The in-person and virtual/telephonic hearing starts at 9:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: November 17, 2026.

Submit Written Comments to: Meagan Edwards, L&I, Customer Service, Compliance, and Public Safety Division, P.O. Box 44400, Olympia, WA 98504-4400, email CSCPSRules@Lni.wa.gov, fax 360-704-1980, beginning August 5, 2026, at 8:00 a.m., by September 14, 2026, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Meagan Edwards, phone 360-522-0125, fax 360-704-1980, email Meagan.Edwards@Lni.wa.gov, by August 31, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I is proposing amendments to the electrical rules under chapter 296-46B WAC. L&I's electrical program reviewed the existing rules and adopted 2026 National Fire Protection Agency (NFPA) 70, National Electrical Code (NEC), to update rules for consistency with the latest national safety standards. NEC sets the standard for safe electrical design, installation, and inspection in homes, businesses, industry, and institutions to protect people and property from electrical hazards. The 2026 NEC replaces the current 2023 edition on December 31, 2026.

Washington's electrical industry stakeholders participated in the formal review process. A technical advisory committee of industry representatives and the state electrical board reviewed proposals and provided recommendations to L&I on adoption of the rules. This rule making proposes amendments from the formal review process.

**New Sections:**

**WAC 296-46B-120 Branch circuit, feeder, and service calculations.** Relocates existing requirements from WAC 296-46B-220 to new section and amends code references for consistency with the 2026 NEC, Article 120.

**WAC 296-46B-268 Services over 1000 volts ac, 1500 volts dc, nominal.** Relocates existing requirements under WAC 296-46B-235 to new section for consistency with the 2026 NEC, Article 268. Additional amendments include amending the title to align with the 2026 NEC; and clarifying the exception for wiring methods allowed by the 2026 NEC.

**WAC 296-46B-706 Energy storage systems.** Requires system design reviews for energy storage installations.

**Amended Sections:**

**WAC 296-46B-100 General definitions.** Amends the definition of "equivalent apprenticeship program" to further clarify its meaning.

**WAC 296-46B-210 Branch circuits not over 1,000 volts ac, 1,500 volts dc nominal.**

- Clarifies that fixed electrical equipment with exposed grounded metal parts in areas subject to shower spray must have ground fault circuit interrupter (GFCI) protection to address a new bathroom design.
- Adds new language to provide an exception to new GFCI requirements for listed heating, ventilation, and air conditioning (HVAC) equipment in the 2026 NEC until June 30, 2028, to allow more time for compliance.
- Modifies language for general housekeeping. This includes: Adding a new subsection to allow an exception to the 2026 NEC requirements for GFCI protection requirements for listed HVAC equipment until June 30, 2028; and amending subsection numbers for formatting.

**WAC 296-46B-230 Services.** Amends the section title and code references for consistency with 2026 NEC.

**WAC 296-46B-450 Transformers and transformer vaults (including secondary ties).** Amends the 2026 NEC, Article 450(b) requirements related to locations for transformer installations on a building/structure for clarity and consistency with current building code standard terms.

**WAC 296-46B-517 Health care facilities.** Amends references for consistency with the 2026 NEC.

**WAC 296-46B-550 Mobile homes, manufactured homes and mobile home parks.** Amends subtitles for consistency with the 2026 NEC.

**WAC 296-46B-800 General requirements for communications systems outside and entering buildings.** Amends the title for consistency with the 2026 NEC.

**WAC 296-46B-900 Electrical plan review.** Amends code references for consistency with the 2026 NEC; and converts numbers written in words to the numeral for consistency with WAC style guidelines.

**Repealed Sections:**

**WAC 296-46B-220 Branch circuit, feeder, and service calculations.** Repeals the rule to relocate requirements under new WAC 296-46B-120 to align with the 2026 NEC, Article 120.

**WAC 296-46B-235 Branch circuits, feeders, and services over 1,000 volts ac, 1,500 volts dc nominal.** Repeals the rule and relocates the existing requirements to new WAC 296-46B-268 for consistency with the 2026 NEC.

Reasons Supporting Proposal: This rule making is necessary to ensure the electrical rules align with the latest safety codes that affect electrical work and are consistent with other states that regulate the industry for public safety.

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

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

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Randy Barnes, Program Manager, Tumwater, Washington, 509-735-0931; Implementation and Enforcement: Jennifer Williams, Assistant Director, Tumwater, Washington, 360-701-9504.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Meagan Edwards, L&I, Customer Service, Compliance, and Public Safety, P.O. Box 44400, Olympia, WA 98504-4400, phone 360-522-0125, fax 360-704-1980, email CSCPSRules@Lni.wa.gov.

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

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

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

| | Proposed WAC Sections and Title | This proposed rule section is *not exempt*- Analysis is required | This proposed rule section *is exempt.* Provide RCW to support this exemption. |
|---|---|---|---|
| 1. | WAC 296-46B-100 General definitions. | □ | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 2. | WAC 296-46B-120 Branch circuit, feeder, and service calculations. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry. |
| 3. | WAC 296-46B-210 Branch circuits not over 1,000 volts ac, 1,500 volts dc nominal. | X | |
| 4. | WAC 296-46B-220 Branch circuit, feeder, and service calculations. (Repealer) | □ | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 5. | WAC 296-46B-230 Services. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards without changing the substance or effect of requirements. |
| 6. | WAC 296-46B-235 Branch circuits, feeders, and services over 1,000 volts ac, 1,500 volts dc nominal. (Repealer) | □ | This section is exempt under RCW 34.05.310 (4)(d) because it adopts changes that clarify language of a rule without changing the substance or effect of requirements. |
| 7. | WAC 296-46B-268 Wiring and protection—Grounding and bonding. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards. |
| 8. | WAC 296-46B-450 Transformers and transformer vaults (including secondary ties). | □ | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements. |

| | Proposed WAC Sections and Title | This proposed rule section is *not exempt*- Analysis is required | This proposed rule section *is exempt.* Provide RCW to support this exemption. |
|---|---|---|---|
| 9. | WAC 296-46B-517 Health care facilities. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards without changing the substance or effect of requirements. |
| 10. | WAC 296-46B-550 Mobile homes, manufactured homes and mobile home parks. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards without changing the substance or effect of requirements. |
| 11. | WAC 296-46B-706 Energy storage systems. | X | |
| 12. | WAC 296-46B-800 General requirements for communications systems outside and entering buildings. | □ | This section is exempt under RCW 34.05.310 (4)(c) because it adopts national consensus codes that generally establish industry standards without changing the substance or effect of requirements. |
| 13. | WAC 296-46B-900 Electrical plan review. | □ | This section is exempt under RCW 34.05.310 (4)(c) and 34.05.310 (4)(d) because it adopts national consensus codes that generally establish industry standards and changes that only clarify language of a rule without changing the substance or effect of requirements. |

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Most of the proposed rule changes are exempt from the small business economic impact statement (SBEIS) under RCW 19.85.025. Those changes that are not exempt from the SBEIS requirement include:

- Clarifying that fixed electrical equipment with exposed grounded metal parts in areas subject to shower spray must have GFCI protection.
- Allowing an exception to the 2026 NEC requirements for GFCI protection for listed HVAC equipment until June 30, 2028.
- Requiring system design reviews for energy storage installations and having them available on the installation site until the inspection process is complete.

According to the Regulatory Fairness Act under RCW 19.85.030, an agency shall prepare an SBEIS: (i) If the proposed rule will impose more-than-minor costs on businesses in an industry; or (ii) if requested to do so by a majority vote of the joint administrative rules review committee within 45 days of receiving the notice of proposed rule making under RCW 34.05.320. As this rule is not expected to impose any costs, an SBEIS is not required.

August 4, 2026
Joel Sacks
Director

**RDS-7227.3**

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

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

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

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

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

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

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

"Appliance" means household appliance.

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

"AWG" means American Wire Gauge.

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

(a) More than six feet above grade plane;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

An "equivalent apprenticeship program" for the purposes of RCW 19.28.161 (2)(a)(i) and 19.28.191 (1)(c)(ii), means one that is party to a reciprocal agreement recognized by the Washington state apprenticeship and training council (WSATC) under WAC 296-05-011(3).

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

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

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

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

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

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

"Household appliance" means utilization equipment installed in a dwelling unit that is built in standardized sizes or types and is installed or connected as a unit to perform one or more household functions such as food preparation, cooking, and cleaning. Includes appli-

ances typically installed in a dwelling unit kitchen, clothes washing, drying, and water heating appliances, portable room air conditioning units and portable heaters, etc. Fixed electric space-heating equipment covered in NEC 424 (furnaces, baseboard and wall heaters, electric heat cable, etc.) and fixed air-conditioning/heat pump equipment (NEC 440) are not household appliances. Household appliance does not mean any utilization equipment that:

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

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

HVAC/refrigeration specific definitions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Low voltage" means:

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

(b) NEC, Class 2 circuits powered by a Class 2 power supply as defined in NEC 725.60(A).

(c) NEC, Class 3 circuits powered by a Class 3 power supply as defined in NEC 725.60(A).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A "sign," when required by the NEC, for use as an identification method (e.g., legibly marked, legible warning notice, marked, field

marked, permanent plaque/directory, etc.) means "identification plate."

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

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

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

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

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

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

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

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

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

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

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

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

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

"UL" means Underwriters Laboratory.

"Utility" means an electrical utility.

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

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

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

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

NEW SECTION

**WAC 296-46B-120 Branch circuit, feeder, and service calculations.**

**042 Lighting load calculations.**

In determining feeder and service entrance conductor sizes and equipment ratings, a building that is designed and constructed to comply with the currently adopted Washington state energy code unit lighting power allowance table and footnotes may be used in lieu of NEC 120.42. The requirements of NEC 120.42(B), items 1, 2, and 3 do not apply.

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

**WAC 296-46B-210 Branch circuits not over 1,000 volts ac, 1,500 volts dc nominal.**

**008(A) Dwelling units GFCI requirements.**

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

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

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

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

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

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

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

**008(F) Outdoor outlets.**

(4) For the purposes of 2026 NEC 210.8(F), GFCI protection shall not be required for listed HVAC equipment. This exception expires on June 30, 2028.

**011 Branch circuits.**

((~~(4)~~)) (5) A raceway system or one dedicated 15-ampere minimum, 120 volt circuit must be taken to all unfinished space areas adaptable to future dwelling unit living areas that are not readily accessible to the service or branch circuit panelboard. One circuit or raceway is required for each 480 square feet or less of unfinished space area. If the total adjacent unfinished space area is less than 480 square feet, the circuit can be an extension of an existing circuit. The circuits must terminate in a suitable box(es). The box must contain an identification of the intended purpose of the circuit(s). The branch circuit panelboard must have adequate space and capacity for the intended load(s).

**013 Ground fault protection of equipment.**

((~~(5)~~)) (6) Equipment ground fault protection systems required by the NEC must be tested prior to being placed into service to verify proper installation and operation of the system as determined by the manufacturer's published instructions. A firm having qualified personnel and proper equipment must perform the tests required. A copy of the manufacturer's performance testing instructions and a written performance acceptance test record signed by the person performing the test must be available at the time of inspection. The performance acceptance test record must include test details including, but not limited to, all trip settings and measurements taken during the test.

**025 Common area branch circuits.**

((~~(6)~~)) (7) For the purpose of NEC 210.25, loads for septic or water well systems that are shared by no more than two dwelling units may be supplied from either of the two dwelling units if approved by the local building official and local health department.

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

((~~(7)~~)) (8) For the purpose of NEC 210.52 (A)(2)(1), "similar openings" include the following configurations that are a permanent part of the dwelling configuration or finish:

(a) Window seating; and

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

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

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

((~~(8)~~)) (9) If receptacle outlets are not installed to serve an island or peninsular countertop or work surface, no future provisions to do so are required.

**063 Equipment requiring servicing.**

((~~(9)~~)) (10) For the purposes of NEC 210.63, when equipment requiring servicing is located outdoors, accessible locations for receptacle outlets do not include locations accessed through doors or windows.

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

**WAC 296-46B-230 Services.**

**001 General service requirements.**

(1) The owner, the owner's agent, or the electrical contractor making the installation must consult the serving utility regarding the utility's service entrance requirements for equipment location and meter equipment requirements before installing the service and equipment. Provisions for a meter and related equipment, an attachment of a service drop, or an underground service lateral must be made at a location acceptable to the serving utility. The point of contact for a service drop must permit the clearances required by the NEC.

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

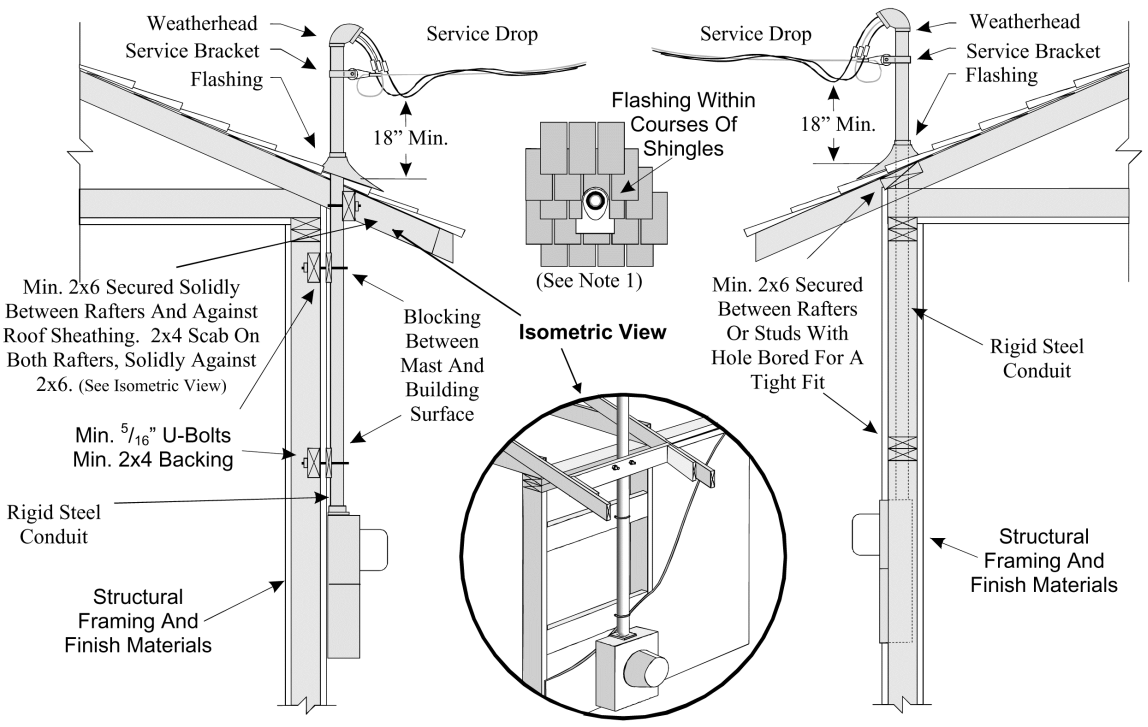
(3) The height of the center of the service meter must be as required by the serving utility. Secondary instrument transformer metering conductor(s) are not permitted in the service raceway.

**028 Service or other masts.**

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

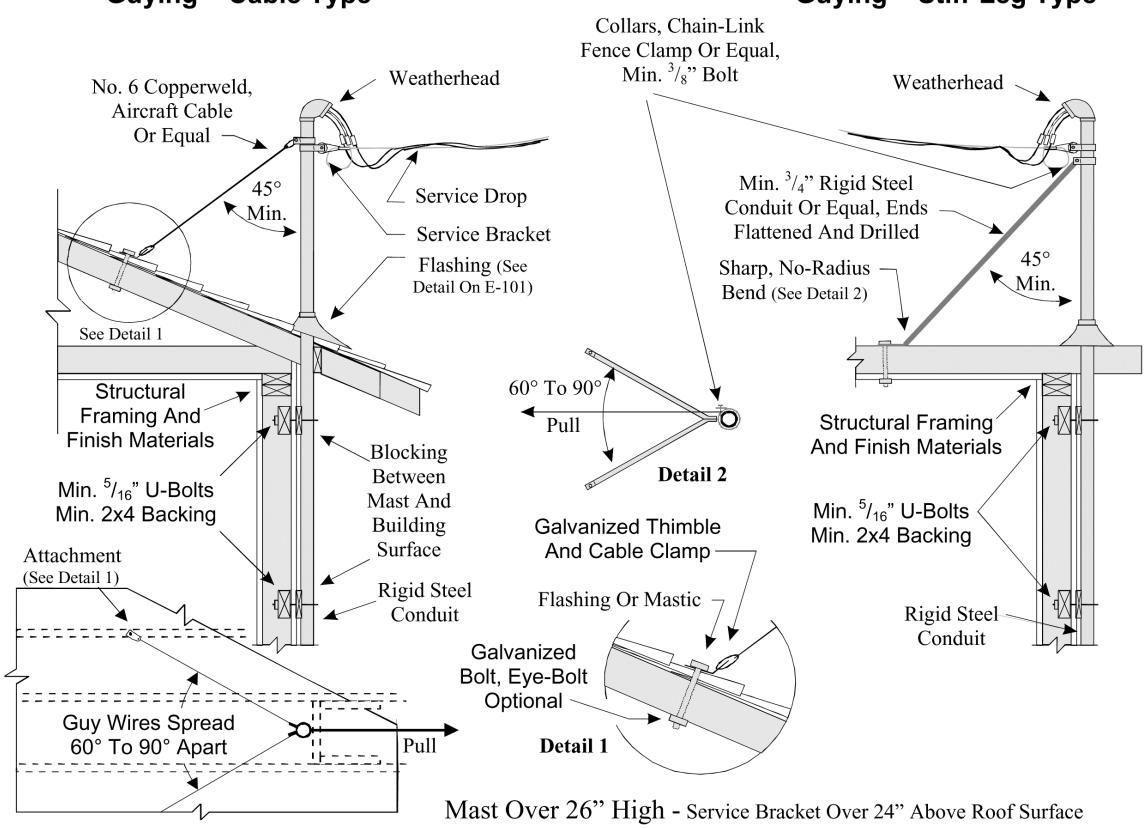
(a) All overhead drops for service, feeder, or branch circuits exceeding #1 AWG aluminum or #3 AWG copper must be rigid steel galvanized conduit no smaller than two inches.

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

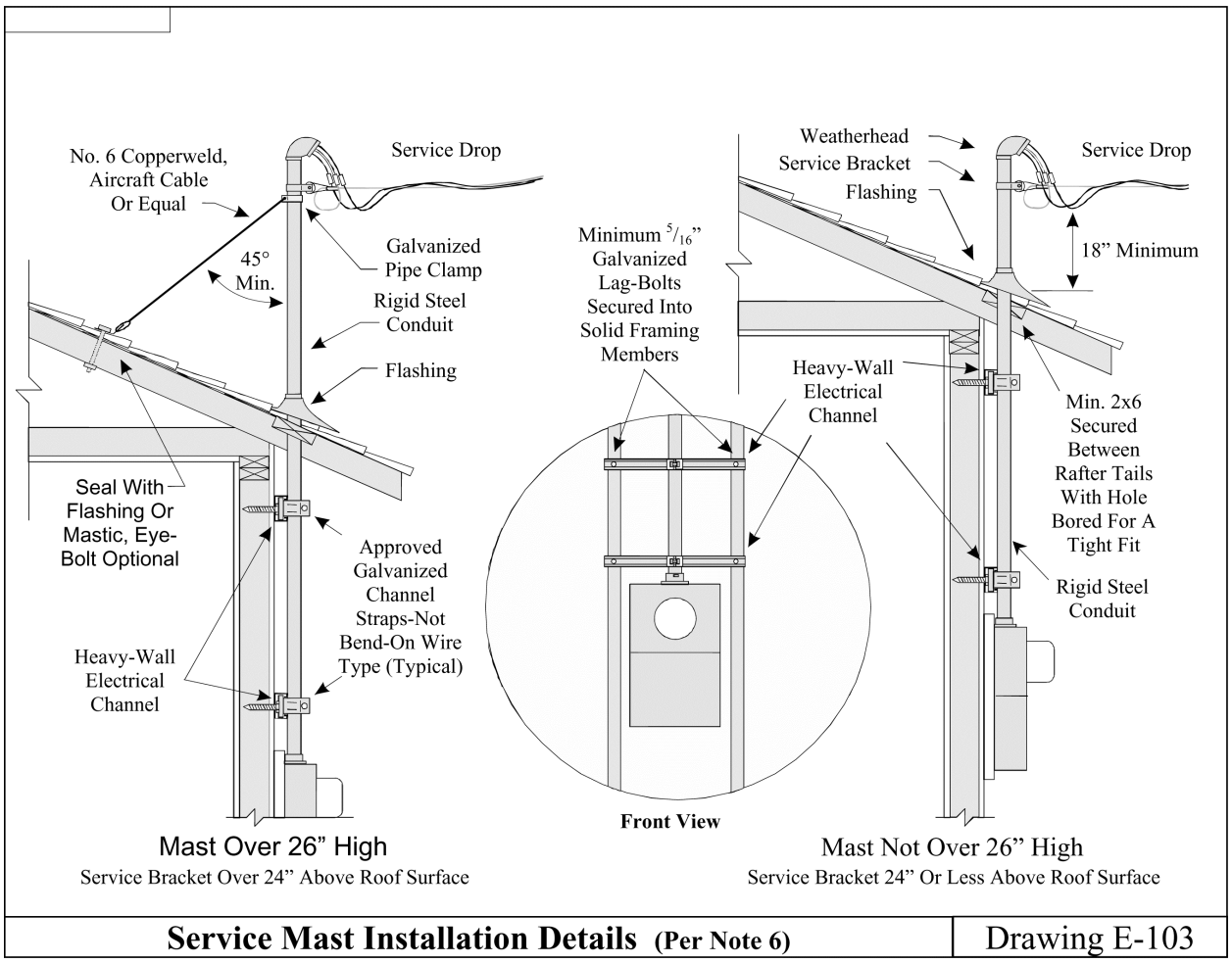



Mast Not Over 26" High - Service Bracket 24" Or Less Above Roof Surface

| Service Mast Installation Details | Drawing E-101 |
|---|---|




| Service Mast Installation Details | Drawing E-102 |
|---|---|




**Service Mast Installation Details (Per Note 6)** | Drawing E-103

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

(1) An approved roof flashing must be installed on each mast where it passes through a roof. Plastic, nonhardening mastic must be placed between lead-type flashings and the conduit. Neoprene type flashings will also be permitted to be used.

(2) Masts must be braced, secured, and supported in such a manner that no pressure from the attached conductors will be exerted on a roof flashing, meter base, or other enclosures.

(3) Utilization of couplings for a mast is permitted only below the point the mast is braced, secured, or supported. There must be a minimum of two means of support above any couplings used. A properly installed cable or stiff leg type support qualifies as one of the two required means of support.

(4) Except as otherwise required by the serving utility, service mast support guys must be installed if the service drop attaches to the mast more than 24 inches above the roof line or if the service drop is greater than 100 feet in length from the pole or support. Masts for support of other than service drops must comply with this requirement as well.

(5) Intermediate support masts must be installed in an approved manner with methods identical or equal to those required for service masts.

(6) For altered services, where it is impractical to install U bolt mast supports due to interior walls remaining closed, it will be permissible to use other alternate mast support methods such as

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Existing electrical metallic tubing, installed prior to October 1984, which is properly grounded and used for service entrance conductors may be permitted to remain if the conduit is installed in a nonaccessible location and is the proper size for the installed conductors.

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

**070 Service equipment - Disconnecting means.**

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

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

(i) The building/structure served; and

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

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

**((~~085(C)~~)) 70(E) Replacements.**

(11) This subsection replaces NEC ((~~230.85(C)~~)) 230.70(E). When service equipment suppling one- and two-family dwellings is replaced, ((~~an emergency~~)) a service disconnecting means must be installed as required under NEC 230.70(A), NEC 2130.70(B), and NEC 230.70(C), whenever the service ampacity is increased or decreased, or when any of the following are relocated: Service disconnects, meter bases, overhead service masts, or underground service risers.

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

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

NEW SECTION

**WAC 296-46B-268 Services over 1000 volts ac, 1500 volts dc, nominal.** The installation of service entrance conductors exceeding 1,000 volts ac, 1,500 volts dc, nominal, within a building or structure must be limited to the following methods: Galvanized rigid metal conduit, galvanized intermediate metal conduit, schedule 80 polyvinyl chloride conduit, metal-clad cable that is exposed for its entire length, cablebus, or busways. Exception: All wiring methods allowed by the NEC

shall be permitted for service conductors within a building or structure when customer owned overcurrent protection in accordance with NEC requirements is provided outside the building.

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

**WAC 296-46B-450 Transformers and transformer vaults (including secondary ties).**

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

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

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

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

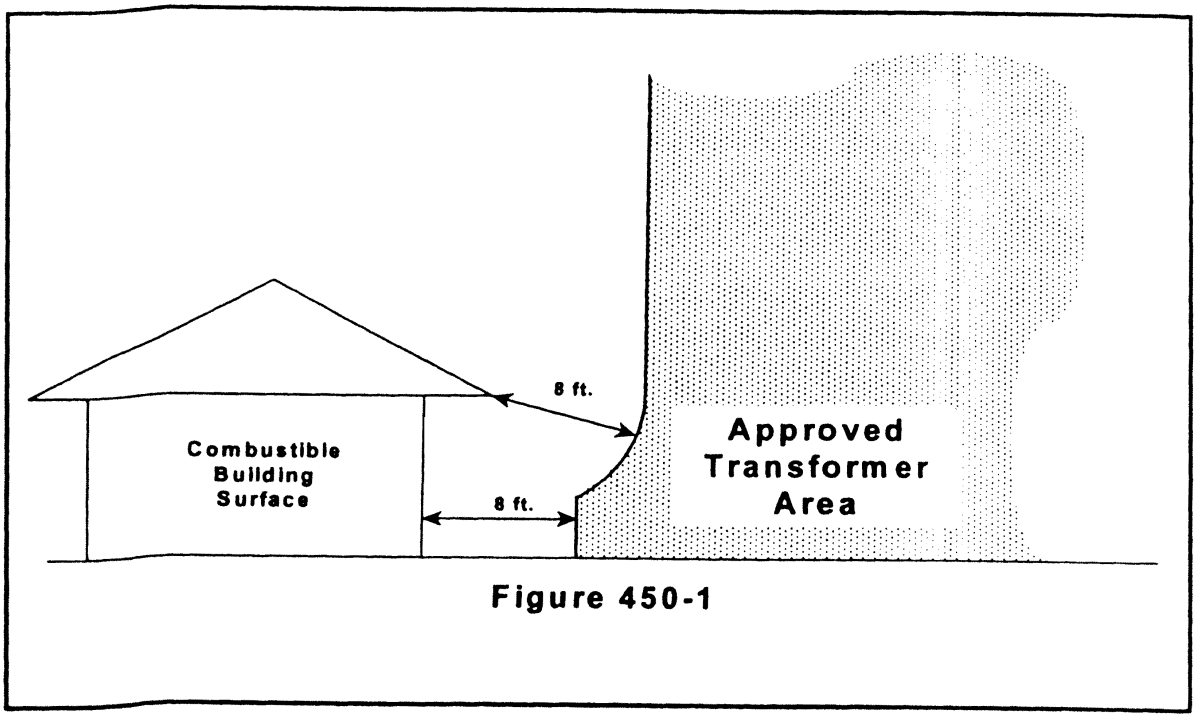



**Figure 450-1**

(b) A transformer installed adjacent to a three hour or greater fire resistance rated assembly on a building/structure ((~~with~~)) having no combustible surface(s) within eight feet of the transformer, may be located only in the shaded "Approved Transformer Area" shown in Figure 450-2;

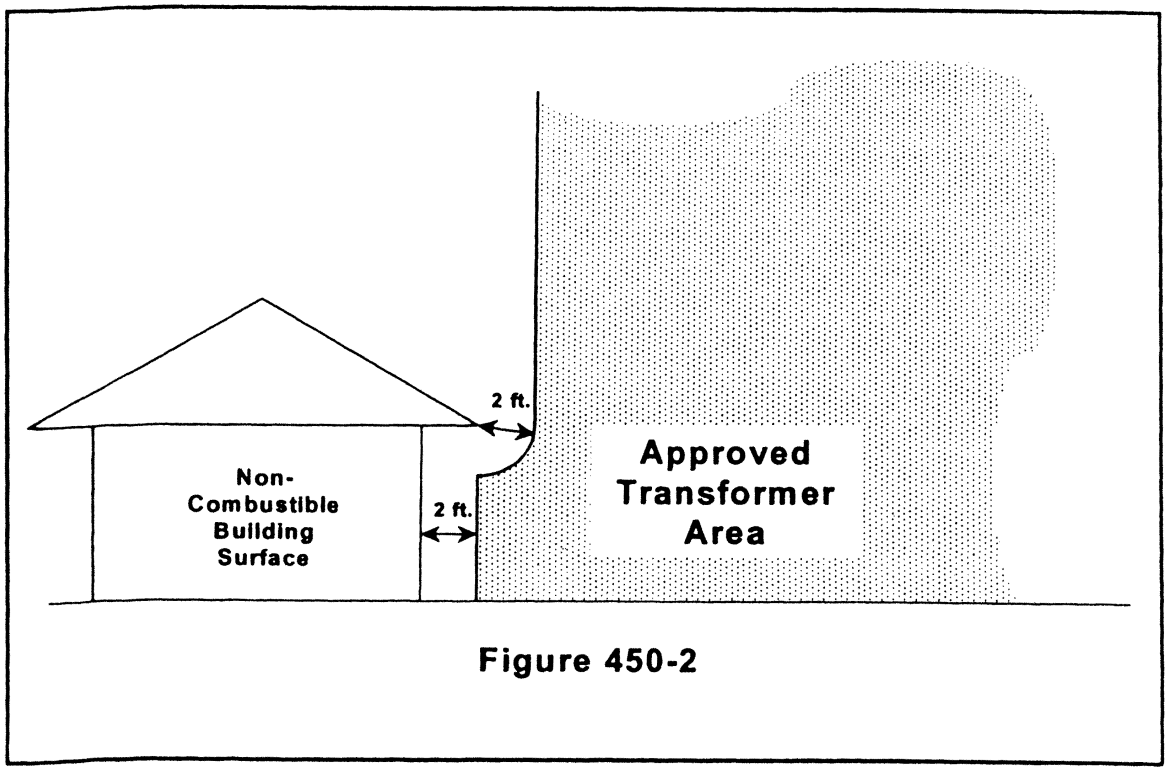



**Figure 450-2**

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

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

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

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

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

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

**WAC 296-46B-517 Health care facilities.**

**001 Health care facilities.**

In health care facilities, the following methods must be used to determine adequate capacity and ratings of equipment providing electrical power for the essential electrical systems defined in Article 517 NEC:

(1) Systems in new facilities:

(a) Essential electrical system: The essential electrical system must consist of three branches known as:

(i) Life safety branch: The feeder conductors and equipment used to supply electrical power to the life safety branch must be determined by summation of the connected loads as determined by Article ((~~220~~)) 120 NEC and may not be subjected to any reduction due to the diversity of the loads. Feeder and equipment will be subject to a 125 percent multiplier for continuous loads in accordance with Article ((~~220~~)) 120 NEC.

(ii) Critical branch: The feeder conductors and equipment must be calculated in accordance with Article ((~~220~~)) 120 NEC, including a level of diversity as determined by such article.

(iii) Equipment branch: The feeder conductors and equipment used to supply electrical power to the equipment branch of the essential electrical system must be calculated in accordance with Article ((~~220~~)) 120 NEC, including a level of diversity as determined by such article.

(b) Generator sizing: The rating of the generator(s) supplying electrical power to the essential system of a health care facility must meet or exceed the summation of the loads determined in (a) of this subsection with no additional demand factors applied. Momentary X-ray loads may be ignored if the generator is rated at least 300 percent of the largest momentary X-ray load connected.

(2) Existing essential systems in facilities to which additional load is to be added:

(a) Existing loads: The existing loads of the separate branches of the essential electrical system may be determined by WAC 296-46B-900 (3)(j).

(b) Added loads: Added loads to the separate branches of the essential electrical system must be determined by subsection (1) of this section.

(c) Generator sizing: The rating of the generator(s) supplying electrical power to the essential electrical system must meet or exceed the summation of the loads determined by (a) and (b) of this subsection with no additional demand factors applied.

**013 Wiring methods.**

(3) The last sentence of NEC 517.13(A) is modified to read: The metal raceway system, or metallic cable armor, or sheath assembly shall itself qualify as an equipment grounding conductor in accordance with 250.118 with the exception of 250.118 (10)(a).

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

(4) The applicability of NEC 700.31 ground-fault protection of equipment, specified by NEC 517.26 for the life safety branch, will also apply to the NEC 517 essential electrical system's critical branch(es) and equipment branch(es).

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

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

**001 Mobile/manufactured homes - Inspection.**

(1) All alterations to the mobile/manufactured home electrical system must be permitted and inspected.

(a) Any circuit or feeder that is fed from the pedestal or panel from an outbuilding feeding the mobile/manufactured home requires a permit from the electrical section.

(b) Any circuit or feeder that originates from the mobile/manufactured home's (i.e., red factory assembled structures label) panel and feeds an addition or equipment that is attached (e.g., garage, heat pump, or air conditioning unit) requires an FAS alteration permit.

(c) Any circuit or feeder that originates in the mobile/manufactured home panel and feeds an unattached structure or equipment (e.g., detached garage, hot tub, pool, well, septic system, yard lighting, or generation equipment, etc.) requires two inspections. An FAS permit is required for the circuit or feeder from the panel and must terminate in a J-box located under the home's exterior wall near the rim joist. A second permit is required from the electrical section for electrical work from the J-box to the equipment or structure.

**((~~032~~)) 051 Mobile/manufactured homes - Service.**

(2) If an electrical service is installed on the mobile/manufactured home:

(a) The manufacturer's instructions allowing mounting of service equipment on the mobile/manufactured home must be available to the inspector at the installation site at the time of the first inspection of the electrical service. The instructions must be specific regarding the type of service allowed: Overhead or underground; or

(b) It must be installed only by the manufacturer, at the manufacturing plant. The manufacturer must complete the service except for service connections, meter, and grounding electrode conductor; and

(c) The owner or an electrical contractor must complete the service at the site.

**((~~033~~)) 052(A) Mobile/manufactured homes - Feeder conductors.**

(3) When the mobile or manufactured home is supplied with power using a permanent wiring method, the equipment grounding conductor will be permitted to be bare. Bare conductors used underground must be copper. For the purposes of this section, portable cord is not considered a permanent wiring method.

NEW SECTION

**WAC 296-46B-706 Energy storage systems.** For energy storage installations, a system design review, as defined in WAC 296-46B-100, must be available at the installation site at the time of the first inspection and until the inspection process is complete.

AMENDATORY SECTION (Amending WSR 24-05-085, filed 2/21/24, effective 4/1/24)

**WAC 296-46B-800 General requirements for communications systems outside and entering buildings.** Chapters 1 through 7, NEC, supplement and modify the requirements of chapter 8, NEC. If there are specific requirements or exceptions described in chapter 8, NEC, that are different from those in chapters 1 through 7, NEC, chapter 8 will prevail.

**001 Installation.**

(1) All telecommunications installations on an end-user's property, beyond the end-user's telecommunications network demarcation point, made by a telecommunications service provider, both inside and outside of a building or structure, must conform to all licensing, certification, installation, permitting, and inspection requirements described in chapter 19.28 RCW and this chapter.

(2) Telecommunications service providers including its subcontractors and agents must install and maintain points of demarcation in conformance with Code of Federal Regulations (C.F.R.), Title 47, Chapter 1, Part 68, Subpart B, Sec. 68.105 and may not place a point of demarcation further than 12 inches within an end-user's occupied space.

(3) The telecommunications service provider must identify the telecommunications network demarcation point(s) with an identification plate or label having:

(a) The provider's name;

(b) Customer/end-user's name; and

(c) If a CWSTP is used, the option type used.

(4) The C.F.R. prescribes that telecommunications service providers must choose either a MPOE (minimum point of entry) or CWSTP (cable wire service termination policy) which regulates where demarcations are placed within a multitenant environment.

(5) A telecommunications service provider, including its subcontractors and agents provisioning service for a second provider who is not the end-user of the service, must place the point of demarcation no further than 12 inches from the nearest POP (point of presence), of the serving provider, to the eventual end-user.

(6) Telecommunications service providers must designate each building that they provide services to with labeling at the terminating point(s) of their facilities indicating:

(a) Whether the building is under a MPOE policy; or

(b) Which option of a CWSTP is in effect.

(7) The CWSTP options for demarcation placement are as follows:

(a) All telecommunications service provider facilities will terminate at one location, mutually agreed upon by the provider and the building owner or designee, upon entry into the building, normally at the lowest common serving point. All demarcations will be placed no more than 12 inches from this point. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond this demarcation point location.

(b) The telecommunications service provider's facilities will terminate at common locations, mutually agreed upon by the provider and the building owner or designee, throughout the building (terminal rooms, utility closets, etc.). The telecommunications service provider will provide, manage and maintain the building cable and registration jacks that denote the demarcation points. The demarcation points will be placed at these locations and will be accessible to end-users at these locations. This (b) is not an option for single tenant buildings.

(c) The telecommunications service provider will terminate facilities and place demarcations at locations, mutually agreed upon by the provider and the building owner or designee, within the individually occupied units, within 12 inches or a similarly reasonable distance of cable/wire entry. The provider will provide, manage and maintain the building cable, network terminating wire and registration jacks that denote the demarcation point. This (c) is not an option for single tenant buildings.

(d) All telecommunications service provider facilities and demarcations will terminate at one location on the property, mutually agreed upon by the provider and the building owner or designee. The building owner and/or tenants will provide, manage and maintain building wire and cable placed beyond the demarcation point location.

(8) The telecommunications installer must confer with the telecommunications provider when determining the point of demarcation.

**002 Definitions.**

(9) **"CWSTP (cable, wire and service termination policy)"** is the policy of the Federal Communications Commission (FCC) and the Washington utilities and transportation commission (WUTC) prescribed by tariff that governs negotiations between building owners and telecommunications service providers regarding the configuration of POP(s) and demarcation point(s) in multitenant buildings when a MPOE policy is not elected by the telecommunications service provider.

(10) **"MPOE (minimum point of entry)"** is a building wiring policy of the FCC and WUTC for multitenant environment locations that can be elected by telecommunications service providers. It prescribes that the telecommunications service provider will provide a single POP for access to its network and is located either at the closest practicable point to where a telecommunications service provider's facilities (fiber, coax, or copper) cross a property line or at the closest practicable point to where the wiring enters a multiunit building or buildings. All demarcations provided for customers and end-users by the provider will be placed within 12 inches of that POP.

(11) **"POP (point-of-presence),"** also called a **"POT (point-of-termination),"** is a designated point at or near a customer premise at which a telecommunications service provider's facilities for the provision of access service ends. This can be a fiber, coax, or copper connection point. Depending on the telecommunications service provider's CWSTP with the individual building owner, demarcations may be established at the POP or at other designated locations. When the customer of a telecommunications service provider is another carrier, the demarcation will be at the closest POP to the end-user. A telecommunications service provider may have multiple POPs within a multiple tenant environment.

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

**WAC 296-46B-900 Electrical plan review.**

**Definition of occupancies.**

(1) Occupancies are defined as follows:

(a) Educational facility refers to a building or portion of a building used primarily for educational purposes by six or more persons at one time for ((~~twelve~~)) 12 hours per week or four hours in any one day. Educational occupancy includes: Schools (preschool through grade ((~~twelve~~)) 12), colleges, academies, universities, and trade schools.

(b) Institutional facility refers to a building or portion of a building used primarily for detention or correctional occupancies where some degree of restraint or security is required for a time period of ((~~twenty-four~~)) 24 or more hours. Such occupancies include, but are not restricted to: Penal institutions, reformatories, jails,

detention centers, correctional centers, and residential-restrained care.

(c) Health or personal care facility. Health or personal care facility refers to buildings or parts of buildings that contain, but are not limited to, facilities that are required to be licensed by the department of social and health services or the department of health (e.g., hospitals, nursing homes, private alcoholism hospitals, private psychiatric hospitals, boarding homes, alcoholism treatment facilities, maternity homes, birth centers or childbirth centers, residential treatment facilities for psychiatrically impaired children and youths, and renal hemodialysis clinics) and medical, dental, or chiropractic offices or clinics, outpatient or ambulatory surgical clinics, and such other health care occupancies where patients who may be unable to provide for their own needs and safety without the assistance of another person are treated.

(i) "Hospital" means any institution, place, building, or agency providing accommodations, facilities, and services over a continuous period of ((~~twenty-four~~)) 24 hours or more, for observation, diagnosis, or care of two or more individuals not related to the operator who are suffering from illness, injury, deformity, abnormality, or from any other condition for which obstetrical, medical, or surgical services would be appropriate for care or diagnosis.

(ii) "Nursing home," "nursing home unit," or "long-term care unit" means a group of beds for the accommodation of patients who, because of chronic illness or physical infirmities, require skilled nursing care and related medical services but are not acutely ill and not in need of the highly technical or specialized services ordinarily a part of hospital care.

(iii) "Boarding home" means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. It must not include any home, institution, or section thereof which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution, or section thereof.

(iv) "Enhanced service facility (ESF)" means a facility, or a portion of a facility, that provides treatment and services to persons for whom acute inpatient treatment is not medically necessary and who have been determined by the department to be inappropriate for placement in other licensed facilities due to the complex needs that result in behavioral and security issues. For the purposes of this chapter, an enhanced services facility is not an evaluation and treatment facility certified under chapter 71.05 RCW.

(v) "Private alcoholism hospital" means an institution, facility, building, or equivalent designed, organized, maintained, or operated to provide diagnosis, treatment, and care of individuals demonstrating signs or symptoms of alcoholism, including the complications of associated substance use and other medical diseases that can be appropriately treated and cared for in the facility and providing accommodations, medical services, or other necessary services over a continuous period of ((~~twenty-four~~)) 24 hours or more for two or more individuals unrelated to the operator, provided that this chapter will not apply to any facility, agency, or other entity which is owned and operated by a public or governmental body.

(vi) "Private psychiatric hospital" means a privately owned and operated establishment or institution which: Provides accommodations

and services over a continuous period of ((~~twenty-four~~)) 24 hours or more, and is expressly and exclusively for observing, diagnosing, or caring for two or more individuals with signs or symptoms of mental illness who are not related to the licensee.

(vii) "Maternity home" means any home, place, hospital, or institution in which facilities are maintained for the care of four or more women, not related by blood or marriage to the operator, during pregnancy or during or within ((~~ten~~)) 10 days after delivery: Provided, however, that this definition will not apply to any hospital approved by the American College of Surgeons, American Osteopathic Association, or its successor.

(viii) "Birth center" or "childbirth center" means a type of maternity home which is a house, building, or equivalent organized to provide facilities and staff to support a birth service provided that the birth service is limited to low-risk maternal clients during the intrapartum period.

(ix) "Ambulatory surgical facility" means a facility, not a part of a hospital, providing surgical treatment to patients not requiring inpatient care in a hospital.

(x) "Hospice care center" means any building, facility, place, or equivalent, organized, maintained, or operated specifically to provide beds, accommodations, facilities, or services over a continuous period of ((~~twenty-four~~)) 24 hours or more for palliative care of two or more individuals, not related to the operator, who are diagnosed as being in the latter stages of an advanced disease which is expected to lead to death.

(xi) "Renal hemodialysis clinic" means a facility in a building or part of a building which is approved to furnish the full spectrum of diagnostic, therapeutic, or rehabilitative services required for the care of renal dialysis patients (including inpatient dialysis furnished directly or under arrangement). (NEC: Ambulatory Health Care Occupancy.)

(xii) "Medical, dental, and chiropractic clinic" means any clinic or physicians' office where patients are not regularly kept as bed patients for ((~~twenty-four~~)) 24 hours or more. Electrical plan review is not required.

(xiii) "Residential treatment facility" means a facility licensed and operated ((~~twenty-four~~)) 24 hours per day to provide health care to persons receiving services for a mental disorder or substance abuse.

(xiv) "Group care facility" means a facility other than a foster-family home maintained or operated for the care of a group of children on a ((~~twenty-four~~)) 24-hour basis.

**Plan review for educational, institutional, or health care facilities/buildings.**

(2) Plan review is a part of the electrical inspection process; its primary purpose is to determine:

(a) That service/feeder conductors are calculated and sized according to the proper NEC or WAC article or section;

(b) The classification of hazardous locations; and

(c) The proper design of emergency and standby systems.

(3) Electrical plan review.

(a) Electrical plan review is not required for:

(i) Low voltage systems;

(ii) Lighting specific projects that do not result in an electrical load increase on any feeder involved in the project;

(iii) Heating and cooling specific retrofit projects that do not result in an electrical load increase on any existing feeder involved in the project, provided there is not a corresponding increase in the available fault current in any feeder.

(iv) Stand-alone utility fed services that do not exceed 250 volts, 400 amperes where the project's distribution system does not include:

(A) Emergency systems other than listed unit equipment per NEC 700.12(F);

(B) An essential electrical system defined in NEC 517.2; or

(C) A required fire pump system.

(v) Modifications to existing electrical installations where all of the following conditions are met:

(A) Service or distribution equipment involved is rated not more than 400 amperes and does not exceed 250 volts or for lighting circuits not exceeding 277 volts to ground;

(B) Does not involve emergency systems other than listed unit equipment per NEC 700.12(F);

(C) Does not involve branch circuits or feeders of an essential electrical system as defined in NEC 517.2; and

(D) Service or feeder loads are not increased by more than 5% of the rated capacity of the electrical equipment supplying the modified load(s).

(vi) Electric power production source(s) such as solar photovoltaic, fuel cell, or wind electric system(s) with a total rating of 9600 watts or less.

(vii) For installations in (a)(ii), (iii), and (v) of this subsection to be considered, the following must be available to the electrical inspector before the work is initiated:

(A) A clear and adequate description of the project's scope;

(B) A load calculation(s);

(C) What the load changes are, providing both before and after panel schedules as needed; and

(D) Provide information showing that the service and feeder(s) supplying the panel(s) where the work is taking place has adequate capacity for any increased load and has code compliant overcurrent protection for that supply.

(b) Electrical plan review is required for all other new or altered electrical projects in educational, institutional, or health care occupancies defined in this chapter.

(c) If a review is required, the electrical plan must be submitted for review and approval before the electrical work is begun.

(d) Electrical plans.

(i) The plan must be submitted for plan review prior to beginning any electrical inspection. If a plan is rejected during the plan review process, no electrical inspection(s) may proceed until the plan is resubmitted and a conditional acceptance is granted.

(ii) The submitted plan will receive a preliminary review within seven business days after receipt by the department or city authorized to do electrical inspections.

(iii) If the submitted plan:

(A) Is rejected at the preliminary review, no inspection(s) will be made on the project.

(B) Receives conditional acceptance, the permit holder may request a preliminary inspection(s) in writing to the department or city authorized to do electrical inspections. The request must note that

the preliminary inspection(s) is conditional and subject to any alterations required from the final plan review process.

(iv) Once the submitted plan has preliminary plan review approval, a copy of the submitted plan must be available on the job site for use by the electrical inspector.

(v) The final approved plan must be available on the job site, for use by the electrical inspector, after it is approved, but no later than prior to the final electrical inspection.

(vi) If the final approved plan requires changes from the conditionally accepted plan, alterations to the project may be required to make the project comply with the approved plan.

(vii) If the installer deviates from the service/feeder design shown on the final approved plan, a supplemental plan must be submitted for review before inspection can proceed. Load reductions or moving branch circuit locations within a panelboard do not require resubmission.

(e) All electrical plans for educational facilities, hospitals, and nursing homes must be prepared by, or under the direction of, a consulting engineer registered under chapter 18.43 RCW, and chapters 246-320, 180-29, and 388-97 WAC and stamped with the engineer's mark and signature.

(f) Refer plans for review to the Electrical Section, Department of Labor and Industries, P.O. Box 44460, Olympia, Washington 98504-4460 or the city authorized to do electrical inspections.

(g) Plans for projects within cities that perform electrical inspections must be submitted to that city for review.

(h) Plans to be reviewed must be legible, identify the name and classification of the facility, clearly indicate the scope and nature of the installation and the person or firm responsible for the electrical plans. The plans must clearly show the electrical installation or alteration in floor plan view, include all switchboard and panelboard schedules and when a service or feeder is to be installed or altered, must include a riser diagram, load calculation, fault current calculation, and interrupting rating of equipment. Where existing electrical systems are to supply additional loads, the plans must include documentation that proves adequate capacity and ratings. The plans must be submitted with a plan review submittal form available from the department or city authorized to do electrical inspections. Fees must be calculated based on the date the plans are received by the department or city authorized to do electrical inspections.

(i) The department may perform the plan review for new or altered electrical installations of other types of construction when the owner or electrical contractor makes a voluntary request for review. A city authorized to do electrical inspections may require a plan review of any electrical system.

(j) For existing structures where additions or alterations to feeders and services are proposed, NEC ((~~220.87(1)~~)) 120.87(1) may be used. If NEC ((~~220.87(1)~~)) 120.87(1) is used, the following is required:

(i) The date of the measurements.

(ii) A statement attesting to the validity of the demand data, signed by a professional electrical engineer or the electrical administrator of the electrical contractor performing the work.

(iii) A diagram of the electrical system identifying the point(s) of measurement.

(iv) Building demand measured continuously on the highest-loaded phase of the feeder or service over a ((~~thirty~~)) 30-day period, with

the demand peak clearly identified. Demand peak is defined as the maximum average demand over a ((~~fifteen~~)) 15-minute interval.

| Notes to Tables 900-1 and 900-2. |
|---|
| 1. A city authorized to do electrical inspections may require plan review on facility types not reviewed by the department. |

**Table 900-1**
**Health or Personal Care Facilities**

| Health or Personal Care Facility Type | Plan Review Required |
|---|---|
| Hospital | Yes |
| Nursing home unit or long-term care unit | Yes |
| Boarding home | Yes |
| Assisted living facility | Yes |
| Private alcoholism hospital | Yes |
| Private psychiatric hospital | Yes |
| Maternity home | Yes |
| Ambulatory surgery facility | Yes |
| Renal hemodialysis clinic | Yes |
| Residential treatment facility | Yes |
| Enhanced service facility | Yes |
| Adult residential rehabilitation center | Yes |

**Table 900-2**
**Educational and Institutional Facilities, Places of Assembly, or Other Facilities**

| Educational, Institutional, or Other Facility Types | Plan Review Required |
|---|---|
| Educational | Yes |
| Institutional | Yes |

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|---|---|
| WAC 296-46B-220 | Branch circuit, feeder, and service calculations. |
| WAC 296-46B-235 | Branch circuits, feeders, and services over 1,000 volts ac, 1,500 volts dc nominal. |

**WSR 26-16-079**
**PROPOSED RULES**
**DEPARTMENT OF**
**LABOR AND INDUSTRIES**
[Order 26-03—Filed August 4, 2026, 3:59 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-05-063.

Title of Rule and Other Identifying Information: Chapter 296-120 WAC, Pregnancy-related accommodation.

Hearing Location(s): On September 14, 2026, at 9:30 a.m., at the department of labor and industries (L&I), 12806 Gateway Drive South, Tukwila, WA 98168. A prehearing overview will begin at 9:00 a.m. The hearing will start at 9:30 a.m. and will continue until all oral comments are received;

On September 16, 2026, at 1:30 p.m., at L&I, 7273 Linderson Way S.W., Tumwater, WA 98601. A prehearing overview will begin at 1:00 p.m. The hearing will start at 1:30 p.m. and will continue until all oral comments are received; and

On September 18, 2026, at 9:30 a.m., via Teams at https://teams.microsoft.com/meet/22372238162475?p=Q2mV0MFDfvzBp3sn2o, Meeting ID 223 722 381 624 75, Passcode Bv7rr74L; or join by phone 564-999-2000, Meeting ID 480 957 394#. A prehearing overview will begin at 9:00 a.m. The hearing will start at 9:30 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: November 17, 2026.

Submit Written Comments to: Angela MacNeil, L&I, Division of Labor Standards, Healthcare Labor Standards, P.O. Box 44510, Olympia, WA 98504-4510, email ESRules@Lni.wa.gov, fax 360-902-5300, beginning August 5, 2026, 8:00 a.m., by September 21, 2026, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Angela MacNeil, phone 253-370-9305, fax 360-902-5300, TTY 1-800-833-6388, email ESRules@Lni.wa.gov, by September 7, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: L&I was directed by the legislature to develop rules to implement and enforce the updates to Washington's pregnancy-related accommodation law enacted under 2025's E2SSB 5217, chapter 379, Laws of 2025, and are now under chapter 49.92 RCW. Currently, Washington's pregnancy-related accommodation law applies to employers with 15 or more employees and is enforced by the Washington attorney general's office. When the updates under 2025's E2SSB 5217/chapter 49.92 RCW go into effect on January 1, 2027, the law will apply to all employers in the state with enforcement transferring to L&I. E2SSB 5217/chapter 49.92 RCW also include requirements related to pay for travel and break time for employees to express milk. L&I is directed to investigate complaints and take enforcement actions including assessing penalties and other amounts owed to employees. Before taking enforcement action, E2SSB 5217/chapter 49.92 RCW requires L&I contact employers and attempt in good faith to reach agreement on reasonable accommodation or interim accommodations before issuing any citation or order. The proposed rules include the following labor standards requirements for an employer of employees who require pregnancy-related accommodations.

The proposed rules include:

- Requirements for all employers to provide specific reasonable accommodations unless the employer can demonstrate the accommodation would cause undue hardship.

- Specific accommodations the statute requires must be approved by an employer and are not subject to a claim of undue hardship.
- Factors that may be considered in determining whether a reasonable accommodation would impose undue hardship on an employer.
- Accommodations that may be subject to an employer's request for written medical certification, clarity on what constitutes complete written certification, and the form for written certification.
- Requirements for accommodations for the expression of milk.
- Retaliation protections.
- Processes for enforcement, including investigation complaints, issuing orders, assessing civil penalties and remedies to employees, and appeals.

L&I's division of labor standards will implement and enforce the rules for pregnancy-related accommodations.

Reasons Supporting Proposal: E2SSB 5217 created chapter 49.92 RCW, giving statutory authority to enforce pregnancy-related accommodation to L&I.

Statutory Authority for Adoption: Chapter 49.92 RCW.

Statute Being Implemented: Chapter 49.92 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Angela MacNeil, Tumwater, Washington, 253-370-9305; Implementation and Enforcement: Ellen Ware, Tumwater, Washington, 360-338-2475.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Angela MacNeil, L&I, Division of Labor Standards, Healthcare Labor Standards, P.O. Box 44510, Olympia, WA 98504-4510, phone 253-370-9305, fax 360-902-5300, email ESRules@Lni.wa.gov.

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

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

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: All portions of the rule not listed below are exempt under RCW 34.05.310 (4)(c).

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The portions of the proposed rule not exempt under RCW 34.05.310 (4)(c) impose no costs on industries or employers as outlined below.

| | |
|---|---|
| WAC 296-120-100 Applicability | This section provides L&I's interpretation of statutory provisions and does not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-010 (5) and (6) Definitions | These definitions are explanatory and provide L&I's interpretation for terms in chapter 49.46 RCW and do not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-110 (1) and (2) Employer responsibilities | These subsections include language that provides L&I's interpretation of statutory provisions and do not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-115 Undue hardship—Burden of proof | This section provides L&I's interpretation of statutory provisions and does not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-125 (1), (2), (4), (6), and (7) Protections for the expression of milk | These subsections include language that provides L&I's interpretation of statutory provisions and do not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-130 Reasonable accommodation enforcement—Complaints, investigations, and citations | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-135 Order of immediate restraint | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-140 Reasonable accommodation Enforcement—Civil penalties | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-145 Reasonable accommodation enforcement—Appeals | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-150 Retaliation | Portions of this section provide L&I's interpretation of statutory provisions and do not independently impose a penalty or sanction on a person or entity. |
| WAC 296-120-155 Retaliation enforcement—Complaints, investigations, and citations | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-165 Retaliation enforcement—Appeals | This section addresses L&I enforcement and does not create an additional cost of compliance for employers. |
| WAC 296-120-175 Additional rights | Portions of this section provide L&I's interpretation of statutory provisions and do not independently impose a penalty or sanction on a person or entity. |

August 4, 2026
Joel Sacks
Director

**RDS-7099.5**

## Chapter 296-120 WAC
## PREGNANCY-RELATED ACCOMMODATION

NEW SECTION

**WAC 296-120-100 Applicability.** This chapter applies to employee and employer conduct, acts, or omissions related to pregnancy accommodation under chapter 49.92 RCW occurring on or after January 1, 2027.

NEW SECTION

**WAC 296-120-105 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department of labor and industries or authorized representative.

(3) "Employee" means an employee who is employed in the business of the employee's employer whether by way of manual labor or otherwise.

(4) "Employer" has the same meaning and must be interpreted consistent with how that term is defined in RCW 49.60.040, except that for the purposes of this chapter only, "employer" includes any employer who employs one or more persons and any religious or sectarian organization not organized for private profit.

(5) "Interim accommodation" means a temporary measure, agreed upon between the employee and employer to support an employee's pregnancy related needs while a permanent reasonable accommodation is being identified, evaluated, or implemented. An interim accommodation is not a substitute for, and does not replace, a permanent reasonable accommodation. It is intended to allow the employee to continue working during this transitional period. Leave will not be considered an interim accommodation unless the employee voluntarily selects or requests it as such.

(6) "Pregnancy" includes the employee's pregnancy, childbirth, and related prenatal and postpartum mental and physical health conditions, including the need to express breast milk.

(7) "Reasonable accommodation" means the following:

(a) Providing more frequent, longer, or flexible restroom breaks;

(b) Modifying a no food or drink policy;

(c) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's workstation;

(d) Providing seating or allowing the employee to sit more frequently if the employee's job requires the employee to stand;

(e) Providing for a temporary transfer to a less strenuous or less hazardous position;

(f) Providing assistance with manual labor and limits on lifting;

(g) Scheduling flexibility for prenatal and postpartum visits, including allowing the use of leave required under chapter 49.12 or 49.46 RCW;

(h) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has a need to express milk and providing a private location which may be used by the employee to express breast milk according to WAC 296-120-125; and

(i) Any further pregnancy accommodation an employee may request, and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department or the attending health care provider of the employee.

(8) "Undue hardship" means an action requiring significant difficulty or expense. Undue hardship does not apply to the accommodations listed under WAC 296-120-110(2).

NEW SECTION

**WAC 296-120-110 Employer responsibilities.** (1) Employers are required to make a reasonable accommodation or interim accommodation for an employee for pregnancy, unless the employer can demonstrate that doing so would cause undue hardship on the employer's program, enterprise, or business.

(2) Employers cannot claim undue hardship for the following reasonable accommodations or interim accommodations:

(a) Providing more frequent, longer, or flexible restroom breaks.

(b) Modifying a no food or drink policy.

(c) Limiting lifting more than 17 pounds.

(d) Providing seating or allowing the employee to sit more frequently if the employee's job requires the employee to stand.

(3) Employers may not:

(a) Deny a job or other employment opportunities to an otherwise qualified employee based on the employee's need for reasonable accommodation or interim accommodation;

(b) Require an employee to take leave if another reasonable accommodation or interim accommodation can be provided for the employee's pregnancy;

(c) Retaliate against an employee for exercising any right under this chapter or take adverse action against an employee who requests, declines, or uses an accommodation under chapter 49.92 RCW that affects the terms, conditions, or privileges of employment.

(4) Chapter 49.92 RCW and applicable rules do not require an employer to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

(5) Chapter 49.92 RCW and applicable rules do not require an employer to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job, unless the employer does so or would do so to accommodate other classes of employees who need accommodation.

NEW SECTION

**WAC 296-120-115 Undue hardship—Burden of proof.** (1) The employer has the burden of demonstrating that providing reasonable accommodation would impose an undue hardship on the employer's program, enterprise, or business.

(2) In determining whether a reasonable accommodation would impose an undue hardship on an employer, factors to be considered may include:

(a) The nature and cost of the accommodation;

(b) The overall financial resources of the employer;

(c) The overall size of the employer's business with respect to the number of employees and the number, type, and location of the available facilities;

(d) The accommodation's effect on expenses and resources or its effect upon the operations of the employer; and

(e) The employer's provision of similar accommodations to other classes of employees.

NEW SECTION

**WAC 296-120-120 Written certification.** (1) An employer may request that the employee provide written certification from the employee's treating health care professional regarding the need for reasonable accommodation, but an employer cannot request the employee provide written certification from the employee's treating health care professional regarding the following accommodations:

(a) Providing more frequent, longer, or flexible restroom breaks;

(b) Modifying a no food or drink policy;

(c) Providing seating or allowing the employee to sit more frequently if the employee's job requires the employee to stand;

(d) Providing reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has a need to express milk and providing a private location which may be used by the employee to express breast milk; and

(e) Limiting lifting more than 17 pounds.

(2) A written certification is considered complete if it affirms the employee's need for reasonable accommodation or identifies reasonable accommodation needed due to pregnancy.

(3) An employer may not request or require additional medical information or that a written certification include additional information than in subsection (2) of this section to justify the need for reasonable accommodation.

(4) A written certification may be submitted using any form or medium. An employer may not require the use of any specific form for an employee to submit a written certification.

NEW SECTION

**WAC 296-120-125 Protections for the expression of milk.** (1) An employer must provide reasonable break time for an employee to express breast milk for two years after the child's birth each time the employee has a need to express milk. "Reasonable break time" means a break period that is appropriate, adequate, or proportionate given the circumstances and is in addition to meal and break time required by chapter 49.12 RCW, WAC 296-126-092, or WAC 296-131-020. Circumstances that factor into the duration of a reasonable break time include, but are not limited to:

(a) Time needed to travel to and from the location for expressing milk;

(b) Time needed to travel to and from storage location for expressed milk if not within the location for expressing milk; and

(c) Time needed to clean milk expression equipment.

(2) An employer must provide a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. A "private location" means a location that is shielded from view and protected from intrusion by others. The location must be clean and maintained in a condition appropriate for expressing milk and functional for expressing milk.

(3) If a private location does not exist at the place of business or worksite, the employer must work with the employee to identify a convenient location and work schedule to accommodate their needs.

(4) Any break time and time traveling to a location identified by the employer in subsections (2) and (3) of this section must be paid to the employee at the employee's regular compensation rate as defined in RCW 49.46.020. This constitutes a wage payment requirement as defined in RCW 49.48.082.

(5) An employer may not require an employee to use paid leave during reasonable break time or travel time to express milk.

(6) An employer may not penalize or treat an employee adversely based on the employee's use of reasonable break time or work schedule changes made pursuant to this section, including if the employee's ability to meet quota, points, or other incentives system is impacted.

(7) An employer may not reduce or otherwise lessen an employee's pay based on work schedule changes made under subsection (3) of this section.

NEW SECTION

**WAC 296-120-130 Reasonable accommodation enforcement—Complaints, investigations, and citations.** (1) Upon receiving a complaint alleging one or more violations of reasonable accommodations requirements under chapter 49.92 RCW or any associated rules, the department shall investigate the complaint. The department will not accept complaints alleging violations of reasonable accommodation requirements that occurred more than three years before the date that the department received the complaint.

(2) During an investigation, if the department discovers information suggesting additional violations of chapter 49.92 RCW, or any associated rules, the department may investigate and take appropriate enforcement action without any additional complaint.

(3) Prior to issuing any order under this section, the department must first contact the employer and attempt in good faith to reach an agreement on reasonable accommodation or interim accommodation.

(4) If the department and the employer are unable to reach an agreement, the department may issue an order of immediate restraint under WAC 296-120-135.

(5) Upon investigation of a complaint under this section, the department may issue either a citation and notice of assessment or a determination of compliance within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the complainant and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(6) If the department's investigation finds that an employee's allegation cannot be substantiated, the department may issue a determination of compliance or closure letter to the employee and the employer detailing such findings.

(7) If the department's investigation finds that the employer violated the accommodation requirements of chapter 49.92 RCW or associated rules, and the complaint is not otherwise resolved, the department may issue a citation and notice of assessment.

(8) The department's notice of assessment, pursuant to RCW 49.48.083, may order the employer to:

(a) Provide reasonable accommodation as required;

(b) Cease using any policy that is not in compliance with the requirements of chapter 49.92 RCW or associated rules;

(c) Modify any policy that interferes with an employee's rights under chapter 49.92 RCW or associated rules;

(d) Adopt policies that ensure the employer's compliance with, and notify employees of their rights under, chapter 49.92 RCW and any associated rules;

(e) Provide employees, including managers and human resources personnel, training approved by the department on the requirements of chapter 49.92 RCW or associated rules;

(f) Pay all amounts owed due to the employer's failure or refusal to make reasonable accommodation, including interest of one percent per month on all amounts owed, to the employee;

(g) Provide the employee any combination of reinstatement and payment of leave hours; and

(h) Pay the department a civil penalty as specified in WAC 296-120-140.

(9) The department shall send a citation and notice of assessment or a determination of compliance to both the employer and the complainant by service of process or using a method by which the mailing can be tracked, or the delivery can be confirmed to their last known addresses.

(10) The department may continue to monitor compliance throughout the duration of reasonable accommodation. The department may initiate a new investigation, issue additional temporary orders as defined under WAC 296-120-135, or issue additional determinations, without the filing of an additional complaint.

NEW SECTION

**WAC 296-120-135 Order of immediate restraint.** (1) If, during the investigation of a complaint under WAC 296-120-130, the department and the employer are unable to reach an agreement, the department may issue a temporary order immediately restraining any such condition, practice, method, process, or means in the workplace that violates any provision of chapter 49.92 RCW or associated rules.

(2) The order of immediate restraint may not be in effect longer than 90 calendar days. To extend the order beyond 90 calendar days, the department must seek a restraining order, or other such relief as appears appropriate under the circumstances, in the superior court of the county wherein such conditions of employment or practice exist.

(3) An employer may contest an order restraining any condition of employment or practice issued under subsection (1) of this section within 10 working days of the effective date of the order by making an application to the superior court of the county wherein such conditions of employment or practice exist. Upon the filing of any such petition, the superior courts of the state of Washington shall have jurisdiction to grant appropriate relief from the order.

(4) Any employer who has been issued an order immediately restraining a condition, practice, method, process, or means in the workplace, pursuant to chapter 49.92 RCW or associated rules, and who nevertheless continues such condition, practice, method, process, or means, the department may issue a civil penalty per WAC 296-120-140 for each day an employer continues such condition, practice, method, process, or means that is in violation.

NEW SECTION

**WAC 296-120-140 Reasonable accommodation enforcement—Civil penalties.** (1) The department may assess civil penalties for violations of reasonable accommodation requirements under chapter 49.92 RCW or associated rules. For violations of reasonable accommodation requirements related to expression of milk, the department may assess a civil penalty under this chapter or RCW 49.17.530 but may not assess duplicative penalties for the same violation. For the purposes of a civil penalty under this section, each occurrence affecting an individual employee seeking reasonable accommodation constitutes a separate violation.

(2) For employers with fewer than 15 employees, civil penalties for first time violations will be not less than $1,500 for each violation. For employers with 15 or more employees, civil penalties for first time violations will be not less than $3,000 for each violation. In addition to the base minimum penalty, the department may increase the penalty amount considering the totality of the circumstances including, but not limited to, consideration of following factors:

(a) The employer size and resources;

(b) The gravity of the violation, including the nature, extent, the potential harm of the violations, and the amounts owed the worker due to the violations;

(c) The good faith of the employer, including the promptness of responding to requests for reasonable or interim accommodation, efforts to work in consultation with the employee to identify and make reasonable or interim accommodation, actions to avoid unnecessary delays, and cooperation with the department's investigation; and

(d) The employer's history of previous complaints and violations of pregnancy-related accommodations under chapter 49.92 RCW and the associated rules, including settlements.

(3) The assessed penalty under subsection (2) of this section is increased for repeat violations as follows:

(a) 1st time × 2.5

(b) 2nd time × 5

(c) 3rd time × 10

(4) The department may, at any time, waive or reduce any civil penalty assessed against an employer under this section if the department determines that the employer has taken corrective action.

(5) The department must deposit all civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

NEW SECTION

**WAC 296-120-145 Reasonable accommodation enforcement—Appeals.** (1) A person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance issued by the department under WAC 296-120-130 may appeal the citation and notice of assessment by filing a notice of appeal with the department within 30 days of the department's issuance of the citation and notice of assessment. A citation and notice of assessment or a determination of compliance not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the department under this section shall stay the effectiveness of the citation and notice of assessment or a determination of compliance pending final review of the appeal by the department as provided for under chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the department shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the department within 30 days after service of the initial order. The department shall conduct administrative reviews in accordance with chapter 34.05 RCW.

(4) The department shall issue all final orders after appeal of the initial order. The final order of the department is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department under this section within a reasonable time period may not use such records in any appeal under this section to challenge the correctness of any verification by the department of the penalty assessed.

NEW SECTION

**WAC 296-120-150 Retaliation.** (1) It is unlawful for an employer to interfere with, restrain, or deny the exercise of any employee right provided under or in connection with chapter 49.92 RCW or associated rules.

(2) It is unlawful for an employer to take any adverse action against an employee because the employee has exercised their rights provided under chapter 49.92 RCW or associated rules. Such rights include, but are not limited to: Requesting, declining, or using an accommodation; filing an action, or instituting or causing to be instituted any proceeding under or related to chapter 49.92 RCW or associated rules; exercising any right to pregnancy-related accommodations provided under chapter 49.92 RCW or associated rules; or cooperating as a witness including testifying or intending to testify in any such investigation or proceeding related to any rights provided under chapter 49.92 RCW or associated rules.

(3) Adverse action means any action taken or threatened by an employer against an employee for their exercise of chapter 49.92 RCW, or rights under associated rules which may include, but are not limited to:

(a) Terminating, suspending, demoting, or denying a promotion;

(b) Withholding opportunities such as professional development and leadership engagements that would otherwise be available;

(c) Reducing or changing the number of work hours for which the employee is scheduled;

(d) Altering the employee's preexisting work schedule;

(e) Reducing the employee's rate of pay;

(f) Otherwise impact the terms or conditions of employment;

(g) Threatening to take, or taking action, based on the immigration status of the employee or an employee's family member.

NEW SECTION

**WAC 296-120-155 Retaliation enforcement—Complaints, investigations, and citations.** (1) An employee who believes that they were subject to retaliation by their employer, as defined in WAC 296-120-150, for the exercise of any employee right under chapter 49.92 RCW or associated rules, may file a complaint with the department. The department will investigate complaints filed within 180 days of the alleged retaliatory action. The department may, at its discretion, extend the 180-day period based on recognized equitable principles or because extenuating circumstances exist. For example, the department may extend the 180-day period when there is evidence that the employer has concealed or misled the employee regarding the alleged retaliatory action.

(2) If an employee files a timely complaint with the department or the department initiates an investigation alleging retaliation, the department will investigate the complaint and issue either a citation and notice of assessment or a determination of compliance within 90 days after the date on which the department received the complaint, unless the complaint is otherwise resolved. The department may extend the period by providing advance written notice to the employee and the employer setting forth good cause for an extension of the period and specifying the duration of the extension.

(3) The department may consider a complaint to be otherwise resolved when the employee and the employer reach a mutual agreement to remedy any retaliatory action, or the employee voluntarily and on the employee's own initiative withdraws the complaint. Mutual agreements include, but are not limited to, rehiring, reinstatement, back pay, and reestablishment of benefits.

(4) If the department's investigation finds that the employee's allegation of retaliation cannot be substantiated, the department will issue a determination of compliance to the employee and the employer detailing such findings.

(5) If the department's investigation finds that the employer retaliated against the employee, and the complaint is not otherwise resolved, then the department may issue a citation and notice of assessment. The department's citation and notice of assessment may:

(a) Order the employer to make payable to the employee amounts owed due to the employer's retaliatory action, including interest of one percent per month on all earnings owed;

(b) Order the employer to restore the employee to the position of employment held by the employee when the retaliation occurred or restore the employee to an equivalent position with equivalent employment hours, work schedule, benefits, pay, and other terms and conditions of employment;

(c) Order the employer to cease using any policy that is not in compliance with the requirements of chapter 49.92 RCW or associated rules; and

(d) Order the employer to pay the department a civil penalty as specified under WAC 296-120-140.

(6) The department will send the citation and notice of assessment or determination of compliance to both the employer and employee by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to their last known addresses.

(7) During an investigation of the employee's retaliation complaint, if the department discovers information suggesting alleged violations by the employer of the employee's other rights under chapter 49.92 RCW or associated rules, the department may investigate and take appropriate enforcement action without requiring the employee to file a new or separate complaint. If the department determines that the employer violated additional rights of the employee under chapter 49.92 RCW or associated rules, the employer may be subject to additional enforcement actions for the violation of such rights. If the department discovers information alleging the employer retaliated against or otherwise violated rights of other employees under chapter 49.92 RCW or associated rules, the department may launch further investigation under chapter 49.92 RCW or associated rules, without requiring additional complaints to be filed.

NEW SECTION

**WAC 296-120-160 Retaliation enforcement—Civil penalties.** (1) If the department's investigation finds that an employer retaliated against an employee, pursuant to the procedures outlined in WAC 296-120-155, the department may order the employer to pay the department a civil penalty as specified under WAC 296-120-140.

(2) The department may, at any time, waive or reduce any civil penalty assessed against an employer under this section if the department determines that the employer has taken corrective action to remedy the retaliatory action.

(3) The department will deposit civil penalties paid under this section in the supplemental pension fund established under RCW 51.44.033.

NEW SECTION

**WAC 296-120-165 Retaliation enforcement—Appeals.** (1) A person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance may, within 30 days after the date of such decision, submit a request for reconsideration to the department setting forth the grounds for seeking such reconsideration, or submit an appeal to the department pursuant to the procedures outlined in subsection (4) of this section. If the department receives a timely request for reconsideration, the department will either accept the request or treat the request as a notice of appeal. The provisions of this section shall not apply to an order of immediate restraint.

(2) If a request for reconsideration is accepted, the department will send notice of the request for reconsideration to the employer and the employee. The department will determine if there are any valid reasons to reverse or modify the department's original decision to issue a citation and notice of assessment or determination of compliance

within 30 days of receipt of such request. The department may extend this period by providing advance written notice to the employee and employer, setting forth good cause for an extension of the period, and specifying the duration of the extension. After reviewing the reconsideration, the department will either:

(a) Notify the employee and the employer that the citation and notice of assessment or determination of compliance is affirmed; or

(b) Notify the employee and the employer that the citation and notice of assessment or determination of compliance has been reversed or modified.

(3) A request for reconsideration submitted to the department shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending the reconsideration decision by the department.

(4) Within 30 days after the date the department issues a citation and notice of assessment or a determination of compliance, or within 30 days after the date the department issues its decision on the request for reconsideration, a person, firm, or corporation aggrieved by a citation and notice of assessment or a determination of compliance may file with the department a notice of appeal.

(5) A notice of appeal filed with the department under this section shall stay the effectiveness of the citation and notice of assessment or the determination of compliance pending final review of the appeal by the department as provided for in chapter 34.05 RCW.

(6) Upon receipt of a notice of appeal, the department shall assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures shall be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation and notice of assessment or determination of compliance shall be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the department within 30 days after service of the initial order. The department shall conduct administrative review in accordance with chapter 34.05 RCW.

(7) If a request for reconsideration is not submitted to the department within 30 days after the date of the original citation and notice of assessment or determination of compliance, and a person, firm, or corporation aggrieved by a citation and notice of assessment or determination of compliance did not submit an appeal to the department, then the citation and notice of assessment or determination of compliance is final and binding, and not subject to further appeal.

(8) The department shall issue all final orders after appeal of the initial order. The final order of the department is subject to judicial review in accordance with chapter 34.05 RCW.

(9) Director's orders that are not appealed within the time period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(10) An employer who fails to allow adequate inspection of records in an investigation by the department under WAC 296-120-105 through 296-120-170 within a reasonable time period may not use such records in any appeal under such rules to challenge the correctness of any determination by the department.

NEW SECTION

**WAC 296-120-170 Enforcement—Collections.** Collections of amounts owed for unpaid citations and notices of assessment under this chapter will be handled pursuant to the procedures outlined in RCW 49.48.086.

NEW SECTION

**WAC 296-120-175 Additional rights.** (1) Nothing in this chapter precludes a person from pursuing a civil cause of action as provided under chapter 49.92 RCW.

(2) Nothing in this chapter precludes a person whose complaint is resolved by the department from seeking remedies provided under RCW 49.92.030(2), including costs of suit and reasonable attorneys' fees, that were not addressed through the department's enforcement.

(3) Nothing in this chapter preempts, limits, diminishes, or otherwise affects any other provision of law relating to sex discrimination or pregnancy, or in any way diminishes or limit legal protections or coverage for pregnancy, childbirth, or pregnancy-related health conditions.

NEW SECTION

**WAC 296-120-180 Severability.** If any provision of the rules in this chapter, or their application to any person or circumstance is held invalid, the remainder of these rules or their application of the provision to other persons or circumstances is not affected.

**WSR 26-16-083**
**PROPOSED RULES**
**DEPARTMENT OF HEALTH**
(Board of Nursing)
[Filed August 5, 2026, 8:41 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-01-020.

Title of Rule and Other Identifying Information: Nursing education programs rules; amending WAC 246-840-500 through 246-840-571.

The Washington state board of nursing (board) is proposing amendments to WAC 246-840-500 through 246-840-571 to update nursing education program requirements, approval, faculty qualifications, curriculum, clinical education, student competency, and board oversight. The proposed rules also implement SHB 2339 (chapter 139, Laws of 2026). This rule making is phase 3 of four phases of the board's review of chapter 246-840 WAC, conducted in accordance with RCW 43.70.041, which requires the board to formally review its rules at least every five years.

Hearing Location(s): On September 11, 2026, 1:15 p.m., at the Department of Labor and Industries (L&I), 7273 Linderson Way S.W., Tumwater, WA 98501, Room S117/118; or virtual. Please follow this link to register for the virtual hearing which will give you instructions to either join the meeting on a device, or to call in to the meeting on the phone, https://us02web.zoom.us/meeting/register/j6U-yvRBQECcNnrwRbDM9w. After registering you will receive a confirmation email containing information.

Date of Intended Adoption: September 11, 2026.

Submit Written Comments to: Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, email WABONRules@doh.wa.gov, fax 360-236-4738, web https://fortress.wa.gov/doh/policyreview, beginning the date and time of this filing, by August 21, 2026, at 11:59 p.m.

Assistance for Persons with Disabilities: Jessilyn Dagum, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov, by August 21, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing amendments to nursing education program rules in WAC 246-840-500 through 246-840-571. The proposal updates, clarifies, and reorganizes existing rules for nursing programs.

The proposed rules are intended to reduce administrative burden for nursing programs; remove barriers related to clinical placements and faculty oversight; modernize simulation requirements; and simplify processes for program approval, expansion, and innovative program delivery. The proposal also aligns board requirements with national accreditation standards where appropriate.

The proposed amendments:

- Update the minimum requirements for simulation in nursing education, nursing faculty with changes to clinical experiences, and degree qualifications;
- Streamline chapter 246-840 WAC with national best practices and standards;
- Reduce administrative burden for nursing education programs while maintaining minimum standards set by the board;
- Remove barriers related to clinical placements and clinical faculty oversight;

- Simplify processes for program approval, expansion, and implementation of innovative delivery methods; and
- Align board requirements, where appropriate, with national accreditation standards.

The anticipated effect of the proposal is to make the rules clearer and easier to use while maintaining minimum standards for nursing education, program accountability, and public safety.

Reasons Supporting Proposal: The current nursing education program rules have become outdated, duplicative, and unnecessarily complex. The proposed amendments are needed to improve clarity, consistency, and usability for nursing programs, students, faculty, and the public.

This rule making is part of the board's review of chapter 246-840 WAC under RCW 43.70.041. RCW 43.70.041 requires the board to formally review its rules at least once every five years to simplify, streamline, and improve regulations. This proposal is Phase 3 of the board's comprehensive review of chapter 246-840 WAC. The proposed rules support current nursing education practices, reduce unnecessary administrative burden, and help nursing programs prepare graduates for safe and competent nursing practice. The proposed amendments also align with recent legislative changes related to advanced practice licensure and applicant documentation requirements, as described in SHB 2339 (chapter 139, Laws of 2026). SHB 2339 makes title and terminology updates for advanced practice nursing in chapter 18.79 RCW, including updates to advanced practice role titles (SHB 2339, sections 1-4). The proposed amendments align the advanced practice nursing education rules with the statutory terminology changes. SHB 2339 also removes the statutory requirement that licensure applicants submit official transcripts to the board and retains the requirement that applicants submit an attested written application on a department of health form and any other official records specified by the board (SHB 2339, sections 5 and 6). The board is addressing transcript-related rule changes across multiple rule makings. The proposed amendments in this rule making clarify the education verification process by requiring the postsecondary educational institution to submit verification that the applicant for licensure has met the nursing program and graduation requirements to facilitate timely licensing (WAC 246-840-513, section 2).

The board anticipates the proposed rules will improve clarity and consistency for applicants, licensees, employers, educators, and the public. The proposed amendments are not anticipated to create significant implementation or enforcement issues. The proposed amendments support the board's statutory authority and responsibility to regulate nursing practice, protect public health and safety, and conduct periodic rule review.

Statutory Authority for Adoption: RCW 18.79.010 and 18.79.110.

Statute Being Implemented: RCW 18.79.110, 18.79.800, 43.70.041, and SHB 2339 (chapter 139, Laws of 2026).

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

Name of Proponent: Washington state board of nursing, governmental.

Name of Agency Personnel Responsible for Drafting: Jessilyn Dagum, 111 Israel Road S.E., Tumwater, WA 98501, 360-236-3538; Implementation: Gerianne Babbo, 111 Israel Road S.E., Tumwater, WA 98501,

360-915-3334; and Enforcement: Catherine Woodard, 111 Israel Road S.E., Tumwater, WA 98501, 360-628-0786.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: Portions of the proposed rule are exempt under RCW 34.05.310 (4)(d) because they clarify language, update terminology, reorganize existing requirements, and make the rules easier to read without changing the effect of those regulations and RCW 34.05.310 (4)(g) because they update the appeal process to the board for program approval status, are procedural in nature, without establishing new requirements.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions: The proposed rule changes to WAC 246-840-500, 246-840-505, 246-840-514, 246-840-521, 246-840-522, 246-840-544, 246-840-546, 246-840-559, 246-840-561, 246-840-562, 246-840-564, 246-840-566, 246-840-567, 246-840-568, and 246-840-569 are exempt under RCW 34.05.310 (4)(d) because they clarify, reorganize, modernize, or correct language without changing the effect of the rule. Portions of the proposed changes to WAC 246-840-562 are also exempt under RCW 34.05.310 (4)(g) because they are procedural in nature and only relate to a process requirement for licensure. Other portions of the proposal establish or amend substantive nursing program requirements, including program approval, program standards and evaluation, reporting and recordkeeping, faculty requirements, clinical and simulation education, program changes, and board oversight. Those portions are therefore not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The board analyzed portions of the proposed rule that impact small businesses and estimated probable costs that are not significant under RCW 34.05.310 impacting small businesses. The board determined that the proposed rule does not impose more-than-minor costs on small businesses. The North American Industry Classification System (NAICS) was used to identify the codes, 611210 and 611310, as the best representations of the education field for nursing programs. The estimated costs to implement the proposed changes in rules totals are $0.00 to negligible costs. The proposed rule is anticipated to result in no costs or only negligible costs associated with limited staff time to review curriculum language, simulation pol-

icies, clinical hour calculations, or internal program documents, dependent on the time in hours of labor for nursing program administrators to learn the updated processes. These negligible costs are less than the one percent minor cost threshold of $1,576.37 and $11,015.09 for the industry identified under NAICS 611210 and 611310, respectively. The proposed amendments to update nursing programs reduce administrative burden and clarify accepted standards that are already in practice. Based on this analysis, the board determined that the proposed rule does not impose more-than-minor costs on small businesses.

A copy of the detailed cost calculations may be obtained by contacting Jessilyn Dagum, P.O. Box 47864, Olympia, WA 98504-7864, phone 360-236-3538, fax 360-236-4738, TTY 711, email WABONRules@doh.wa.gov.

August 4, 2026
Alison Bradywood DNP, MN/MPH, RN, NEA-BC
Executive Director
Washington State Board of Nursing

**RDS-7267.4**

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-500 Philosophy governing approval of nursing ((~~education~~)) programs.** ((~~The commission believes that quality nursing education provides the foundation for safe and effective nursing practice. Nursing education shall be accessible and promote student and faculty diversity. While the commission has established minimum standards for approved nursing education programs, it believes that each nursing education program should have flexibility in developing and implementing its philosophy, purposes, and objectives. Such development and implementation should be based not only upon the minimum standards for approved nursing education programs, but also upon sound educational and professional principles for the preparation of registered nurses, practical nurses, advanced registered nurse practitioners, and other nurses who pursue graduate nursing degrees and postgraduate degrees and certifications to meet current and future nursing needs of the public. The commission believes that there must be congruence between the total program activities of the nursing education program and its stated philosophy, purpose and objectives.~~

~~The commission further believes that the standards for approved nursing education programs are useful for promoting self-evaluation and peer evaluation, which may lead to further program development and ongoing continuous quality improvement.~~)) Quality nursing education provides the foundation for safe and effective nursing practice. The board establishes the minimum standards for approval of nursing programs, and each nursing program shall have autonomy in developing and implementing its philosophy, purposes, and objectives. The board promotes a just culture that supports learning, accountability, open communication, and continuous improvement in support of safe educational and clinical environments.

These standards for approved nursing programs are guided by educational and professional principles for the preparation of practical

nurses, registered nurses, advanced registered nurse practitioners, and nurses pursuing additional graduate education to meet evolving nursing workforce needs.

National accreditation standards support quality nursing education within nursing programs by promoting self-evaluation and peer review, encouraging ongoing program development, and continuous quality improvement. The board recognizes these efforts support the approval of nursing programs that prepare students to practice safely and competently, ensuring the protection of the public.

NEW SECTION

**WAC 246-840-501 Definitions.** The definitions in this section apply throughout WAC 246-840-500 through 246-840-571 unless the context clearly requires otherwise.

(1) "Clinical practice" means a faculty-planned student learning experience in which nursing knowledge, skills, and clinical judgment are applied in a health care, community, or other practice setting. Clinical practice may include direct care clinical practice, indirect practice experiences, observational clinical experiences, and simulation-based learning experiences as permitted under this chapter.

(2) "Direct care clinical practice" means a clinical practice experience involving interaction with a client in which the student participates in the assessment, planning, implementation, or evaluation of nursing care. Direct care clinical practice may involve individuals, families, groups, communities, or populations across the lifespan.

(3) "Indirect practice experience" means a faculty-planned student learning experience that supports nursing practice or client outcomes but does not involve direct interaction between the student and a client. Indirect practice experiences may include case analysis, leadership or policy activities, interprofessional collaboration, development of population-based interventions, research projects, and the use of client or population data for quality assurance or quality improvement activities.

(4) "National nursing education accrediting body" means a nursing education accrediting body recognized by the United States Department of Education (USDE) that accredits nursing programs.

(5) "Observational clinical experience" means a clinical practice experience in which a student observes nursing practice, health care delivery, professional roles, or systems of care without actively participating in direct client care.

(6) "Simulation-based learning experience" means a structured and facilitated activity that represents an actual or potential clinical situation and allows a student to develop, demonstrate, or enhance knowledge, skills, clinical judgment, or professional attitudes in a simulated environment. A simulation-based learning experience includes preparation, prebriefing, the simulated scenario, and debriefing.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-505 Purposes of ((~~commission~~)) board approval of nursing ((~~education~~)) programs.** The ((~~commission~~)) board approves nursing ((~~education~~)) programs to:

(1) Assure preparation for the safe and effective practice of nursing by setting minimum standards for nursing ((~~education~~)) programs ((~~preparing persons for licensure as registered nurses, practical nurses, advanced registered nurse practitioners, or for preparing nurses for additional graduate education or higher levels of nursing practice~~)).

(2) Provide criteria for the approval, development, evaluation, and improvement of new and established nursing ((~~education~~)) programs.

(3) Assure graduates of nursing ((~~education~~)) programs are educationally prepared for licensure at the appropriate level of nursing practice.

(4) Facilitate interstate endorsement of graduates of ((~~commission~~)) board-approved nursing ((~~education~~)) programs.

(5) Assure nursing education standards for out-of-state distance learning nursing ((~~education~~)) programs placing students in Washington state for clinical or other practice experiences are equivalent to in-state nursing ((~~education~~)) programs.

(6) Assure internationally educated nurses' educational preparation is equivalent to that of in-state nursing ((~~education~~)) programs.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-510 Approval of initial (new) in-state nursing ((~~education~~)) programs.** ((~~(1) New nursing education programs must submit a commission approved application for approval to operate a new undergraduate, post-licensure, or graduate nursing education program in Washington state.~~

~~(2) Graduate programs changing from a master's degree in nursing to a doctoral of nursing practice degree must submit a substantive change request identified in WAC 246-840-554(3).~~

~~(3) The commission shall consider the need, size, type, and geographic location when approving a program.~~

**~~Phase I: Submission of application and feasibility study~~**

~~(4) A postsecondary educational institution wishing to establish a nursing education program or additional program in nursing shall submit an application and feasibility study as follows:~~

~~(a) Submit to the commission a statement of intent to establish a nursing education program or additional program on a form provided by the commission and a completed feasibility study that includes the following information:~~

~~(i) Studies documenting the current and future supply and demand needs for nurses in the area of the proposed nursing education program;~~

~~(ii) Purposes and classification of the proposed nursing education program;~~

~~(iii) Availability of qualified candidates for the nurse administrator and faculty positions;~~

~~(iv) Budgeted nurse administrator and faculty positions over the course of five years;~~

~~(v) Source and description of adequate and acceptable clinical or practice facilities for the nursing education program;~~

~~(vi) Description of adequate and acceptable academic facilities for the nursing education program;~~

~~(vii) Potential effect on other nursing programs within a sixty mile radius of the proposed nursing education program location;~~

~~(viii) Evidence of financial resources adequate and acceptable for the planning, implementation, and continuation of the nursing education program for the next five years;~~

~~(ix) Anticipated student population;~~

~~(x) Tentative time schedule for planning and initiating the nursing education program; and~~

~~(xi) Accreditation status of the parent institution.~~

~~(b) Respond to the commission's request(s) for additional information.~~

**~~Phase II: Nursing education program development~~**

~~(5) Only after receiving commission approval for nursing education program development, the educational institution shall:~~

~~(a) Appoint a qualified nurse administrator;~~

~~(b) Provide appropriate resources, consultants, and faculty to develop the proposed nursing education program; and~~

~~(c) At least three months prior to advertising and admitting students, submit the proposed program plan including the following:~~

~~(i) Program purpose and outcomes;~~

~~(ii) Organization and administration within the educational institution and within the nursing unit or department including the nurse administrator, faculty, and nursing support staff;~~

~~(iii) Resources, facilities, and services for students and faculty;~~

~~(iv) Policies and procedures as identified in WAC 246-840-519 (3)(a) through (e);~~

~~(v) A plan for hiring and retaining faculty, including qualifications, responsibilities, organizational structure, and faculty/student ratio in classroom, clinical, and practice experiences;~~

~~(vi) Curriculum, including course descriptions, course outcomes, and course topical outlines;~~

~~(vii) Initial year and five-year sustaining budget;~~

~~(viii) Projected plans for the orderly expansion and ongoing evaluation of the program.~~

~~(d) If required by the commission, arrange a site visit to the campus to clarify and augment materials included in the written proposed program plan. The visit may be conducted by a representative of the commission before a decision regarding approval is made.~~

**~~Phase III: Initial approval~~**

~~(6) The nursing education program may only admit students if it has received initial approval by the commission.~~

~~(a) The nursing education program shall submit progress reports as requested by the commission.~~

~~(b) Site visits shall be scheduled as deemed necessary by the commission during the period of initial approval. A site survey, conducted by the commission, will determine whether graduates may test for the national council licensing examination (NCLEX) as identified in WAC 246-840-050 or graduate certification exams as identified in~~

~~WAC 246-840-302 (3)(a), (b), (c) and (d) for advanced registered nurse practice.~~

**~~Phase IV: Full approval~~**

~~(7) A self-evaluation report of compliance with the standards for nursing education as identified in WAC 246-840-511 through 246-840-556, shall be submitted to the nursing commission within six months following graduation of the first class.~~

~~(a) The commission may conduct a site visit to determine full approval of the nursing education program.~~

~~(b) The commission will review the self-evaluation report, survey reports and program outcome data in order to grant or deny full approval of the nursing education program under WAC 246-840-558(1).~~))

(1) Phase I: Submission of application. A postsecondary educational institution seeking to establish a nursing program or additional nursing program shall submit the applicable application as stated in subsection (6) of this section, and provide any additional information requested by the board. The application must include:

(a) A statement of intent to establish a nursing program or additional program on a form provided by the board; and

(b) The application and supporting documentation submitted to the accrediting body, if applicable.

(2) Phase II: Nursing program development. After receiving board approval for nursing program development, the educational institution shall:

(a) Appoint a qualified nurse administrator;

(b) Provide appropriate resources, consultants, and faculty to develop the proposed nursing program; and

(c) Submit the proposed program plan on a board-approved form. The proposed program plan must include the following:

(i) Program purpose and outcomes;

(ii) Organization structure and administration within the educational institution and within the nursing unit or department including the nurse administrator, faculty, and nursing support staff;

(iii) Resources, facilities, and services for students and faculty;

(iv) Curriculum, including course descriptions, course outcomes, and course topical outlines; and

(v) Projected plans for the expansion and ongoing evaluation of the program.

(d) If required by the board, the program may schedule a site visit of the campus to clarify and augment materials included in the proposed written program plan.

(3) Phase III: Initial approval. After receiving initial approval by the board:

(a) The nursing education program may admit students;

(b) The nursing program shall submit progress reports as requested by the board; and

(c) The board will schedule site visits as necessary during the period of initial approval. The board will determine whether graduates may test for the National Council Licensing Examination (NCLEX) as identified in WAC 246-840-050 or graduate certification exams as described in WAC 246-840-302 for advanced registered nurse practice.

(4) Phase IV: Full approval. The board may grant full approval after:

(a) Ensuring the nursing program complies with the standards for nursing education identified in WAC 246-840-511 through 246-840-556 within six months following graduation of the first class; and

(b) Reviewing the self-evaluation report, survey reports, and program outcome data to grant or deny full approval under WAC 246-840-558.

(5) The board may conduct a site visit to determine full approval of the nursing education program.

(6) Application requirements.

(a) RN to BSN nursing programs. Nursing programs seeking board approval of an RN-BSN program shall apply for approval using one of the following streamlined pathways at the program's discretion:

(i) Submit a board-approved application with all required documentation demonstrating compliance with state nursing education regulations; or

(ii) Submit a completed application and supporting materials previously prepared for a recognized national nursing accrediting body; or

(iii) Submit a completed application and materials prepared for a Washington state recognized higher education body that demonstrates compliance with the nursing education standards in this chapter.

(b) Graduate programs. Graduate programs changing from a master's degree in nursing to a doctor of nursing practice degree shall submit a substantive change request as required in WAC 246-840-554(3).

(c) New nursing programs shall submit a board-approved application for approval to operate a new undergraduate, post-licensure, or graduate nursing program in Washington state using a phased approach.

(d) The board shall notify programs of its decision within 30 days.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-511 Accreditation requirements for all nursing ((~~education~~)) programs located in Washington state.** (1)((~~(a)~~)) A nursing ((~~education~~)) program located in Washington state must be located ((~~in~~)) within a postsecondary educational institution ((~~with~~)) that:

(a) Has received approval from either the Washington state student achievement council or state board of technical and community colleges to grant the appropriate degree or certificate; and

(b) ((~~A nursing education program must be located in an institution accredited by a United States Department of Education approved regional accrediting body or national institutional accrediting body.~~

~~(2) All nursing education programs having received full commission approval on or before the effective date of this rule, must become accredited or achieve candidacy status granted by a national nursing education accrediting body recognized by the United States Department of Education on or before January 1, 2020.~~

~~(3) New nursing education programs receiving full commission approval after the effective date of this rule, must obtain national nursing education accreditation within four years of receiving full commission approval.~~

~~(4) The commission may take action as identified in WAC 246-840-557 against a nursing education program that does not maintain national nursing education accreditation status.~~

~~(5) Any nursing education program not having national nursing education accreditation must disclose to students in all publications describing the program that it lacks national nursing education accreditation and this may limit future educational and career options for the students.~~)) Is accredited by a regional institutional accrediting body recognized by the United States Department of Education.

(2) New nursing programs must obtain national nursing education accreditation within four years of receiving full board approval.

(3) The board may take action as provided in WAC 246-840-557 against a nursing program that does not maintain national nursing education accreditation status.

(4) Nursing programs without national nursing education accreditation shall disclose this status in all program publications and inform students that lack of accreditation may limit future educational and career opportunities.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-512 Standards and evaluation of nursing ((~~education~~)) programs.** (1) The nursing ((~~education~~)) program shall meet minimum standards established by the ((~~commission~~)) board as detailed in WAC 246-840-511 through 246-840-556. All information communicated by the nursing program to the board must be accurate, complete, and consistent with information available to students and the public across all platforms.

(2) The nursing ((~~education program shall implement a written, comprehensive, systematic plan for ongoing evaluation that is based on program outcomes data and input from faculty, students, health care partners and consumers, and that incorporates continuing improvement goals and measures.~~

~~(a) The plan must include evaluative criteria, methods used to evaluate, frequency of evaluation, assignment of responsibility, and measurable indicators or benchmarks of effectiveness for the nursing education program and instruction.~~

~~(b) The nursing education program shall document analysis of the data collected and actions taken as a result of use of the systematic program evaluation plan.~~

~~(c) Major changes in the professional nursing education program must be evidence-based.~~

~~(d) The nursing education program shall review and analyze the evaluative methods and instruments used to measure program outcomes for appropriateness according to the timeline specified in the plan.~~

~~(e) The nursing education program shall evaluate didactic and clinical course effectiveness each time a course is taught.~~

~~(f) Implementation of the plan for systematic program evaluation and ongoing quality improvements must be documented in faculty or faculty-related minutes.~~

~~(g) The following items must be included in the systematic program evaluation: Faculty, student and graduate satisfaction surveys, facility, resource and services surveys of faculty and students, faculty workload surveys and evaluations, national council licensing examination (NCLEX) pass rates, post licensure certification examination pass rates, student attrition and completion rates, employment rates~~

~~after graduation, employer satisfaction, and program and student learning outcomes.~~

~~(h) Faculty and students shall participate in program planning, implementation, evaluation, and continuous quality improvement.~~

~~(3) Program information communicated by the nursing education program must be accurate, complete, and consistent.~~)) program shall:

(a) Complete the board-approved annual education survey identifying key quality indicators for nursing education; and

(b) Implement a written, comprehensive, systematic plan per accreditation standards for ongoing evaluation that is based on the end of program student learning outcomes (EPSLOs) data and feedback from faculty, students, health care partners, consumers, and that incorporates continuing improvement goals and measures.

(3) The board will review programs based on national accrediting standards, state requirements not covered by accreditation standards, and the National Council State Boards of Nursing (NCSBN) prelicensure nursing program approval quality indicators.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-513 Reporting and recordkeeping requirements for nursing ((~~education~~)) programs.** ((~~(1) Within two business days, nursing education programs shall report to the commission, on forms provided by the commission, events involving a student or faculty member that the program has reason to believe resulted in patient harm, an unreasonable risk of patient harm, or diversion of legend drugs or controlled substances.~~

~~(2) The nursing education program shall keep a log of all events reported by a patient, family member, student, faculty or a health care provider resulting in patient harm, an unreasonable risk of patient harm, or allegations of diversion, and medication errors. The log must include:~~

~~(a) The date and nature of the event;~~

~~(b) The name of the student or faculty member involved;~~

~~(c) The name of the clinical faculty member responsible for the student's clinical experience;~~

~~(d) Assessment of findings and suspected causes related to the incident or root cause analysis;~~

~~(e) Nursing education program corrective action; and~~

~~(f) Remediation plan, if applicable.~~

~~(3) The nursing education program shall use the principles of just culture, fairness, and accountability in the implementation and use of all incident reporting logs with the intent of:~~

~~(a) Determining the cause and contributing factors of the incident;~~

~~(b) Preventing future occurrences;~~

~~(c) Facilitating student learning; and~~

~~(d) Using the results of incident assessments for on-going program improvement.~~)) (1) For events that the nursing program has reason to believe resulted in patient harm, an unreasonable risk of patient harm, or allegations of diversion of legend drugs or controlled substances, and involve a student or faculty member, the nursing program shall:

(a) Report the event to the board within two business days of receiving notice of the event; and

(b) Maintain a log of all events which includes:

(i) The date and nature of the event;

(ii) The name of the student or faculty member involved;

(iii) The name of the clinical faculty member responsible for the student's clinical experience;

(iv) Any assessment of findings and suspected causes related to the incident or root cause analysis;

(v) Any nursing program corrective action if applicable; and

(vi) Any student remediation plan, if applicable.

(c) The nursing program shall use the principles of just culture, fairness, and accountability in the evaluation of reportable incidents.

(2) The postsecondary educational institution shall submit verification as required in this chapter that the applicant for licensure has met the nursing program and graduation requirements to facilitate timely licensing.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-514 Purpose and outcomes for approved nursing ((~~education~~)) programs.** (1) The purpose and expected outcomes of the nursing ((~~education~~)) program shall be stated clearly and must be available to the public in ((~~written form~~)) writing.

(2) The purpose and expected outcomes shall be consistent with nursing practice as outlined in chapters 18.79 RCW and 246-840 WAC.

((~~(3) The nursing education program shall have a purpose statement and expected outcomes consistent with the parent institution and with generally accepted standards of nursing practice appropriate for graduates of the type of nursing program offered.~~

~~(4) The input of stakeholders including, but not limited to, health care partners and community members shall be considered in developing and evaluating the purpose and expected outcomes of the program.~~))

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-516 Organization and administration for all nursing ((~~education~~)) programs.** (1) ((~~The nursing education program must be an integral part of the accredited parent institution.~~

~~(2)~~)) The relationship of the nursing ((~~education~~)) program to the parent institution and other units within the parent institution must be clearly delineated and included in an organizational chart, which ((~~indicates~~)) identifies lines of responsibility and authority.

((~~(3)~~)) (2) The parent institution shall:

(a) Employ a qualified nurse administrator with clear institutional, administrative, and budgetary authority for the nursing program;

(b) Provide financial support and resources needed to operate a ((~~professional~~)) nursing ((~~education~~)) program, ((~~which~~)) that meets

the requirements of this chapter and fosters achievement of program goals and expected outcomes.

((~~The financial resources must support adequate educational facilities, equipment, technology, and qualified administrative and instructional personnel sufficient to achieve program goals and outcomes.~~

~~(4)~~)) (3) The nursing ((~~education~~)) program shall:

(a) Involve nursing faculty in determining academic policies and procedures((~~.~~

~~(5) The nursing education program shall~~));

(b) Provide ((~~opportunity~~)) opportunities for student participation in the development and evaluation of program policies and procedures, curriculum planning and evaluation((~~.~~

~~(6) The nursing education program shall provide accurate information to students and the public.~~

~~(7) The governing entity shall employ a qualified nurse administrator with clear institutional authority and administrative responsibility for the nursing program~~)); and

(c) Ensure that information available to students and the public is accurate and congruent across all platforms.

AMENDATORY SECTION (Amending WSR 25-17-091, filed 8/20/25, effective 9/20/25)

**WAC 246-840-517 Nurse administrator qualification requirements in nursing ((~~education~~)) programs located in Washington state.** (1) The nursing ((~~education program administrator must be a professionally and academically qualified registered nurse with an active, unencumbered Washington nursing license.~~

~~(2) The nurse administrator of a practical or associate degree nursing education program must have a minimum of:~~

~~(a) The following educational qualifications:~~

~~(i) A bachelor of science in nursing (BSN) from a nursing education program accredited by a national nursing education accrediting body recognized by the United States Department of Education and a graduate degree; or~~

~~(ii) A graduate degree from a nursing education program accredited by a national nursing education accrediting body recognized by the United States Department of Education;~~

~~(b) Preparation in education that includes teaching adults, adult learning theory, teaching methods, curriculum development, and curriculum evaluation, or two years of teaching experience in nursing education that demonstrates this type of preparation;~~

~~(c) Curriculum development and administration experience;~~

~~(d) Five years of experience as a registered nurse including two years of experience in nursing education; and~~

~~(e) Current knowledge of nursing practice at the practical nurse or associate degree program level as appropriate.~~

~~(3) The nurse administrator of a baccalaureate or graduate nursing education program must have:~~

~~(a) The following educational qualifications:~~

~~(i) A graduate degree in nursing. The graduate degree must be from a program accredited by a national nursing education accreditation body recognized by the United States Department of Education; and~~

~~(ii) A doctoral degree in nursing, health, or a related educational field. The doctoral degree must be from a college or university accredited by both a regional accrediting body and a national nursing accrediting body recognized by the United States Department of Education;~~

~~(b) Preparation in education that includes teaching adults, adult learning theory, teaching methods, curriculum development, and curriculum evaluation, or two years of teaching experience in nursing education that demonstrates this type of preparation;~~

~~(c) Preparation or experience in nursing administration or educational administration; and~~

~~(d) At least five years of experience as a registered nurse including two years of experience in nursing education at or above the highest level of the nursing education program the nurse administrator will be administering.~~

~~The board may grant an exception to the two years of experience in nursing education requirement, for nurse administrators of graduate nursing education programs, if the program can demonstrate that the nurse administrator will be provided with two academic years of ongoing educational mentorship by a person who meets or exceeds nurse administrator qualifications identified in this subsection.~~

~~(4) The board may grant an exception to any or all of the requirements in subsection (3)(a)(ii), (b), (c), or (d) of this section for nurse administrators of baccalaureate nursing education programs if the following conditions are met:~~

~~(a) The educational institution, parent institution, postsecondary educational institution, or governing entity submits to the board for approval within 30 days of hire a written comprehensive plan to support the nurse administrator's success in the role.~~

~~(i) The plan must address the nurse administrator's areas of exception as they relate to any or all of the requirements in subsection (3)(a)(ii), (b), (c), or (d) of this section.~~

~~(ii) The plan must include strategies such as ongoing mentorship by a qualified nurse administrator who meets or exceeds the qualifications in subsection (3)(a), (b), (c), and (d) of this section, mentorship at the academic institution, structured professional development, and additional education to address gaps in teaching methods, curriculum development, and nursing administrative experience.~~

~~(iii) An individual with two or more years of experience as an academic nurse administrator is not required to have a comprehensive plan.~~

~~(b) An evaluation of both the comprehensive plan and the performance of the nurse administrator must occur each year for a two-year period. The evaluation should involve input from the nurse administrator, mentors, nursing faculty, and administrative peers.~~

~~(c) An actionable development plan must be submitted to the board each year for two years, based on the data and analysis of the comprehensive plan and performance review of the nurse administrator.~~)) program administrator of a nursing program located in Washington state must be a professionally and academically qualified registered nurse (RN) with an active, unencumbered RN license or privilege to practice in Washington state and meet requirements in the jurisdiction where the program is approved.

(2) The nurse administrator of a practical or associate degree nursing program must have:

(a) A baccalaureate degree in nursing from a nursing program accredited by a national nursing education accreditation body recognized

by the United States Department of Education and a graduate degree in a health-related field; or

(b) A graduate degree in nursing from a nursing program accredited by a national nursing education accreditation body recognized by the United States Department of Education;

(c) Experience in postsecondary teaching, nursing practice, and administration; and

(d) A current knowledge of nursing practice at or above the level of student preparation.

(3) The nurse administrator of a baccalaureate or graduate nursing education program must have:

(a) A graduate degree in nursing, health, or a related educational field. The graduate degree must be from a program accredited by a national nursing education accreditation body recognized by the United States Department of Education;

(b) Experience in postsecondary teaching, nursing practice, and administration; and

(c) A current knowledge of nursing practice at or above the level of student preparation.

(4) The board may approve individual exceptions when the qualifications required in subsections (2) and (3) of this section are unmet.

(5) The nurse administrator shall be responsible for creation and maintenance of an environment conducive to teaching and learning ((~~through~~)). The nurse administrator shall have sufficient time provided to fulfill the required administrative duties and responsibilities, which include:

(a) ((~~Facilitation of the development, implementation, and evaluation of the curriculum~~)) Collaborate with faculty to develop, implement, and evaluate the curriculum.

(b) ((~~Communication~~)) Ensure opportunities for faculty development.

(c) Communicate and make decisions ((~~making~~)) regarding program needs, budget preparation and monitoring, and ongoing involvement with central administration and other units of the parent institution.

((~~(c) Facilitation of faculty development and~~)) (d) Conduct performance reviews for full-time and part-time faculty consistent with the policies of the institution and standards of professional nursing practice((~~, and encouragement of faculty to seek ways of improving clinical skills and methods of demonstrating continued educational and clinical competence~~)).

((~~(d) Evaluation of clinical performance~~)) (e) Evaluate the clinical instruction of nursing faculty ((~~in practice situations must be performed by a qualified licensed nurse~~)) as appropriate to the level of practice being taught.

((~~(e) Facilitation of faculty recruitment and appointment. The nurse administrator of the nursing education program shall establish a goal for acquiring faculty with diversity in ethnicity, gender, clinical specialty and experience.~~

~~(f) Recommendation of faculty for appointment, promotion, tenure, and retention consistent with the policies of the institution and standards in this chapter.~~

~~(g) Facilitation of the development of long-range goals and objectives for the nursing program.~~

~~(h) Facilitation of recruitment, selection, and advisement of students.~~

~~(i) Assurance that the rules of the board are effectively implemented.~~

~~(j)~~)) (f) Recruit new faculty, recommend and appoint faculty for promotion, tenure, and retention consistent with the policies of the institution and standards in this chapter.

(g) Recruit faculty that reflects diverse backgrounds including, but not limited to, clinical specialty and experience.

(h) Develop long-range goals and objectives for the nursing program.

(i) Facilitate recruitment, selection, and advising of nursing students.

(j) Ensure that the rules of the board are effectively implemented across nursing programs.

(k) Notification to the board of events as identified in WAC 246-840-513 and 246-840-554((~~(3)~~)).

((~~(6) The nurse administrator must have sufficient time provided to fulfill relevant administrative duties and responsibilities.~~))

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-518 Resources, facilities and services for approved nursing ((~~education~~)) programs.** (1) A nursing ((~~education~~)) program shall have the fiscal, human, physical, technological, clinical and learning resources ((~~adequate~~)) to support student and program processes and outcomes.

(2) ((~~Classrooms, laboratories, and conference rooms must be available and adequate in size, number, and type according to the number of students and the educational purposes for, which the rooms are to be used.~~

~~(3) Offices must be available and adequate in size, number, and type to provide faculty with opportunity for uninterrupted work and privacy for conferences with students. Adequate space must be provided for clerical staff, records, files, and other equipment.~~

~~(4) An office allowing for private consultation with students and faculty, and support for administrative responsibilities must be available to the nurse administrator.~~

~~(5) Library facilities and computer access must be provided for use by the faculty and students. Physical facilities, hours, and scope and currency of learning resources must be appropriate for the purpose of the program and for the number of faculty and students.~~

~~(6) The nursing education program shall conduct annual evaluations of resources, facilities, and services based on input from faculty and students. The schedule and results of these evaluations must be available to the commission upon request.~~

~~(7)~~)) The nursing ((~~education~~)) program shall demonstrate adequate financial support for faculty, support personnel, equipment, technology, supplies, and services.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-519 Student requirements in ((~~all~~)) approved nursing ((~~education~~)) programs.** (1) The nursing ((~~education~~)) program shall hold students accountable for ((~~professional~~)) ethical behavior as

identified in chapters 18.79, 18.130 RCW, and 246-840 WAC, including, academic honesty and integrity.

(2) ((~~Written policies and procedures for students must be available and communicated in a fair, accurate, inclusive, and consistent manner.~~

~~(3) The approved nursing education program shall:~~

~~(a) Develop and implement written~~)) The nursing program shall:

(a) Develop, implement, communicate, and make available to nursing students, policies and procedures specific to nursing students including, but not limited to, the following:

(i) Student selection, admission, progression, remediation, graduation, withdrawal, and dismissal of students;

(ii) Student recordkeeping and systems;

(iii) Americans with Disabilities Act (ADA) accommodations for students;

(iv) Student rights and responsibilities;

(v) Grievances and complaint processes;

(vi) Incident reports and tracking of reports;

(vii) ((~~Medication administration or selection by students and faculty role in supervising students during medication administration or selection processes;~~

~~(viii)~~)) Reporting and logging of events involving a student and faculty member that the nursing ((~~education~~)) program has reason to believe resulted in patient harm, unreasonable risk of patient harm, or allegations of diversion of legend drugs;

((~~(ix) Documenting student near miss errors incidents;~~

~~(x) Student professional dress;~~

~~(xi) Professional behavior;~~

~~(xii) Background check requirements;~~

~~(xiii) Immunization requirements;~~

~~(xiv)~~)) (viii) Clinical practice placement expectations, including immunizations; and

((~~(xv)~~)) (ix) Student performance evaluations((~~; and~~

~~(xvi) Other expectations of nursing students, including providing direction to students on how to apply for national council licensing examination (NCLEX) testing and licensure~~)).

(b) Maintain a system of student records in accordance with institutional requirements. ((~~Student records shall be available to the commission staff during on-site surveys or investigations.~~

~~(c) Provide a written statement to nursing students of student rights and responsibilities.~~

~~(d)~~)) (c) Require and assure that students seeking admission by transfer from another approved nursing ((~~education~~)) program, or readmission for completion of the program, shall meet the equivalent of the program's current standards.

((~~(e) Encourage admission of students from diverse populations.~~))

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-521 Additional student requirements for prelicensure registered nurse nursing ((~~education~~)) programs located in the state of Washington.** The nursing ((~~education~~)) program shall provide the student in a prelicensure registered nursing program with written information on the legal role of the nursing technician as defined in

WAC 246-840-010 and 246-840-840. The information must be provided prior to the time of completion of the first clinical course and shall clearly advise the student of ((~~his or her~~)) their responsibilities, if ((~~he or she~~)) they choose((~~s~~)) to be employed as a nursing technician.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-522 Additional student requirements for RN to BSN and graduate nursing ((~~education~~)) programs.** (1) The nursing ((~~education~~)) program shall ensure nursing students in registered nurse to baccalaureate nursing programs (RN to BSN) and graduate nursing ((~~education~~)) programs are licensed as a registered nurse in each state or United States territory where practice or clinical experiences occur.

(2) The nursing ((~~education~~)) program shall provide the student in a graduate nursing program with written or electronic information on the requirements for national certification as appropriate to the level of educational degree and specialty.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-523 Faculty requirements for nursing ((~~education~~)) programs.** (1) Each nursing ((~~education~~)) program shall have ((~~a sufficient~~)) an adequate number of professionally and academically qualified faculty with ((~~adequate diversity of~~)) diverse expertise in nursing to meet the nursing ((~~education~~)) program purpose, outcomes, and identified quality improvement processes.

(2) The nursing ((~~education~~)) program shall provide new faculty with sufficient orientation to achieve program purpose and outcomes, and to assure safe clinical and practice experiences for students.

(3) ((~~The program shall make available ongoing faculty development opportunities to assure faculty members are prepared, experienced, and current in subject matter taught.~~

~~(4) Nursing faculty shall have an active, unencumbered Washington state registered nurse license.~~

~~(5) Interdisciplinary~~)) Nursing faculty shall have an active, unencumbered registered nurse (RN) license or privilege to practice in Washington state and meet requirements in the jurisdiction where the program is approved.

(4) Interprofessional faculty teaching in the nursing ((~~education~~)) program shall have academic and professional education and experience in their field of specialization.

((~~(6)~~)) (5) Adjunct clinical faculty employed solely to supervise clinical nursing experiences or practice experiences shall meet all the faculty qualifications for the program level they are teaching.

((~~(7)~~)) (6) Nursing faculty shall be responsible for:

(a) ((~~Developing, implementing, and evaluating~~)) Collaborating with the nurse administrator to develop, implement, and evaluate:

(i) The purpose and outcomes of the nursing ((~~education~~)) program;

((~~(b) Designing, implementing, and evaluating~~)) (ii) The curriculum;

((~~(c) Developing and evaluating~~)) (iii) Nursing education policies as identified in WAC 246-840-519 ((~~(3)~~)) (2)(a) through ((~~(c)~~)) (c) within the framework of the policies of the parent institution; and

((~~(d) Participating in or providing for~~)) (iv) Criteria for the selection of clinical and practice experiences in clinical facilities or clinical practice settings, which address safety and the need for students to achieve the program outcomes and course objectives.

(b) Providing academic advising and guidance of students;

((~~(e)~~)) (c) Evaluating student achievement((~~, in terms of~~)) in meeting curricular objectives ((~~as~~)) related to ((~~both~~)) nursing knowledge and practice, including preceptorship or mentored experiences;

((~~(f)~~)) (d) Selecting, guiding, and evaluating student learning activities;

((~~(g) Participating in activities to improve their own nursing competency in area(s) of responsibility and to demonstrate current clinical competency; and~~

~~(h) Developing criteria for the selection and evaluation of clinical and practice experiences in clinical facilities or clinical practice settings, which address safety and the need for students to achieve the program outcomes and course objectives.~~)) (e) Faculty shall be responsible for securing, coordinating, and overseeing clinical placements, including procuring clinical sites and preceptors; and

(f) Engaging in activities to improve their own nursing competency in area(s) of responsibility and to demonstrate current clinical competency.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-524 Degree requirements for faculty teaching in practical nursing ((~~education~~)) programs.** In a nursing ((~~education~~)) program preparing practical nurses only, nursing faculty teaching nursing must have a minimum of a baccalaureate degree ((~~with a major~~)) in nursing from a nursing ((~~education~~)) program that is accredited by a nursing education accrediting body approved by the United States Department of Education.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-526 Degree requirements for nursing faculty teaching in prelicensure registered nurse or for RN to BSN education programs.** (1) In a nursing ((~~education~~)) program preparing students for registered nurse((~~s for~~)) (RN) licensure or for ((~~RN to BSN degree,~~)) a registered nurse to baccalaureate nursing program (RN to BSN), didactic nursing faculty teaching nursing shall:

((~~(1)~~)) (a) Have a minimum of a graduate degree in nursing or higher from an accredited college or university and from a nursing ((~~education~~)) program that is accredited by a nursing education ac-

creditation body recognized by the United States Department of Education; or

((~~(2) A bachelor's degree in nursing~~)) (b) A baccalaureate degree in nursing (BSN) or higher from an accredited college or university and from a nursing ((~~education~~)) program that is accredited by a nursing education accreditation body recognized by the United States Department of Education, and a graduate degree in a health or education related field from an accredited college or university.

(2) For clinical, simulation, or lab faculty:

(a) A minimum of a BSN or higher from a nursing program accredited by a national nursing education accreditation body recognized by the United States Department of Education; and

(b) Two years of current clinical experience working as a registered nurse.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-527 Degree and licensing requirements for nursing faculty teaching in a nursing ((~~education~~)) program leading to licensure as an advanced registered nurse practitioner.** In a nursing ((~~education~~)) program preparing students for licensure as advanced registered nurse practitioners (ARNPs), nursing faculty teaching nursing must meet the following qualifications:

(1) An active, unencumbered ((~~Washington state~~)) ARNP license accepted in Washington state;

(2) A minimum of a graduate degree in nursing from ((~~an accredited college or university and from a nursing education program that is accredited by~~)) a program accredited by a national nursing education accreditation body recognized by the United States Department of Education;

(3) Two years of clinical experience as a nurse practitioner, nurse midwife, nurse anesthetist, or clinical nurse specialist; and

(4) Current knowledge, competence, and certification in the role and population foci consistent with teaching responsibilities.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-528 Degree requirements for nursing faculty teaching in a graduate nursing ((~~education~~)) program not leading to licensure as an advanced registered nurse practitioner.** For graduate nursing programs preparing nurses in advanced degrees, ((~~nursing~~)) faculty teaching nursing must meet the following qualifications:

(1) A graduate degree ((~~in nursing~~)) at or above the program level being taught from an accredited college or university ((~~and nursing education program that is accredited by a nursing education accrediting body recognized by the United States Department of Education and is at or above the program level being taught; or a bachelor's degree in nursing from a nursing education program that is accredited by a nursing education accrediting body and graduate degree in a health or education related field from an accredited college or university~~)); and

(2) Demonstrated specialization, expertise, ((~~or~~)) and preparation and experience for the courses being taught.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-531 Clinical and practice experiences for students in approved nursing ((~~education~~)) programs.** (1) All nursing programs preparing students for licensure ((~~shall provide faculty planned clinical or direct patient care experiences based on program outcomes and goals.~~

~~(a) The number of clinical or direct patient care experience hours must be:~~

~~(i) At least three hundred hours for licensed practical nursing education programs;~~

~~(ii) At least five hundred hours for associate degree nursing education programs;~~

~~(iii) At least six hundred hours for bachelors of science in nursing education programs;~~

~~(iv) At least five hundred hours for masters level nurse practitioner nursing education programs;~~

~~(v) At least one thousand hours for doctoral of nursing practice nurse practitioner programs.~~

~~(b) Observation of licensed or qualified health care professionals practicing a technical skill or therapy may be included in the calculation of student clinical hours. Observation is reserved for care or therapy situations, which students are not qualified to deliver;~~

~~(c) Skill practice labs must not be counted towards clinical practice hours.~~

~~(2)(a) All postlicensure nursing education programs shall have faculty planned practice experiences for students based on program outcomes and goals. Practice experience examples include, but are not limited to: Indirect and direct patient care, patient or population teaching, population interventions, student nurse teaching or the teaching of nursing students, leadership and change projects, research, accessing client or population data for the purpose of doing quality assurance or improvement projects, informatics, thesis or dissertation development and defense.~~

~~(b) The number of practice hours must be equivalent to programs of similar type:~~

~~(i) At least one hundred hours for registered nurse to bachelor's degree programs; and~~

~~(ii) At least one hundred hours for graduate nursing education programs.~~

~~(3) Faculty shall organize clinical and practice experiences based on the educational preparation and skill level of the student.~~

~~(4) Faculty shall plan, oversee, and evaluate student clinical and practice experiences.~~)) and post-licensure shall provide faculty planned clinical experiences based on program outcomes and goals. Students must demonstrate achievement of competencies adopted by the nursing program from nationally recognized professional standards and evaluated in accordance with the requirements of the applicable national nursing education accrediting body.

(2) The total number of clinical hours shall align with the national clinical hour averages for comparable programs, as identified by the National Council of State Boards of Nursing (NCSBN).

(3) Clinical experience hours shall support competency development and attainment of end of program student learning outcomes.

(4) In prelicensure programs, 50 percent or more of clinical experiences in each clinical course must be direct care with clients.

(5) Observation experiences may be included in the calculation of student clinical hours.

(6) Skill practice labs may not be counted towards clinical practice hours.

(7) Faculty shall plan, oversee, and evaluate student clinical and practice experiences.

(8) The nursing program retains sole responsibility for securing, coordinating, and overseeing clinical placements, including procuring clinical sites and preceptors.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-532 Faculty to student ratios for clinical and practice experience in nursing ((~~education~~)) programs.** When deemed safe by nursing faculty judgment:

(1) Practical and prelicensure registered nursing ((~~education~~)) programs shall have:

(a) A maximum faculty to student ratio of one faculty member to ((~~ten~~)) 10 students in clinical settings involving direct patient care((~~,~~)); and

(b) One faculty member to ((~~fifteen~~)) 15 students at one time in practice settings that are observational, population or community education projects, involve student precepted experiences, or are skills practice labs.

(2) ((~~Registered nurse to bachelor nursing education programs shall have a maximum faculty to student ratio of one faculty member to fifteen students at one time in clinical and practice settings.~~

~~(3) Advanced registered nurse practitioner nursing education programs shall have a maximum faculty to student ratio of one faculty member to six students in clinical and practice settings.~~

~~(4)~~)) Registered nurse to baccalaureate (BSN) and graduate nursing ((~~education~~)) programs (not leading to licensure as an advanced registered nurse practitioner (ARNP)), shall have a maximum faculty to student ratio of one faculty member to ((~~fifteen~~)) 15 students in clinical and practice settings.

((~~(5) A lower ratio of faculty to students may be required for students in initial or highly complex learning situations, or when student or patient safety warrant.~~)) (3) Graduate nursing education programs that lead to licensure as an ARNP shall follow national accreditation and professional guidelines.

AMENDATORY SECTION (Amending WSR 22-12-026, filed 5/23/22, effective 9/9/22)

**WAC 246-840-533 Nursing preceptors((~~, interdisciplinary~~)) and interprofessional preceptors, ((~~and proctors~~)) in clinical or practice settings for nursing students located in Washington state.** (1) Nursing preceptors((~~, interdisciplinary preceptors, and proctors may be used to enhance clinical or practice learning experiences after a student has received instruction and orientation from program faculty who confirm the student is adequately prepared for the clinical or practice experience. For the purpose of this section:~~

~~(a) A nursing preceptor means a practicing licensed nurse who provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (4) of this section.~~

~~(b) An interdisciplinary preceptor means a practicing health care provider who is not a licensed nurse, but provides personal instruction, training, and supervision to any nursing student, and meets all requirements of subsection (5) of this section.~~

~~(c) A proctor means an individual who holds an active credential in one of the professions identified in RCW 18.130.040 who monitors students during an examination, skill, or practice delivery, and meets all requirements of subsection (6) of this section.~~

~~(2) Nursing education faculty are responsible for the overall supervision and evaluation of the student and must confer with each primary nursing and interdisciplinary preceptor, and student at least once during each phase of the student learning experience:~~

~~(a) Beginning;~~

~~(b) Midpoint; and~~

~~(c) End.~~

~~(3) A nursing preceptor or an interdisciplinary preceptor shall not precept more than two students at any one time.~~

~~(4) A nursing preceptor may be used in nursing education programs when the nursing preceptor:~~

~~(a) Has an active, unencumbered nursing license at or above the level for which the student is preparing;~~

~~(b) Has at least one year of clinical or practice experience as a licensed nurse at or above the level for which the student is preparing;~~

~~(c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;~~

~~(d) Is oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and~~

~~(e) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.~~

~~(5) An interdisciplinary preceptor may be used in nursing education programs when the interdisciplinary preceptor:~~

~~(a) Has an active, unencumbered license in the area of practice appropriate to the nursing education faculty planned student learning objectives;~~

~~(b) Has the educational preparation and at least one year of clinical or practice experience appropriate to the nursing education faculty planned student learning objectives;~~

~~(c) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;~~

~~(d) Is oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and~~

~~(e) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.~~

~~(6) A proctor who monitors, teaches, and supervises students during the performance of a task or skill must:~~

~~(a) Have the educational and experiential preparation for the task or skill being proctored;~~

~~(b) Have an active, unencumbered credential in one of the professions identified in RCW 18.130.040;~~

~~(c) Only be used on rare, short-term occasions to proctor students when a faculty member has determined that it is safe for a student to receive direct supervision from the proctor for the performance of a particular task or skill that is within the scope of practice for the nursing student; and~~

~~(d) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.~~

~~(7) A practice/academic partnership model may be used to permit practice hours as a nursing technician, as defined in WAC 246-840-010(30), to be credited toward direct care nursing program clinical hours, and academic credit. Use of this model must include:~~

~~(a) Endorsement by the nurse administrator placed in the student's file that:~~

~~(i) Traditional clinical experiences in a required area of study are limited or not available to the program; or~~

~~(ii) Circumstances are present in which the student will gain greater educational benefit from the nursing student-employee role;~~

~~(b) A nursing preceptor or nursing supervisor who has experience and educational preparation appropriate to the faculty-planned student learning experience. The nursing preceptor or nursing supervisor must be responsible for ensuring the requirements of WAC 246-840-880 are met;~~

~~(c) Nursing program faculty that work with health care facility representatives to align clinical skills and competencies with the nursing student-employee work role/responsibilities;~~

~~(d) Nursing student-employees with faculty-planned clinical practice experiences that enable the student to attain new knowledge, develop clinical reasoning/judgment abilities, and demonstrate achievement of clinical objectives and final learning outcomes of the nursing program if the nursing student-employee is in the final nursing course;~~

~~(e) The nursing student-employee use of reflection on the development or achievement of clinical objectives and final learning outcomes as designed by nursing education faculty;~~

~~(f) Nursing education faculty responsible for the overall supervision and evaluation of the nursing student-employee on a weekly basis;~~

~~(g) Evaluation by nursing education faculty to include documentation of the nursing student-employee achievement of clinical objectives and final learning outcomes and competencies of the nursing program; and~~

~~(h) Nursing technicians be enrolled in a commission-approved nursing program and be in good standing to receive academic credit.~~))

and interprofessional preceptors in clinical or practice settings for nursing students located in Washington state may be used to enhance clinical or practice learning experiences with formative and summative feedback. A student shall receive instruction and orientation from program faculty who confirm the student is prepared for the clinical or practice experience. For the purpose of this section:

(a) A nursing preceptor means a practicing licensed nurse who provides individualized instruction and supervision to any nursing student in capstone or extended placements and meets all requirements of subsection (4) of this section.

(b) An interprofessional preceptor means a practicing health care provider who is not a licensed nurse, but provides personal instruction and supervision to any nursing student in capstone or extended placements and meets all requirements of subsection (4) of this section.

(2) Nursing faculty are responsible for the overall supervision and evaluation of the student and must jointly confer with the student and primary nursing or interprofessional preceptor at the beginning, midpoint, and end of each precepted learning experience.

(3) A nursing preceptor or an interprofessional preceptor shall not precept more than two prelicensure students at any one time.

(4) A nursing preceptor or interprofessional preceptor may be used in nursing programs when the preceptor:

(a) Is a preceptor licensed under their licensing authority with:

(i) An active, unencumbered license at or above the level of licensure for which the student is preparing; and

(ii) At least one year of clinical or practice experience.

(b) Is oriented to the written course and student learning objectives prior to beginning the preceptorship;

(c) Is oriented to the written role expectations of faculty, preceptor, and student prior to beginning the preceptorship; and

(d) Is not a member of the student's immediate family, as defined in RCW 42.17A.005(27); or have a financial, business, or professional relationship that is in conflict with the proper discharge of the preceptor's duties to impartially supervise and evaluate the nurse.

(5) An academic practice partnership model may be used to permit practice hours as a nursing technician, as defined in WAC 246-840-010, to be credited toward direct care nursing program clinical hours, and academic credit. Use of this model must include:

(a) Endorsement by the nurse administrator;

(b) A nursing preceptor who has experience and educational preparation appropriate to the faculty-planned student learning experience. The nursing preceptor must be responsible for ensuring the requirements of WAC 246-840-880 are met;

(c) Nursing faculty that work with health care facility representatives to align clinical skills and competencies with the nursing student-employee work role/responsibilities;

(d) Nursing faculty responsible for the overall supervision and evaluation of the nursing student-employee on a weekly basis;

(e) Evaluation by nursing faculty to include documentation of the nursing student-employee achievement of clinical objectives and final learning outcomes and competencies of the nursing program.

AMENDATORY SECTION (Amending WSR 24-20-031, filed 9/23/24, effective 10/24/24)

**WAC 246-840-534 Use of simulation for clinical experiences ((~~at a 1:1 ratio~~)) in LPN, RN, or RN to BSN nursing ((~~education~~)) programs located in Washington state.** (1) ((~~An LPN, RN, or RN to BSN~~)) A licensed practical nurse (LPN), registered nurse (RN), or registered nurse to baccalaureate (RN to BSN) nursing ((~~education~~)) program located in Washington state may use simulation as a substitute for traditional clinical experiences in WAC 246-840-531 ((~~at a 1:1 ratio, where one hour of simulation counts for one hour of required clinical experience, not to exceed 50 percent of its clinical hours for a particular course.~~

~~(a) Simulation as used in this section means a technique to replace or amplify real experiences with guided experiences evoking or replicating substantial aspects of the real world in a fully interactive manner.~~

~~(b) The nursing education program shall have~~)) to achieve program outcomes.

(2) If the nursing program elects to incorporate simulation, simulation hours shall not exceed one hour of simulation for two hours of clinical experience. Simulation hours must not be counted toward the requirement that at least 50 percent of a prelicensure clinical course consist of direct client care with clients as described in WAC 246-840-531(4).

(3) The program shall have:

(a) An organizing framework ((~~providing~~)) with policies and procedures addressing adequate fiscal, human, technological, and material resources to support and sustain the simulation activities((~~.~~

~~(c)~~));

(b) Simulation program activities ((~~must be~~)) managed by an individual who is academically and experientially qualified and who demonstrates currency and competency in the use of simulation ((~~while managing the simulation program.~~

~~(d) The nursing education program shall have a budget sustaining simulation activities and training of the faculty.~~

~~(e) The nursing education program shall have~~));

(c) Faculty facilitating simulation must be oriented, qualified in the subject matter being taught, and current and competent in the use of simulation;

(d) Appropriate facilities, educational and technological resources and equipment to meet the intended objectives of the simulation((~~.~~

~~(f) All faculty involved in simulations, both didactic and clinical, shall have training in the use of simulation and shall engage in ongoing professional development in the use of simulation.~~

~~(g)~~)); and

(e) A faculty to student ratio((~~s~~)) in the simulation lab ((~~must be~~)) in the same ratio as identified in WAC 246-840-532 for clinical learning experiences.

((~~(2) Faculty shall organize clinical and practice experiences based on the educational preparation and skill level of the student.~~

~~(3) Qualified simulation faculty must supervise and evaluate student clinical and practice experiences.~~

~~(a) The nursing education program shall demonstrate that simulation activities are linked to programmatic outcomes.~~

~~(b) The nursing education program shall have written policies and procedures on the following:~~

~~(i) Short-term and long-term plans for integrating simulation into the curriculum;~~

~~(ii) An identified method of debriefing each simulated activity; and~~

~~(iii) A plan for orienting faculty to simulation.~~

~~(c) Debriefing as used in this section means an activity following a simulation experience that is led by a facilitator, encourages reflective thinking, and provides feedback regarding the participant's performance.~~

~~(d)~~)) (4) The nursing ((~~education~~)) program shall develop criteria to evaluate simulation activities.

((~~(e)~~)) (5) Students and faculty shall evaluate ((~~the~~)) simulation experiences on an ongoing basis.

((~~(f) The program shall include information about use of simulation in its annual report to the board.~~))

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-537 Curriculum and program requirements for approved nursing ((~~education~~)) programs.** (1) The curriculum of the nursing ((~~education~~)) program must enable the student to develop the nursing knowledge, skills, and professional identity necessary for the level, scope, and standards of competent nursing practice expected at the level of educational preparation.

(2) ((~~The curriculum will be revised as necessary to maintain a program reflecting advances in health care and its delivery.~~

~~(3)~~)) The curriculum, as defined by nursing ((~~education~~)), professional and practice standards, shall include evidence-based learning experiences and methods of instruction((~~, including distance education methods,~~)) consistent with the written curriculum plan applicable to all including distance education.

((~~(4)~~)) (3) Clinical and practice experiences must include broad opportunities to learn and provide care to clients from diverse ((~~ethnic and cultural backgrounds. The emphasis placed on these areas and the scope encompassed shall be in keeping~~)) backgrounds and in various settings. The clinical and practice experiences must be consistent with the purpose and outcomes of the program.

((~~(5)~~)) (4) The length, organization, content, methods of instruction, and placement of courses must be consistent with the purpose and outcomes of the program.

((~~(6) All nursing programs delivering curriculum through distance learning methods must ensure that students receive curriculum comparable to in-person teaching and the clinical and practice learning experiences are evaluated by faculty through formative and summative evaluations.~~

~~(7)~~)) (5) Nursing programs shall not use external nursing examinations as the sole basis for program progression or graduation. External nursing exams for the purpose of this section((~~,~~)) means ((~~examinations created by people or organizations outside a student's own~~)) standardized assessments that are developed outside of the nursing ((~~education~~)) program.

((~~(8) Competency based testing for progression in nursing programs must be based on valid and reliable tools measuring the knowl-~~

~~edge and skills expected at an identified level of student or nursing practice.~~))

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

**WAC 246-840-539 Curriculum and program requirements for practical nurse nursing ((~~education~~)) programs.** The practical nurse nursing ((~~education~~)) program of study ((~~must~~)) includes both didactic and clinical learning experiences and must ((~~be~~)):

(1) ((~~Effective September 1, 2017,~~)) Be designed to include prerequisite classes in the physical, biological, social and behavior sciences that are transferable to colleges and universities in the state of Washington;

(2) Be planned, implemented, and evaluated by the faculty;

(3) Be based on the philosophy, mission, objectives, and outcomes of the program and consistent with chapters 18.79 RCW and this chapter;

(4) Be organized by subject and content to meet program outcomes;

(5) ((~~Designed to teach students to use a systematic approach to clinical decision making and safe patient care;~~

~~(6) Designed to teach students~~)) Include instruction in:

(a) Use of a systematic approach to clinical reasoning and decision making and safe patient care;

(b) Professional relationships and communication;

((~~(b)~~)) (c) Nursing ethics;

((~~(c)~~)) (d) Nursing history and trends;

((~~(d) Commission~~)) (e) Board-approved scope of practice decision tree;

((~~(e)~~)) (f) Standards of practice;

((~~(f)~~)) (g) Licensure and legal aspects of nursing including the disciplinary process, substance abuse and professional values;

((~~(g)~~)) (h) Concepts and clinical practice experiences in ((~~geriatric nursing, and medical, surgical, and mental health~~)) nursing for clients throughout the life span; and

((~~(h) Concepts of antepartum, intrapartum, postpartum and newborn nursing with only an assisting role in the care of clients during labor and delivery and those with complications; and~~))

(i) Concepts and clinical practice in the prevention of illness and the promotion, restoration, and maintenance of health in patients across the life span and from diverse cultural, ethnic, social, and economic backgrounds.

((~~(7)~~)) (6) Be designed to prepare graduates for licensure and to practice as a practical ((~~nursing~~)) nurse, as identified in WAC 246-840-700 and 246-840-705. This includes providing opportunities for integration of quality and safety education in the curriculum, emergency procedures, interprofessional communication, and time management; and

((~~(8) Designed to prepare graduates to practice according to competencies recognized by professional nursing organizations.

(a) Practical nursing courses shall include~~)) (7) Be grounded in professional standards, evidence-based practice, supports achievement of end of program student learning outcomes (EPSLOs), interprofessional collaboration, and professional identity.

(8) Include practical nursing courses that provide:

((~~(i)~~)) (a) Components of: Client needs; safe, effective care environment; health promotion and maintenance; ((~~interdisciplinary~~)) interprofessional communication and collaboration; discharge planning; basics of multicultural health; psychosocial integrity; and physiological integrity.

((~~(ii)~~)) (b) Skills laboratory and clinical practice in the functions of the practical nurse including, but not limited to, administration of medications, implementing and monitoring client care, and promoting psychosocial and physiological health.

((~~(iii)~~)) (c) Concepts of coordinated care, delegation and supervision.

((~~(b) Practical nurse programs teaching intravenous infusion therapy shall prepare graduates for national certification by a nursing professional practical nurse certifying body.~~))

AMENDATORY SECTION (Amending WSR 21-04-016, filed 1/22/21, effective 2/22/21)

**WAC 246-840-541 Curriculum and program requirements for prelicensure registered nursing ((~~education~~)) programs.** ((~~(1) The program of study for a registered nursing education program must include both didactic and clinical learning experiences and must be:~~

~~(a) Effective September 1, 2017, designed so that all prerequisite nonnursing course credits and nursing credits are transferable to the bachelor's in nursing programs as identified in the statewide associate in nursing direct transfer agreement between community colleges, colleges, and universities, or the statewide associate of applied science transfer degree;~~

~~(b) Designed to include instruction in the physical, biological, social and behavioral sciences. Content is required from the areas of anatomy and physiology (equivalent to two quarter credit terms with laboratory), chemistry, microbiology, pharmacology, nutrition, communication, and computations;~~

~~(c) Designed to include theory and clinical experiences in the areas of medical surgical nursing and mental health nursing across the life span, teaching students to use a systematic approach to clinical decision making and preparing students to safely practice professional nursing through the promotion, prevention, rehabilitation, maintenance, restoration of health, and palliative and end of life care for individuals of all ages across the life span;~~

~~(d) Designed to include nursing history, health care trends, legal and ethical issues such as professional values, substance abuse and the disciplinary process, scope of practice and commission approved scope of practice decision tree, and licensure and professional responsibility pertaining to the registered nurse role. Content may be integrated, combined, or presented as separate courses;~~

~~(e) Designed to include opportunities for the student to learn assessment and analysis of client and family needs, planning, implementation, evaluation, and delegation of nursing care for diverse individuals and groups;~~

~~(f) Planned, implemented, and evaluated by faculty;~~

~~(g) Based on the philosophy, mission, objectives and outcomes of the program;~~

~~(h) Organized logically with scope and sequence of courses demonstrating student learning progression;~~

~~(i) Based on sound educational principles and standards of educational practice;~~

~~(j) Designed so articulation or dual enrollment agreements between associate and bachelor's degree nursing programs or associate and master's degree nursing programs exists to facilitate higher levels of nursing education in a timely manner;~~

~~(k) Designed to prepare graduates for licensure and to practice as registered nurses as identified in WAC 246-840-700 and 246-840-705; and~~

~~(l) Designed to prepare graduates to practice as associate degree or bachelor degree nurses as identified by professional nursing organizations.~~

~~(2) Baccalaureate and entry-level master's degree programs shall also include:~~

~~(a) Theory and clinical experiences in community and public health nursing;~~

~~(b) The study of research principles and application of statistics to health care practice and intervention; and~~

~~(c) The study and practice of leadership, interdisciplinary team coordination, quality assurance and improvement, care coordination and case management.~~

~~(3) Registered nursing curricula shall include:~~

~~(a) Comprehensive content on: Client needs; safe practice; effective care environment; discharge planning; health promotion, prevention and maintenance; psychosocial integrity and physiological integrity.~~

~~(b) Clinical experiences in the care of persons at each stage of the human life cycle, with opportunities for the student to learn and have direct involvement in and responsibility and accountability for the provision of basic nursing care and comfort for clients with acute and chronic illnesses, pharmacological and parenteral therapies, and pain management.~~

~~(c) Opportunities for management of care, delegation, supervision, working within a health care team, and interdisciplinary care coordination.~~)) (1) Prerequisite nonnursing course credits and nursing credits shall be aligned as identified in the statewide associate in nursing direct transfer agreement (DTA)/major related program (MRP) between community colleges, colleges, and universities, or the statewide associate of applied science transfer degree and are congruent with institution and program requirements;

(2) The curriculum for prelicensure registered nursing programs shall be designed to include instruction in the physical, biological, social, and behavioral sciences consistent with the requirements of the DTA/MRP.

(3) The program of study for a registered nursing program includes both didactic and clinical learning experiences and must be:

(a) Designed to include theory and clinical experiences in the areas of nursing across the life span preparing students to safely practice professional nursing;

(b) Designed to include nursing history, health care trends, legal and ethical issues such as professional values, substance abuse and the disciplinary process, scope of practice and the board-approved scope of practice decision tree, as well as licensure and professional responsibility pertaining to the registered nurse role;

(c) Designed to include opportunities for the student to learn assessment and analysis of client and family needs, planning, imple-

mentation, evaluation, and delegation of nursing care for diverse individuals and communities;

(d) Planned, implemented, and evaluated by faculty;

(e) Based on the philosophy, mission, objectives, and outcomes of the program;

(f) Designed so articulation or dual enrollment agreements between associate and bachelor's degree nursing programs or associate and master's degree nursing programs exist to facilitate higher levels of nursing education; and

(g) Designed to prepare graduates for licensure and to practice as registered nurses as identified in WAC 246-840-700 and 246-840-705. This includes providing opportunities for integration of quality and safety education in the curriculum, effective delegation, emergency procedures, interprofessional communication, and time management.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-542 Curriculum and program requirements for registered nurse to ((~~bachelor's or master's in~~)) baccalaureate nursing ((education)) programs.** Registered nurse to ((~~bachelor's or master's in~~)) baccalaureate (RN to BSN) nursing ((~~education~~)) programs must design curriculum to:

(1) ((~~Develop curriculum to ensure the courses or content completed at the diploma or associate degree levels of nursing are not duplicated;~~

~~(2) Design curriculum to ensure student sufficient exposure to content in science and liberal arts;~~

~~(3) Design curriculum to allow students the exposure to apply new concepts to practice at the level of the bachelor's or entry level master's in nursing including, but not limited to, practice experiences identified in WAC 246-840-541(2);~~

~~(4) Design curriculum to include~~)) Prepare students for practice at the baccalaureate level and shall include practice experiences that expand knowledge and strengthen the ability to practice in increasingly complex health care environments;

(2) Promote critical thinking, problem solving, ((~~and~~)) clinical reasoning ((~~skills~~)), and judgment at the level of preparation;

((~~(5) Design curriculum including a specific course or~~)) (3) Incorporate content directly related to role differences and effective role transition strategies at the level of preparation((~~;~~

~~(6) Design curriculum including competencies in the following areas:~~

~~(a) The study and practice of leadership, interdisciplinary team coordination and collaboration, quality assurance and improvement, and care coordination and case management;~~

~~(b) The study and practice of community and public health; and~~

~~(c) The theory and application of research and evidence-based practice concepts and processes.~~)) that:

(a) Fosters advancement in clinical reasoning and judgment using nursing research findings.

(b) Enhances professional practice including the ability to communicate, lead, influence health outcomes, policy, and apply systems-level thinking.

(c) Applies principles of public health and population-based care in complex settings while collaborating in interprofessional practice.

(d) Engages students in learning experiences that expand knowledge and strengthens the ability to practice in increasingly complex healthcare environments.

(e) Applies research and evidence-based practice concepts and processes.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-543 Curriculum and program requirements for nursing ((education)) programs preparing students for licensure as advanced registered nurse practitioners (ARNP).** (1) Nursing ((education)) programs preparing students for licensure as advanced registered nurse practitioners (ARNPs), including post-master's students, shall include content culminating in a certificate or graduate degree with a concentration in advanced nursing practice as defined in RCW 18.79.059, WAC 246-840-010((~~(2), and~~)), 246-840-300, and 246-840-302.

(2) ((~~The nursing education program preparing students for licensure as advanced registered nurse practitioners shall have as its primary purpose the preparation of advanced practice nurses for roles as defined in WAC 246-840-300 and 246-840-302.~~

~~(3) Post-master's nursing education programs preparing nurses for licensure as advanced registered nurse practitioners shall teach all competencies designated for the ARNP role including clinical practice. Post-master's students must meet the same ARNP outcome competencies as master's advanced registered nurse practitioner students.~~

~~(4)~~)) The curriculum of the nursing ((education)) program preparing nurses for licensure as ((~~advanced registered nurse practitioners~~)) ARNPs shall prepare the graduates to practice in one of the four ARNP roles: Certified nurse practitioner (CNP), certified registered nurse anesthetist (CRNA), certified nurse midwife (CNM), or certified clinical nurse specialist((~~, or certified nurse practitioner~~)) (CCNS). The curriculum must include:

(a) Clinical and didactic course work preparing the graduate to practice in the role of the ARNP consistent with the ((~~designation being sought for licensure~~)) certification being sought; and

(b) ((~~Advanced physiology/pathophysiology, including general principles applied across the life span;~~

~~(c) Advanced health assessment, including assessment of all human systems, advanced assessment techniques, concepts, and approaches;~~

~~(d) Diagnostic theory and management of health care problems including diseases representative of all systems;~~

~~(e) Advanced pharmacology, which includes pharmacodynamics, pharmacokinetics, pharmacotherapeutics of all broad categories of agent, and pharmacological management of individual patients;~~

~~(f) Preparation providing a basic understanding of the principles for decision making in the identified ARNP role;~~

~~(g) Role preparation in one of the six population foci of practice, which includes family or individual across the life span, adult gerontology, neonatal, pediatrics, women's health gender-related, and psychiatric mental health;~~

~~(h) Advanced practice nursing core, including legal, ethical and professional responsibilities of the ARNP; and~~

~~(i) At least five hundred hours in direct patient care in the ARNP role with clinical preceptor supervision and faculty oversight.~~

~~(5) Advanced registered nurse practitioner nursing education~~)) Clinical education that meets national certification standards for direct patient care with clinical preceptor supervision and faculty oversight.

(3) ARNP programs preparing students for two population foci or combined nurse practitioner-clinical nurse specialist shall include content and clinical experience in both functional roles and population foci.

((~~(6)~~)) (4) Each student enrolled in an ((~~advanced registered nurse practitioner~~)) ARNP nursing ((~~education~~)) program shall have an active, unencumbered ((~~RN license in each state or United States territory~~)) registered nurse (RN) license or privilege to practice in Washington and meet requirements in the jurisdiction where the clinical practice occurs.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-544 Curriculum and program requirements for graduate nursing ((~~education~~)) programs not leading to advanced practice licensure.** ((~~(1) Graduate nursing education programs shall meet the standards established by the national nursing or nursing-related education accrediting body.~~

~~(2) The curriculum of graduate nursing education program shall be congruent with national standards for graduate level nursing education.~~

~~(3)~~)) The curriculum and practice experiences in graduate nursing programs not leading to advanced practice licensure shall be consistent with the competencies of the specific area of practice, stated program outcomes, and established national standards by a nursing education accrediting body approved by the United States Department of Education.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-546 Distance-learning nursing education course(s) ((~~or courses~~)) offered by approved nursing programs.** Nursing ((~~education~~)) programs offering any distance-learning course(s), as defined in WAC 246-840-010, shall:

(1) Ensure distance-learning courses meet established quality and security standards for online and distance learning education;

(2) Develop written policies and procedures ensuring quality assurance controls, security, maintenance, and service support for students and faculty who use the system;

(3) Ensure students receive curriculum comparable to in-person teaching;

(4) Complete ongoing student and faculty evaluations of distance learning courses; and

(5) Provide access to distance-learning courses when requested by the ((~~commission~~)) board.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-547 Extended or satellite ((~~nursing~~)) campus site of nursing ((~~education~~)) programs approved in Washington state.** (1) An approved nursing ((~~education~~)) program shall obtain ((~~commission~~)) board approval prior to advertising or admitting students in an extended or satellite nursing education campus.

(2) An approved nursing ((~~education~~)) program wishing to initiate an extended or satellite nursing program off the main campus ((~~of the university~~)) but located in the state of Washington, must submit ((~~an initial plan three to six~~)) a substantive change request at least three months prior to the expected date of operations. The ((~~initial plan~~)) substantive change request must identify:

(a) ((~~The impact on existing nursing education programs in a sixty mile radius from the location of the proposed extended or satellite campus;~~

~~(b) Faculty staffing for the extended or satellite program;~~

~~(c) How the nursing education program shall~~)) A plan for faculty staffing and access to student support services for the extended or satellite nursing program;

(b) Demonstrate how the nursing program will meet the curriculum and academic standards of the main campus nursing ((~~education~~)) program;

((~~(d)~~)) (c) Adequate clinical or practice facilities for the extended or satellite ((~~or extended~~)) nursing program;

((~~(e)~~)) (d) Academic facilities and resources that meet the requirements identified in WAC 246-840-518; and

((~~(f)~~)) (e) A plan for nursing and institutional administration of the extended or satellite nursing program ((~~and how the extended or satellite campus~~)) that meets administration requirements as identified in WAC 246-840-516.

(3) Administration of the extended or satellite ((~~campus~~)) nursing program shall coordinate annual reports and site survey evaluations with administration at the main campus.

NEW SECTION

**WAC 246-840-5491 Internationally educated registered nurse and licensed practical nurse—Educational deficiency and supplemental preparation.** (1) The board will verify whether an internationally educated registered nurse (RN) or licensed practical nurse (LPN) applicant's nursing education is substantially equivalent to Washington standards, including required theory and clinical instruction across the life span (pediatrics, obstetrics, mental health, and medical-surgical).

(2) A board-approved credential evaluation service will assess foreign education against U.S. standards.

(3) If the board identifies deficiencies, the applicant will be notified of the content areas and clinical experiences that are deficient.

(4) Applicants who do not meet educational requirements for licensure may complete supplemental nursing education at a board-approved college or university, depending on availability, sufficient to

demonstrate competency equivalent to a graduate of a board-approved prelicensure registered nurse or practical nurse program.

(5) Approved nursing programs providing supplemental nursing education for applicants shall:

(a) Develop an educational plan of study to address the specific deficiencies identified in the credential evaluation;

(b) Document successful completion of the educational plan of study; and

(c) Arrange clinical learning experiences that are faculty-supervised and aligned with course objectives.

(6) If direct patient care experiences are not reasonably available, required clinical experiences may be satisfied through faculty-led, structured simulation activities that:

(a) Are evidence-based;

(b) Include defined learning outcomes and evaluation criteria; and

(c) Provide competency validation equivalent to direct patient care experiences.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-553 Innovation projects or program approach for approved nursing ((~~education~~)) programs located in Washington state.**

(1) The board may approve innovative proposals for approved nursing programs located in Washington state that support community health care delivery or workforce development.

(2) A nursing ((~~education~~)) program may apply using the board-approved form to implement an innovative program approach or project by complying with the provisions of this section.

((~~(2)~~)) (3) Nursing ((~~education~~)) programs approved to implement innovative approaches or programs shall continue to provide quality nursing education preparing graduates to practice safely, competently, and ethically within the scope of practice as defined in chapters 18.79 RCW and ((~~chapter~~)) 246-840 WAC.

((~~(3) The purpose of innovations in nursing education program approval is to:~~

~~(a) Foster innovative models of nursing education to address the changing needs in health care;~~

~~(b) Assure innovative approaches or programs protect the public; and~~

~~(c) Assure innovative approaches or programs maintain quality outcome standards.~~

~~(4) A nursing education program that holds full commission approval may be eligible to implement an innovative approach or program.~~

~~(5) The following information shall be provided to the commission at least three months in advance of requested implementation date:~~

~~(a) Identifying information to include name of nursing program, address, responsible party and contact information;~~

~~(b) A brief description of the current program;~~

~~(c) Identification of the regulation(s) affected by the proposed innovative approach;~~

~~(d) Length of time for, which the innovative approach is requested;~~

~~(e) Description of the innovative approach, including objective(s);~~

~~(f) Brief explanation of why the nursing education program wants to implement an innovative approach at this time;~~

~~(g) Explanation of how the proposed innovation differs from approaches in the current program;~~

~~(h) Rationale with available evidence supporting the innovative approach;~~

~~(i) Identification of resources supporting the proposed innovative approach;~~

~~(j) Expected impact innovative approach will have on the program, including administration, students, faculty, and other program resources;~~

~~(k) Plan for implementation, including timeline;~~

~~(l) Plan for evaluation of the proposed innovation, including measurable criteria/outcomes, method of evaluation, and frequency of evaluation; and~~

~~(m) Additional application information as requested by the commission.~~

~~(6) The following are the standards for approval:~~

~~(a) Eligibility and application criteria in subsections (4) and (5) of this section are met;~~

~~(b) The innovative approach or program will not compromise the quality of education or safe practice of students;~~

~~(c) Resources are sufficient to support the innovative approach or program;~~

~~(d) Rationale with available evidence supports the implementation of the innovative approach or program;~~

~~(e) Implementation plan is reasonable to achieve the desired outcomes of the innovative approach or program;~~

~~(f) Timeline provides for a sufficient period to implement and evaluate the innovative approach or program; and~~

~~(g) Plan for periodic evaluation is comprehensive and supported by appropriate methods of evaluation.~~

~~(7) If the application meets the standards, the commission may:~~

~~(a) Approve the application; or~~

~~(b) Approve the application with modifications as agreed between the commission and the nursing education program.~~

~~(8) If the submitted application does not meet the criteria in subsections (4) and (5) of this section, the commission may deny approval or ask for more information.~~

~~(9) The commission may rescind the approval or require the nursing education program to make modifications if:~~

~~(a) The commission receives evidence, which substantiates adverse impact; or~~

~~(b) The nursing education program fails to implement the innovative approach or program as presented and approved.~~

~~(10)~~)) (4) The nursing ((~~education~~)) program shall provide the ((~~commission~~)) board with progress reports ((~~conforming to~~)) addressing the board-approved evaluation plan ((~~as requested by the commission~~)).

(a) ((~~If any report indicates patients or students were adversely impacted by the innovation, the nursing education program shall provide documentation of corrective measures and their effectiveness~~)) The nursing program shall document in the report strategies to address any adverse impacts to patients or students that resulted from the innovation; and

(b) The final evaluation report shall ((~~conform to the evaluation plan, detailing and analyzing the outcomes data~~)) align with the evaluation plan, specifying achievement of outcomes.

((~~(11)~~)) (5) Final approval shall be granted if the innovative approach or program achieves the desired outcomes, and has not compromised public ((~~protection, and is consistent with core nursing education criteria, the nursing education program may request the innovative approach or program be continued~~)) safety.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-554 Ongoing evaluation and approval of nursing ((~~education~~)) programs located in Washington state.** (1) Nursing ((~~education programs meeting the requirements of WAC 246-840-511 through 246-840-556 may be approved by the commission for a maximum of ten years.~~

~~(2) To ensure continuing compliance with nursing education standards, nursing education programs may be required to participate in self-studies, self-evaluations and commission site visits at various times in the approval cycle depending on program outcomes and complaints received by the commission and as deemed necessary by the commission.~~

~~(3) Any proposed substantive nursing education program change must be presented to the commission for approval at least three months prior to implementation.~~

~~(a) Substantive changes include the following:~~

~~(i) Changes in legal status, control, ownership, or resources of the institution;~~

~~(ii) Faculty numbers below the required staff for clinical as found in WAC 246-840-532 or clinical simulation sections identified in WAC 246-840-534 (1)(g);~~

~~(iii) Changes in faculty composition when their expertise or experiences are not adequate to teach those areas of nursing described in WAC 246-840-523, 246-840-539, 246-840-541, 246-840-542, 246-840-543, and 246-840-544;~~

~~(iv) Changes in the number of students admitted requiring one or more additional clinical or practice groups, or changing the required faculty to student ratios of 1:10 for prelicensure programs and 1:6 for nursing education programs preparing students for advanced practice registered nurse licensure; or~~

~~(v) Major curriculum revision or changes in the length of the program.~~

~~(A) Major curriculum revisions include:~~

~~(I) Changes in curricular delivery method;~~

~~(II) Changes in nursing model or conceptual framework;~~

~~(III) Changes in curriculum meaning or direction of the curriculum such as philosophy, program goals, program terminal objectives, course objectives and descriptions;~~

~~(IV) Changes in total program credits; or~~

~~(V) Addition or deletion of a satellite or extended campus.~~

~~(B) The following changes do not require commission approval:~~

~~(I) Movement of content from one course to another; or~~

~~(II) Formatting changes in syllabi.~~

~~(b) The nurse administrator of the program shall submit the following when requesting approval for substantive changes:~~

~~(i) A letter explaining the substantive change request;~~

~~(ii) The rationale for the proposed change and anticipated effect on the program including faculty workload, students, resources, clinical or practice experiences, and facilities;~~

~~(iii) A summary or grid that explains the difference between the current practice and proposed change;~~

~~(iv) A timeline for implementation of the change; and~~

~~(v) The methods of evaluation to be used to determine the effect of the change.~~

~~(4) The program shall submit annual reports on forms provided by the commission and on the date specified.~~)) programs located in Washington state may be approved by the board for a maximum of up to 10 years if they meet state requirements (WAC 246-840-511 through 246-840-556), national accrediting standards, and the National Council State Boards of Nursing (NCSBN) prelicensure nursing program approval quality indicators.

(2) Nursing programs shall be subject to evaluation if the board has cause to believe the program is not maintaining compliance.

(3) The board may intervene if there is a failure to meet state requirements (WAC 246-840-511 through 246-840-556), national accrediting standards, and the NCSBN prelicensure nursing program approval quality indicators.

(4) Any proposed substantive nursing program change shall be submitted in writing to the board for approval at least three months prior to implementation. The nursing program may request an accelerated board review by providing rationale for an expedited review.

(5) Substantive changes include:

(a) Faculty changes, including:

(i) A reduction in the total number of qualified faculty needed to effectively deliver the nursing program;

(ii) Clinical ratios that exceed the required faculty to student ratio as described in WAC 246-840-532;

(iii) Changes in faculty qualifications that are insufficient to teach content areas of nursing described in WAC 246-840-523, 246-840-539, 246-840-541, 246-840-542, 246-840-543, and 246-840-544;

(b) Program expansion more than 10 students;

(c) Major curriculum revision or changes in the length of the program including:

(i) Changes in curricular delivery method;

(ii) Changes in curriculum meaning or direction of the curriculum such as philosophy, program outcomes, end of program student learning outcomes (EPSLOs), course objectives and descriptions;

(iii) Changes in total program credits; or

(iv) Addition of a satellite or extended campus.

(6) Nonsubstantive changes shall only require notification to the board three months prior to the change becoming effective:

(a) Updates to legal status, control, or ownership;

(b) Resources changes of the institution that impact program delivery;

(c) Closure or relocation of an extended or satellite campus.

(7) No notification is required for the following:

(a) Movement of content from one course to another; or

(b) Formatting changes in syllabi.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-556 Ongoing approval, accreditation and ((~~commission reviews~~)) board review of nursing programs.** ((~~(1) The commission may accept accreditation by a commission-recognized national nursing education accreditation body approved by the United States Department of Education as evidence of compliance with the standards of nursing education programs.~~

~~(a) The nursing education program shall submit to the commission a copy of any self-study submitted to the national nursing education accrediting body at the time the report is sent to the national nursing education accrediting body.~~

~~(b) The nursing education program shall submit to the commission within thirty days of receiving any report or accreditation letter from the national nursing education accreditation body to include, but not limited to: Continuous improvement progress reports, substantive change notification and accreditation action letters, site visit reports and program response letters, final site visit report and letter.~~

~~(c) The nursing education program shall submit notice of any change in program or institution accreditation status with the commission within thirty days of receipt of notice from the national accreditation body.~~

~~(d) Failure to submit notice of accreditation survey results within thirty days may result in a site visit or other sanctions as described in WAC 246-840-558.~~

~~(e) Programs holding approval based upon national nursing education accreditation must comply with WAC 246-840-511 through 246-840-556.~~

~~(f) The commission may grant approval for a continuing period, not to exceed ten years, to nursing education programs with maximum continuing national accreditation.~~

~~(g) If the nursing program is accredited for less than maximum accreditation, the program must provide the commission with a copy of the report and a plan of correction for the items of noncompliance within thirty days of receipt from the accreditation body. The commission may require an additional report regarding noncompliance, or may conduct a site visit.~~

**~~Evaluation of a Nursing Program by the Commission~~**

~~(2) Programs not nationally accredited by a commission-recognized national nursing accreditation body are subject to a site visit made by representative(s) of the commission on dates mutually agreeable to the commission and the nursing education program.~~

~~(a) Prior to the site visit, a nursing education program shall submit a self-evaluation report at least thirty days before the visit providing evidence of compliance with the standards of nursing education as identified in WAC 246-840-511 through 246-840-556.~~

~~(b) Prior to commission consideration, a draft of the commission site visit report will be made available to the school for review for corrections in statistical data.~~

~~(c) Following the commission's review and decision, the commission will send the program nurse administrator, the president and vice president of instruction or provost written notification regarding approval of the program.~~)) (1) Accredited nursing programs. The board may accept accreditation of a nursing program by a national nursing

education accreditation body approved by the United States Department of Education as evidence of compliance with the standards.

(a) Compliance shall be established by submitting to the board the following communications between the nursing program and the national nursing education accrediting body:

(i) A completed self-study prepared for the national nursing education accrediting body and submitted to the board concurrently;

(ii) All official correspondence between the nursing program and the national nursing education accreditation body; and

(iii) Notice of any change in program or institution accreditation status.

(b) Failure to submit notice of accreditation survey results within 30 days may result in a site visit or other sanctions as described in WAC 246-840-558.

(c) Programs holding approval based upon national nursing education accreditation must comply with WAC 246-840-511 through 246-840-556.

(d) The board may grant approval for a period not to exceed 10 years to nursing programs with continuing national accreditation.

(e) If the nursing program is accredited for less than the standard accreditation term, the program must submit a copy of the report and a plan for the items of noncompliance to the board no later than 30 days of receipt from the accreditation body. The board may require an additional report regarding noncompliance or may conduct a site visit.

(2) Nonaccredited nursing programs. Programs not accredited by a national nursing education accreditation body approved by the United States Department of Education are subject to a site visit made by representative(s) of the board on dates mutually agreeable to the board and the nursing program.

(a) Prior to the site visit, a nursing program shall submit a self-study no later than 45 days before the visit, providing evidence of compliance with the standards of nursing education as identified in WAC 246-840-511 through 246-840-556.

(b) Prior to presentation to the board for consideration, a draft of the board site visit report will be made available for the school to review. The school shall have at least three weeks to:

(i) Offer corrections of errors as they relate to names, positions, data, and other documentable facts;

(ii) Offer comments related to the content in the draft report; or

(iii) Provide supplementary documentation demonstrating additional progress made toward compliance with the standards.

(c) Following the board's review and decision, the board will send the program nurse administrator and appropriate institution leadership, written notification regarding approval status of the program within 30 days.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-557 ((~~Commission action following commission site visit, complaint investigation, or national accreditation visits of nursing education programs located in Washington state.~~)) Board action regarding nursing program compliance.** ((~~(1) When a matter directly~~

~~concerning a nursing education program is being considered by the commission, any commission member associated with the program shall not participate in the deliberation or decision-making action of the commission.~~

~~(2) The commission shall evaluate each program in terms of its conformance to the nursing education standards in this chapter.~~

~~(3) Within thirty days of the commission's decision, the commission shall give written notice to the educational institution regarding its decision on the nursing education program's approval status, including the nurse administrator, the president and provost or vice president of instruction.~~

~~(4) The commission shall grant continuing full approval to a nursing education program meeting the requirements of the law and this chapter. Full approval may carry recommendations for improvement and for correcting deficiencies.~~

~~(5) If the commission determines an approved nursing education program is not maintaining the education standards required for approval, the commission shall give written notice specifying the deficiencies and shall designate the period of time in which the deficiencies must be corrected.~~

~~(6) The commission may require the program to submit a plan of correction, or the commission may issue a directed plan of correction.~~

~~(7) The commission may limit student numbers or deny admission of new students if the program has insufficient resources, including faculty or program administration.~~

~~(8) The commission may withdraw program approval if the program fails to correct the deficiencies within the specified period of time.~~

~~(9) The commission may summarily suspend approval of a program if circumstances constituting an immediate threat to public safety are present.~~)) (1) The board shall evaluate concerns regarding compliance with state requirements (WAC 246-840-511 through 246-840-556), national accrediting standards, and the National Council State Boards of Nursing (NCSBN) prelicensure nursing program approval quality indicators.

(2) The board shall grant continuing full approval to a nursing program meeting the requirements of the law and this chapter.

(3) Within 14 days of the board's decision, the board shall give written notice to the nurse administrator and appropriate institution leadership.

(4) A nursing program not maintaining the education standards required shall receive written notice from the board specifying areas needing alignment and a timeline in which the alignment must be corrected.

(5) The board may:

(a) Request a compliance action plan; or

(b) Issue a directed compliance action plan requiring compliance within a designated time period; and

(c) Limit student admission numbers or deny admission of new students.

(6) The board may summarily suspend approval of a program if circumstances constituting an immediate threat to public safety are present.

(7) The board may take action under this section in accordance with chapter 34.05 RCW, and any applicable rules of the board.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-558 Denial, statement of deficiencies, conditional approval or withdrawal of approval of nursing ((~~education~~)) programs located in Washington state.** (1) The ((~~commission~~)) board may deny full approval to new or existing nursing ((~~education~~)) programs located in Washington state if it determines a nursing ((~~education~~)) program fails substantially to meet the standards for nursing education as contained in WAC 246-840-511 through 246-840-556, which may include requirements not addressed through compliance with accreditation standards.

(2) The ((~~commission~~)) board may issue a statement of deficiencies and request a ((~~plan of correction or directed plan of correction requiring~~)) compliance action plan or issue a directed compliance action plan, requiring alignment within a designated time period.

(3) The ((~~commission~~)) board may grant conditional approval to a nursing ((~~education~~)) program failing to meet the minimum standards contained in the law and this chapter.

(a) Conditions must be met within a designated time period and shall be specified in writing.

(b) A conditionally approved program shall be reviewed at the end of the designated time period((~~. The review will~~)) and shall result in one of the following actions:

(i) Restoration of full approval to existing programs;

(ii) Issuance of full approval to a new program;

(iii) Continuation of conditional approval; or

(iv) Issuance of intent to withdraw approval.

(4) The following situations may be cause for review, investigation, and a site visit by the ((~~commission~~)) board to determine if the minimum standards for education nursing programs are being met:

(a) Complaints relating to violations of WAC 246-840-511 through 246-840-556;

(b) Denial, withdrawal, or change of program accreditation status by a ((~~commission~~)) board-recognized national nursing accreditation agency ((~~or general~~)), specialized academic accreditation agency, or institutional accreditation agency;

(c) Failure to obtain ((~~commission~~)) board approval of substantive program changes requiring ((~~commission~~)) board approval under WAC 246-840-554 and 246-840-556;

(d) Providing false or misleading information to students or the public concerning the nursing program;

(e) Violation of the rules or policies of the ((~~commission~~)) board;

(f) ((~~Inability to secure or retain a qualified nurse administrator;~~

~~(g)~~)) Inability to secure or retain faculty resulting in substandard supervision and teaching of students;

((~~(h)~~)) (g) Noncompliance with the program's stated purpose, objectives, policies, and curriculum resulting in unsatisfactory student achievement or negative program outcomes;

((~~(i) Failure to provide clinical or practice experiences necessary to meet the objectives of the nursing program;~~

~~(j) Faculty student ratio in direct patient care is greater than 1:10 in prelicensure programs or 1:6 in nursing education programs preparing nurses for advanced registered nurse practitioner licensure;~~ ~~and~~

~~(k) Failure to maintain an average national council licensing examination (NCLEX) annual passing rate or average advanced practice certification annual passing rate of eighty percent~~)) (h) National Council Licensing Examination (NCLEX) or certification pass rates trending below 80 percent for three consecutive years.

(5) ((~~If a program:~~

~~(a) Fails to maintain an average NCLEX passing or advanced practice certification rate of eighty percent of first time test takers for one year, the program must complete an assessment of the problem. The program may request technical assistance from the commission.~~

~~(b) Fails to maintain an average NCLEX passing or advanced practice certification rate of eighty percent of first time writers for two consecutive years, the program must complete an assessment of possible contributing factors and submit a plan of correction to the commission. The commission may place the program on conditional approval status. The program may request technical assistance from the commission.~~

~~(c) Fails to maintain an average NCLEX passing or advanced practice certification rate of eighty percent of first time writers for three consecutive years, the program must complete an assessment of possible contributing factors, submit a plan of correction, and the commission may conduct a site visit. The program may request technical assistance from the commission. The commission shall place the program on conditional approval status.~~

~~(d) Fails to maintain a NLCEX [NCLEX]~~ ~~passing or advanced practice certification rate of eighty percent for four out of five consecutive years, the commission shall continue the program on conditional approval, require a full evaluation site visit, and may withdraw program approval following the site visit.~~)) Nursing program pass rates:

(a) The board will be available for technical assistance if a program:

(i) Does not maintain the average NCLEX passing metric accepted by the program's national accreditation body; or

(ii) Does not maintain a rate of 80 percent of first time test takers for programs that are not currently accredited; or

(iii) Does not maintain first time 80 percent certification pass rate for advanced practice.

(b) Three consecutive years of NCLEX or certification pass rates trending below 80 percent of first-time test takers shall require completion and submission of an assessment to the board of possible contributing factors and an improvement plan.

(6) The ((~~commission~~)) board may withdraw approval ((~~from existing nursing education programs~~)) if it determines that a nursing ((~~education~~)) program fails to ((~~meet~~)) substantially meet the standards for nursing education as contained in WAC 246-840-511 through 246-840-556.

(7) All these actions shall be taken in accordance with the Administrative Procedure Act, chapter 34.05 RCW, and any applicable rules of the ((~~commission~~)) board.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-559 Closing of an approved nursing ((~~education~~)) program located in Washington state.**

**((~~Voluntary Closure~~))**

(1) Voluntary closure. When a governing institution decides to close a nursing ((~~education~~)) program located in Washington state it shall immediately notify the ((~~commission~~)) board in writing, stating the reason, closure plan, and ((~~date of intended closing~~)) intended closure date. The governing institution ((~~may~~)) shall choose one of the following closing procedures:

(a) The nursing ((~~education~~)) program may continue until the last class enrolled is graduated if:

(i) The nursing ((~~education~~)) program continues to meet the standards for approval, WAC 246-840-511 through 246-840-556 until all of the enrolled students have graduated;

(ii) The date of closure is the date on the degree, diploma, or certificate of the last graduate; and

(iii) The governing institution notifies the ((~~commission~~)) board in writing of the closing date; or

(b) The program may close after assisting in the transfer of students to other approved programs if:

(i) The program continues to meet the standards required for approval, WAC 246-840-511 through 246-840-556 until all students are transferred;

(ii) The governing institution submits to the ((~~commission~~)) board a list of the names of students who have been transferred to approved programs and the date on which the last student was transferred; and

(iii) The date on which the last student was transferred shall be the closing date of the program.

((**~~Closing as a Result of Withdrawal of Approval~~**))

(2) Closing as a result of withdrawal of approval. When the ((~~commission~~)) board withdraws approval of a nursing ((~~education~~)) program, the governing institution shall comply with the following procedures:

(a) Students of the nursing ((~~education~~)) program shall be notified in writing of their status and options for transfer to an approved program.

(b) The nursing ((~~education~~)) program shall close after assisting in the transfer of students to other approved programs. The ((~~commission~~)) board must establish a period for the transfer process.

(c) The governing institution shall submit to the ((~~commission~~)) board a list of the names of students who have transferred to approved programs and the date on which the last student was transferred.

**((~~Requirements for All Nursing Education Programs That Close~~))**

(3) Requirements for all nursing programs that close. Nursing ((~~education~~)) programs, regardless of type of closure, shall submit to the ((~~commission~~)) board a plan for the secure storage and access to academic records and transcripts at the time of the decision to close the program.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-561 Reinstatement of approval for nursing programs located in Washington state.** The ((~~commission~~)) board may consider

reinstatement of withdrawn approval of a nursing ((~~education~~)) program located in Washington state after one year and upon submission of satisfactory evidence that the program will meet the standards of nursing education, WAC 246-840-511 through 246-840-556. The ((~~commission~~)) board may conduct a site visit to verify the evidence provided by the nursing ((~~education~~)) program.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-562 Appeal of ((~~commission decisions~~)) board letter of determinations.** A nursing ((~~education~~)) program wishing to contest a ((~~decision~~)) determination by the ((~~commission~~)) board that affects the program's approval status shall have the right to appeal the ((~~commission's decision~~)) board's determination in accordance with the provisions of chapter 18.79 RCW, chapter 34.05 RCW, the Administrative Procedure Act, and chapter 246-11 WAC.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-563 Criteria for approval of LPN and RN refresher course ((~~program~~)) located in Washington state.** (1) A program ((~~making application~~)) applying to the ((~~commission~~)) board for initial approval of a refresher course for licensed practical nurses (LPNs) and registered nurses (RNs) in Washington state shall submit a ((~~commission~~)) board-approved application at least three months before expected date of implementation.

(2) For in-state refresher courses ((~~programs~~)), the refresher program shall have a designated nurse administrator who is responsible for the overall operation and evaluation of the refresher program meeting the following qualifications:

(a) Active, unencumbered Washington state RN license or RN multistate license; and

(b) ((~~Bachelor's degree in nursing with a graduate degree in nursing from a nursing accredited nursing education program, or bachelor's degree in nursing from a nursing education accredited~~)) A baccalaureate degree in nursing and a graduate degree in nursing from an accredited nursing program, or baccalaureate degree in nursing from an accredited nursing program and a graduate degree from a health-related field from an accredited university.

(3) The philosophy, purpose and objectives of the refresher course must be clearly stated and available in written form. They must be consistent with the definition of nursing as outlined in chapter 18.79 RCW and WAC 246-840-700 and 246-840-705.

((~~Objectives reflecting the philosophy must be stated in behavioral terms and describe the capabilities and competencies of the graduate.~~

~~(4) All nurse faculty shall:~~

~~(a) Hold an unencumbered, active license to practice as a registered nurse in the state of Washington;~~

~~(b) Be qualified academically and professionally for their respective areas of responsibility.~~

~~(i) Faculty in a practical nurse education refresher course program shall hold a minimum of a bachelor's degree in nursing from a nursing accredited nursing program;~~

~~(ii) Faculty in a registered nurse refresher course education program shall hold a bachelor's degree in nursing and a graduate degree in nursing from a nursing education accredited program or a bachelor's degree in nursing from a nursing accredited program and a graduate degree in a health-related field from an accredited university.~~

~~(c)~~)) (4) All nurse faculty shall meet qualifications in WAC 246-840-523:

(a) Be qualified to develop and implement the program of study with at least two years of teaching experience;

((~~(d)~~)) (b) Plan, develop, oversee, and evaluate clinical experiences((~~;~~

~~(e) Be sufficient in number to achieve the stated program objectives based on patient safety concerns.~~

~~The faculty to student ratio in the clinical area and simulation lab must be at least one faculty member to every twelve students. Exceptions shall be justified to and approved by the commission~~)).

(5) Clinical refresher experiences may be precepted at a 1:15 ratio as specified in WAC 246-840-534. The faculty to student ratio in nonprecepted clinical experiences and simulation group settings involving direct patient care shall not exceed 1:10 as specified in WAC 246-840-532. Exceptions shall be approved by the board.

(6) The course content, length, methods of instruction and learning experiences shall be consistent with the philosophy and objectives of the course. Outlines and descriptions of all learning experiences shall be available in writing.

((~~(6)~~)) (7) The refresher program shall have written policies to include, but are not limited to:

(a) Admission requirements;

(b) Progression requirements and grading criteria;

(c) Dismissal criteria;

(d) Clinical and practice requirements;

(e) Grievance process;

(f) Student expectations and responsibilities; and

(g) Program costs and length of program.

((~~(7)~~)) (8) The program shall submit substantive change requests to the ((~~commission~~)) board including changes in:

(a) ((~~Program name, mailing address, electronic address, website address, or phone number;~~

~~(b)~~)) Curriculum;

((~~(c)~~)) (b) Clinical, simulation or didactic hours; or

((~~(d)~~)) (c) Program instruction methods((~~; or~~

~~(e) Ownership including adding or deleting an owner~~)).

((~~(8)~~)) (9) The program shall submit nonsubstantive change notification for changes in:

(a) Updates to legal status, control, or ownership;

(b) Resources changes of the institution that impact program delivery.

(10) Evidence-based methods shall be used to measure the student's achievement of the stated theory and clinical objectives.

((~~(9)~~)) (11) The refresher course shall be evaluated by faculty and students regularly.

((~~(10)~~)) (12) The refresher course shall ensure that prior to clinical practice experiences, the enrolled student holds either a

limited education authorization from the ((~~commission~~)) board, or an active nursing license in Washington state.

((~~(11)~~)) (13) The refresher course shall ensure all students have clinical practice experiences.

((~~(12)~~)) (14) Refresher course faculty or qualified preceptors may be used to teach in the clinical setting.

(a) Preceptors shall be licensed at same level of licensure as the student's refresher course type;

(b) ((~~Preceptors shall not be related to, or friends of the student;~~

~~(c) Preceptors shall receive the goals and objectives of the clinical practice course from the refresher program prior to the student's clinical experience; and~~

~~(d) Preceptors may assist faculty in the evaluation of the student's clinical learning experience.~~

~~(13)~~)) Meet preceptor definitions in 246-840-533.

(15) The refresher course shall not place students in the clinical setting without first validating student skills and knowledge to perform in the clinical setting.

((~~(14)~~)) (16) The refresher course shall maintain student records demonstrating the students have successfully completed the course and met the stated objectives for at least five years from date of course completion.

((~~(15)~~)) (17) The refresher course shall provide a certificate of successful completion of the course to the student. The certificate shall contain the following:

(a) Name of participant;

(b) Name of program;

(c) Number of didactic and clinical hours successfully completed; and

(d) Date of participant's completion of the program.

((~~(16)~~)) (18) The refresher course ((~~program~~)) shall submit an annual report to the ((~~commission on commission~~)) board on board designated forms.

((~~(17)~~)) (19) The refresher course ((~~program~~)) shall ((~~apply for~~)) request renewal of approval every five years by submitting a ((~~commission approved renewal application no later than three months before expiration of the approval~~)) written request to the board no later than three months before the approval expires.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-564 Curriculum for LPN ((~~nurse~~)) refresher course.** For licensed practical nurse (LPN) refresher courses ((~~programs~~)), the course content must consist of a minimum of ((~~sixty~~)) 60 hours of theory content and ((~~one hundred twenty~~)) 120 hours of clinical practice.

(1) The theory course content must include, but not be limited to, a minimum of ((~~sixty~~)) 60 hours in current basic concepts of:

(a) Nursing process and patient centered care;

(b) Cultural competence across the life span;

(c) Pharmacology, medication calculation, administration, safety, and the mitigation and reporting of medication errors;

(d) Review of the concepts in the areas of:

(i) Current practical nursing practice, including legal expectations as identified in chapters 18.79 and 18.130 RCW, and nursing scope of practice, including the ((~~commission~~)) board-approved scope of practice decision tree;

(ii) Therapeutic and basic communications and observational practices needed for identification, reporting, and recording patient needs; and

(iii) Basic physical, biological, and social sciences necessary for practice.

(e) Review and updating of practical nursing knowledge and skills to include, but not be limited to, concepts of delegation, leadership, fundamentals, medical, surgical, geriatric, and mental health nursing.

(2) The clinical course content shall include a minimum of ((~~one hundred twenty~~)) 120 hours of clinical practice in the area(s) listed in subsection (1)(e) of this section.

(a) Sixty hours of clinical practice may be obtained through lab simulation if the program has adequate lab space and equipment to accommodate student learning and is approved by the ((~~commission~~)) board.

(b) Exceptions shall be ((~~justified to~~)) requested and approved by the ((~~commission~~)) board.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-566 Curriculum for ((~~registered nurse~~)) RN refresher course.** For registered nurse (RN) refresher courses ((~~programs~~)), the course content must consist of a minimum of ((~~forty~~)) 40 hours core course content, ((~~forty~~)) 40 hours of specialty course content, and ((~~one hundred sixty~~)) 160 hours of clinical practice in the specialty area.

(1) The core course content must include, but not be limited to, a minimum of ((~~forty~~)) 40 hours of theory in current basic concepts of:

(a) Nursing process and patient centered care;

(b) Cultural competence across the life span;

(c) Pharmacology, major drug classifications, medication calculations and administration, side effects, adverse reactions, associated lab tests and mitigation and reporting of medication errors;

(d) Critical thinking, clinical reasoning, and evidence-based practice;

(e) Review of the concepts in the areas of:

(i) Current professional nursing practice, including legal expectations as found in chapters 18.79 and 18.130 RCW, and nursing scope of practice, including the ((~~commission~~)) board-approved scope of practice decision tree;

(ii) Therapeutic and clinical communication skills and observational practices needed for identification, reporting, and recording patient needs; and

(iii) Basic physical, biological and social sciences necessary for practice.

(f) Review and updating of registered nursing knowledge and skills, including delegation, leadership, interdisciplinary team coordination and care management.

(2) The specialty course content shall include, but not be limited to, a minimum of ((~~forty~~)) 40 hours of theory in current specialty nursing practice concepts of basic nursing related to the special area of interest such as surgical, pediatrics, obstetrics, psychiatric, acute, intensive, extended care, or community health nursing.

(3) The clinical course content shall include a minimum of ((~~one hundred sixty~~)) 160 hours of clinical practice in the specialty area(s) of interest as listed in subsection (2) of this section.

(a) Eighty hours of clinical practice may be obtained through lab simulation if the program has adequate lab space and equipment to accommodate student learning and is approved by the ((~~commission~~)) board.

(b) Exceptions shall be ((~~justified to~~)) requested and approved by the ((~~commission~~)) board.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-567 Refresher course ((~~program~~)) for ((~~advanced registered nurse practice nurses~~)) ARNPs.** (1) A ((~~college or university approved by the commission and located in the state of Washington to offer~~)) board-approved nursing program in Washington state that offers a graduate level nursing ((~~education~~)) program preparing students for advanced registered nurse practitioner (ARNP) licensure may apply to offer an ARNP refresher course ((~~program~~)) on a ((~~commission~~)) board-approved form.

(2) The nurse administrator or qualified designee of an approved ARNP nursing program shall be responsible for the ARNP refresher course ((~~program~~)). The designee shall meet the same qualification requirements as identified in WAC 246-840-517(3).

(3) The faculty teaching in the ARNP refresher ((~~program~~)) course shall meet the requirements of WAC 246-840-523 and 246-840-527.

(4) The ARNP refresher course will provide didactic and clinical instruction in the full scope of practice of ARNP role and population foci as allowed in chapter 18.79 RCW and this chapter.

(5) At a minimum, the ARNP refresher ((~~program~~)) course will include instruction and ((~~two hundred fifty~~)) 250 hours of associated clinical practice and may offer more hours if required for licensure in:

(a) Advanced physiology/pathophysiology;

(b) Advanced health assessment;

(c) Pharmacotherapeutics;

(d) Diagnosis and management of diseases or conditions consistent with current standards of care;

(e) Ordering and interpreting diagnostic and laboratory tests;

(f) Safe and competent performance of procedures;

(g) ARNP scope of practice as defined in chapters 18.79 RCW and 246-840 WAC;

(h) Accepted standards of practice for ARNP.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-568 Criteria for approval of refresher course ((~~program~~)) located outside Washington state.** (1) ((~~Refresher courses located outside the state of Washington shall be reviewed individually for approval by the commission and~~)) A refresher course located outside the state of Washington must be individually reviewed and approved by the board. The refresher course must meet curriculum and clinical practice standards identified in WAC 246-840-563 and 246-840-564, or 246-840-566.

(2) The nurse administrator shall ((~~hold an active, unencumbered RN license in the state of the program's domicile location and have a bachelor's degree in nursing with a graduate degree in nursing from a nursing accredited nursing education program, or bachelor's degree in nursing from a nursing education accredited program and a graduate degree from a health-related field from an accredited university.~~

~~(3) The commission may:~~

~~(a) Approve a refresher program for no longer than five years;~~

~~(b) Deny approval of a refresher program;~~

~~(c) Withdraw approval of a refresher program;~~

~~(d) Place a program on warning or conditional approval status;~~

~~(e) Make on-site visits to determine compliance with commission requirements for initial or ongoing approval, or to investigate a complaint;~~

~~(f) Require a program to submit a plan of correction; or~~

~~(g) Issue a directed plan of correction.~~

~~(4) A refresher program wishing to contest a decision of the commission affecting its approval status shall have the right to appeal the commission's decision in accordance with the provisions of chapter 18.79 RCW, chapter 34.05 RCW, the Administrative Procedure Act, and chapter 246-11 WAC~~)):

(a) Hold an active, unencumbered registered nurse (RN) license in the state where the program is located; and

(b) Have a baccalaureate degree in nursing and a graduate degree in nursing from an accredited nursing program, or baccalaureate degree in nursing from an accredited nursing program and a graduate degree in a health-related field from an accredited university.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-569 ((~~Commission~~)) Board action regarding refresher courses ((~~programs~~)).** (1) The ((~~commission~~)) board may:

(a) Approve a refresher ((~~program~~)) course for no longer than five years;

(b) Deny approval of a refresher ((~~program~~)) course;

(c) Withdraw approval of a refresher ((~~program~~)) course;

(d) Place a program on warning or conditional approval status;

(e) Make on-site visits as needed to determine compliance with ((~~commission~~)) board requirements for initial or ongoing approval, or to investigate a complaint;

(f) Require a program to submit a plan of correction; or

(g) Issue a directed plan of correction.

(2) A refresher course ((~~program wishing to contest a decision of the commission~~)) may appeal a board decision affecting its approval status ((~~shall have the right to appeal the commission's decision~~)) in accordance with ((~~the provisions of chapter 18.79 RCW and the Administrative Procedure Act, chapter~~)) chapters 18.79 and 34.05 RCW.

AMENDATORY SECTION (Amending WSR 16-17-082, filed 8/17/16, effective 9/17/16)

**WAC 246-840-571 Out-of-state distance learning nursing program approval for practice experiences in Washington state.** (1) For the purpose of this section, "out-of-state distance learning nursing program" means a nursing education program whose primary campus or administrative headquarters is located outside Washington state and that delivers theory instruction through distance education to students located in Washington state. The ((~~commission~~)) board may approve out-of-state distance learning nursing ((~~education~~)) programs for the purpose of placing students in clinical or practice experiences in the state of Washington. The out-of-state distance learning nursing ((~~education~~)) program shall:

(a) Complete and submit a ((~~commission~~)) board-approved application and demonstrate equivalency to requirements for in-state Washington nursing programs;

(b) ((~~Provide clinical and practice supervision and evaluation of students in Washington state;~~

~~(c)~~)) Plan, develop, oversee, and evaluate clinical and practice experiences of students in Washington state;

(c) The nursing program retains sole responsibility for securing, coordinating, and overseeing clinical placements, including procuring clinical sites and preceptors.

(d) Ensure the faculty, preceptors and others who teach, supervise, or evaluate clinical or practice experiences in the state of Washington hold an active, unencumbered nursing license, at the appropriate ((~~to the~~)) level of student teaching. Faculty must be licensed in the state of Washington as an ((~~ARNP~~)) advanced registered nurse practitioner (ARNP) if teaching ((~~advanced registered nurse practitioner~~)) ARNP practice;

((~~(d)~~)) (e) Preceptors for students in a nursing ((~~education~~)) program preparing nurses for ((~~advanced registered nurse practitioner~~)) ARNP licensure shall not be related to the student ((~~or personal friends~~)), and shall have an active, unencumbered license as an ARNP under chapter 18.79 RCW, a physician under chapter 18.71 RCW, an osteopathic physician under chapter 18.57 RCW, or equivalent in other states or jurisdictions;

((~~(e)~~)) (f) Ensure the faculty who teach didactic distance learning nursing courses hold a current and active, unencumbered nursing license in the state where the nursing program ((~~has legal domicile~~)) is located;

((~~(f) Be accredited~~)) (g) Maintain national accreditation by a nursing education accrediting body approved by the United States Department of Education;

((~~(g) Maintain accreditation status by the nursing education accrediting body;~~))

(h) Report to the ((~~commission~~)) board within ((~~thirty~~)) 30 days of notice from the nursing education accrediting body if the accreditation status has changed; and

(i) ((~~Submit an annual report to the commission as identified in commission approved survey~~)) Complete and submit an annual education survey to the board.

(2) The ((~~commission~~)) board may conduct site visits or complaint investigations ((~~to~~)) at clinical or practice locations to ensure compliance with ((~~commission~~)) board requirements beyond accreditation standards.

(3) The ((~~commission~~)) board may withdraw clinical placement approval if it determines a nursing education distance learning program fails to meet the standards for nursing education as contained in WAC 246-840-511 through 246-840-556.

(4) The ((~~commission~~)) board may refer complaints regarding the distance learning nursing ((~~education~~)) program to the home state board of nursing and appropriate nursing education accreditation body.

(5) A distance learning nursing ((~~education~~)) program wishing to contest a decision of the ((~~commission~~)) board affecting its approval status for clinical or practice experiences shall have the right to a brief adjudicative proceeding under the Administrative Procedure Act, chapter 34.05 RCW.

REPEALER

The following sections of the Washington Administrative Code are repealed:

| | |
|---|---|
| WAC 246-840-529 | Exceptions to nursing faculty degree requirements in prelicensure registered nurse nursing education programs. |
| WAC 246-840-5341 | Use of simulation for clinical experiences at a 1:2 ratio in LPN, RN, or RN to BSN nursing education programs located in Washington state. |
| WAC 246-840-536 | Dedicated education units for practical nurse or registered nurse nursing education programs. |
| WAC 246-840-549 | Internationally educated nurse program approval criteria for nursing education programs approved in Washington state. |
| WAC 246-840-551 | Internationally educated practical nurse program in an approved nursing education program. |
| WAC 246-840-552 | Internationally educated registered nurse program in an approved nursing education program. |

**WSR 26-16-085**
**PROPOSED RULES**
**DEPARTMENT OF LICENSING**
[Filed August 5, 2026, 9:09 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-10-084.

Title of Rule and Other Identifying Information: Defective license plate replacements.

Hearing Location(s): On September 10, 2026, at 3:15 p.m., via Zoom meeting at https://us06web.zoom.us/j/4246121932?pwd=KN7V4afVkRY0JqFohbIqu8Jarzn0XV.1&omn=87870311561, or meeting chat link at https://us06web.zoom.us/launch/jc/87870311561, Meeting ID 424 612 1932, Passcode 101765; or One-tap mobile +12532050468,,4246121932#,,,,*101765# US, +12532158782,,4246121932#,,,,*101765# US (Tacoma); or join by SIP at 4246121932@zoomcrc.com, join instructions at https://us06web.zoom.us/meetings/87870311561/invitations?signature=z-fkjJ74YHP2KoXkufZwx4eYtyCqYybZBSfZpx7chDA.

If you are having trouble accessing the virtual meeting, call 360-902-3486 at the time of the hearing to request assistance. Email rulescoordinator@dol.wa.gov if you would like to request an interpreter, or other accommodations, at least one week in advance of the public hearing.

NOTE: Hearing participants are encouraged to attend in person or be prepared to use the telephonic option (call in) if they experience technical difficulties. In-person attendance will take place at the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: September 11, 2026.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, email rulescoordinator@dol.wa.gov, beginning July 22, 2026, by September 10, 2026.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, email rulescoordinator@dol.wa.gov, by August 22, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making would create a new definition for "defective," and establish the process and fees related to free or reduced-cost license plate replacements for defective license plates. This rule making is required by SHB 2114, chapter 172, Laws of 2026.

Reasons Supporting Proposal: SHB 2114, passed during the 2026 legislative session, requires the department of licensing to perform this rule making.

Statutory Authority for Adoption: Chapter 46.17 RCW, Vehicle licenses; RCW 46.16A.200 License plates; and SHB 2114, passed during the 2026 legislative session.

Statute Being Implemented: Chapter 172, Laws of 2026.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting: Nikkita Riley, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-3789; Implementation and Enforcement: Stacy Allen, 1125 Washington Street S.E., Olympia, WA 98504, 360-902-0122.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98504, phone 360-902-3846, email rulescoordinator@dol.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

August 5, 2026
Ellis Starrett
Rules and Policy Manager

**RDS-7303.1**

AMENDATORY SECTION (Amending WSR 11-17-111, filed 8/23/11, effective 9/23/11)

**WAC 308-96A-005 Terminology—Definitions.** Terms used in chapter 46.16A RCW and this chapter will have the following meanings except where otherwise defined, and where the context clearly indicates the contrary:

(1) "Application" means a form provided or approved by the department to apply for different types of services and documents.

(2) "Cab and chassis" is an incomplete vehicle manufactured and sold with only a cab, frame and running gear. (WAC 308-96A-145.)

(3) "Certificate of license registration" means a document issued by the department and required by RCW 46.16A.180 to be carried in the vehicle to operate legally on the roadways of Washington and described in RCW 46.12.540.

(4) "Chattel lien" is a process by which a person may sell or take ownership of a vehicle when:

(a) They provide services or materials for a vehicle at the request of the registered owner; and

(b) The person who provided the services and/or materials has not been compensated.

(5) "Confidential" and "undercover" license plates have the same meaning as provided in RCW 46.04.142.

(6) "Current year" means the current registration year unless otherwise stated. (WAC 308-96A-260.)

(7) "Defective" means license plates that are no longer functional as described in section 2(2), chapter 172, Laws of 2026.

(8) "Exception reports" means the main source of communication between jurisdictions and the department of licensing as computer reports that must be used by the jurisdiction to correct errors they have submitted to the department. Reports are received by all participating jurisdictions, whether processing vehicle violations manually or electronically.

((~~(8)~~)) (9) "Expiration day and month."

(a) "Date of expiration" or "expiration date" means the day of the month on which the vehicle registration, gross weight license, decal or tabs expire.

(b) "Month of expiration" or "expiration month" means the calendar month during which a registration period ends. (WAC 308-96A-260.)

((~~(9)~~)) (10) "Fleet" means a group of vehicles registered in the same owner name and which have been assigned the same fleet identifier code by the department.

((~~(10)~~)) (11) "Gross weight," "declared gross weight," and "tonnage" mean gross weight defined in RCW 46.16A.455, 46.16A.425, 46.04.140 and chapter 46.44 RCW.

((~~(11)~~)) (12) "Identification card" means the identification card referred to in RCW 46.19.010 for disabled parking privileges and is used for identification of persons with disabilities.

((~~(12)~~)) (13) "Indian country" means all lands, notwithstanding the issuance of any patent, within the exterior boundaries set aside by the United States for the use and occupancy of Indian tribes by treaty, law or executive order and which are areas currently recognized as "Indian country" by the United States Department of the Interior as referenced in 18 U.S.C. 1151 and C.F.R. 25.

((~~(13)~~)) (14) "Indian tribe" means a Washington Indian nation, tribe, band, or community recognized as an "Indian tribe" by the United States Department of the Interior.

((~~(14)~~)) (15) "Indian" means a person on the tribal rolls of the Washington Indian tribe occupying Indian country.

((~~(15)~~)) (16) "Individual with disabilities parking placard expiration date" means the last day of the month as specified on the department placard.

((~~(16)~~)) (17) "Jurisdiction" as used in the vehicle violation system means any district, municipal, justice, superior court, Washington state department of transportation, or authorized representative of one of these entities.

((~~(17)~~)) (18) "Jurisdiction seal" means an embossed seal or stamp provided by the jurisdiction to authenticate documents provided by jurisdictions.

((~~(18)~~)) (19) "Landlord's lien" for rent is a process by which a landlord may sell or take ownership of a tenant's vehicle as security for rent due.

((~~(19)~~)) (20) "License or licensing" and "register or registering" are synonymous and mean the act of registering a vehicle under chapter 46.16A RCW.

((~~(20)~~)) (21) "License fee" means the fees required for the act of licensing a vehicle under chapter 46.17 RCW. License fee does not include license plate fees identified as taxes, and fees collected by the department for other jurisdictions.

((~~(21)~~)) (22) "Licensed physician" for the purpose of individual with disabilities parking privileges, means: Chiropractic physicians, naturopaths, medical doctors, osteopathic physicians, podiatric physicians, and advanced registered nurse practitioners. Licensed physician does not include persons licensed in the professions of dentistry and optometry. (RCW 46.19.010.)

((~~(22)~~)) (23) "Municipality" in reference to parking tickets, means every court having jurisdiction over offenses committed under RCW 46.20.270.

((~~(23)~~)) (24) "NCIC number" means the numeric code assigned by the National Crime Information Center to identify a jurisdiction.

((~~(24)~~)) (25) "One hundred twenty-day notice" in reference to vehicle violations means a notice of vehicle violations that must be satisfied prior to the registration renewal date. (RCW 46.16A.120.)

((~~(25)~~)) (26) "Vehicle violation disposition" means the requested action as determined by the jurisdiction to add failure-to-pay vehicle violations, or to remove paid vehicle violations from a vehicle record. (RCW 46.16A.120.)

((~~(26)~~)) (27) "Vehicle violation" means any standing, stopping, toll nonpayment civil penalty, automated traffic safety camera infractions, or vehicle violation per RCW 46.20.270(3).

((~~(27)~~)) (28) "Vehicle violation list" means a computerized list containing all outstanding vehicle violations, which have been processed by the department. (RCW 46.16A.120.)

((~~(28)~~)) (29) "Permanent" in reference to individual with disabilities parking privileges, means a licensed physician has certified that a qualifying condition is expected to last at least five years. (RCW 46.19.010. ((~~WAC 308-96A-306.~~)))

((~~(29)~~)) (30) "Permanent fleet" means a group of ((~~fifty~~)) 50 or more vehicles registered in the same owner(s) name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC 308-96A-161.)

((~~(30)~~)) (31) "Permit" in reference to individual with disabilities parking privileges means the proof provided by the department in the form of placard(s), special license plate(s) and an identification card indicating eligibility for individual with disabilities parking privileges. (RCW 46.19.010.)

((~~(31)~~)) (32) "Personal use vehicle" in reference to disabled veteran's, prisoners of war and congressional medal of honor plates, means vehicles not used for commercial purpose including: Passenger vehicles, motor homes, motorcycles, and trucks with designated gross vehicle weight not exceeding ((~~twelve thousand~~)) 12,000 pounds. Registration ownership must be in the name of the individual and not in the business name. (WAC 308-96A-046.)

((~~(32)~~)) (33) "Placard" is an item issued to individuals who qualify for special individual with disabilities parking privileges under RCW 46.19.010 and are entitled to receive from the department of licensing in the form of a removable windshield placard bearing the international symbol of access and individual serial number.

((~~(33)~~)) (34) "Private carriers" means those entities contracting with public transportation authorities to transport persons with disabilities described in RCW 46.19.010.

((~~(34)~~)) (35) "Privilege" in reference to individual with disabilities parking privileges means permission to utilize the benefits associated with the permit. (RCW 46.19.010, 46.61.582 and chapter 70.84 RCW (July 1, 2011, version((~~). WAC 308-96A-306~~)).)

((~~(35)~~)) (36) "Public transportation authorities" means those entities operating motor vehicles owned or leased by Washington state, or a town, city, county, municipality, or metropolitan or municipal corporation within the state, or United States government agencies or Indian nations used for the primary purpose of transporting persons with disabilities described in RCW 46.19.010.

((~~(36)~~)) (37) "Regular fleet" means a group of five or more vehicles registered in the same owner(s) name and which have been assigned the same fleet identifier code by the department and has an expiration date of December 31st of each year. (WAC 308-96A-161.)

((~~(37)~~)) (38) "Salvage title" means a certificate of title issued by another jurisdiction designating a motor vehicle as a "salvage vehicle."

((~~(38)~~)) (39) "Self-storage facilities lien" is a process by which the owner of a self-storage facility may sell a vehicle stored at the facility as security for rent or other charges due.

((~~(39)~~)) (40) "Signature" means any memorandum, mark, sign or subscriptions made with intent to authenticate an application. (RCW 9A.04.110((~~(23)~~)) (24).)

((~~(40)~~)) (41) "Unprocessed" as used in vehicle violation system means an update of the computer record has not occurred.

((~~(41)~~)) (42) "Use classes" means those vehicles described in WAC 308-96A-099.

((~~(42)~~)) (43) "Vehicle database record" means the electronic record stored on the department's motor vehicle database reflecting vehicle and ownership information.

((~~(43)~~)) (44) "Vehicle/vessel report of sale" means a document or electronic record transaction that when properly filed protects the seller of a vehicle/vessel from certain criminal and civil liabilities arising from use of the vehicle/vessel by another person after the vehicle/vessel has been sold or a change in ownership has occurred.

AMENDATORY SECTION (Amending WSR 15-10-005, filed 4/22/15, effective 5/23/15)

**WAC 308-96A-021 Replacement plates—Requirements.** (1) **How do I obtain replacement plate(s) for my current Washington plate(s)?**

You obtain replacement plate(s) by applying to a Washington vehicle licensing office in person or by mail.

(2) **When do I need to replace my plate(s)?**

You need to replace your plate(s) if:

(a) Your plate(s) are lost, destroyed, or mutilated. For an additional fee, you may replace them with the same number and letter combination as long as the plate meets a current approved license plate configuration and background; or

(b) Your plate(s) are stolen. You may not request the same number and letter combination (see the note at the end of this section); or

(c) Your plate(s) are defective as described in section 2(2), chapter 172, Laws of 2026; or

(d) The primary use of your vehicle has changed requiring new plate(s) designated for the new use of the vehicle. Example: A passenger car used to transport commodities, merchandise, produce, freight or animals for commercial purposes may be licensed as a commercial use truck; or

((~~(d)~~)) (e) You took ownership of a vehicle, unless you met one of the exemptions in RCW 46.16A.200, or the vehicle is registered as a title purpose only or has one of the following nonstandard plates on it at the time of transfer:

(i) Horseless carriage plates;

(ii) Collector vehicle plates; or

(iii) Restored plates.

(3) **Who can apply for replacement plate(s)?**

One of the registered owners or the owner's authorized representative may apply for replacement plate(s).

(4) **What documentation do I need to apply for replacement plate(s)?**

(a) If your plate(s) are lost, stolen (see note at end of this section), destroyed, or mutilated, you need to submit an affidavit of loss or letter of request describing the vehicle by Washington license plate or vehicle identification number. The affidavit of loss or letter of request must be signed by at least one of the registered owners. The registered owner's signature must be either notarized by a notary public or certified by an authorized employee of a Washington vehicle licensing office. A replacement plate fee will be charged. For an additional fee, the same number and letter combination may be requested as long as the plate meets a current approved license plate configuration and background.

(b) If the primary use of your vehicle has changed requiring new plate(s) designated for the new use of the vehicle, the department will replace the plate(s) without the affidavit of loss or letter of request. A new plate fee will be charged.

(5) **What if the department issued incorrect plate(s) for my vehicle?**

When incorrect plate(s) have been issued due to departmental error, the department will replace the plate(s) without the affidavit of loss or letter of request. No replacement plate fee will be charged in this case.

(6) **If I replace special license plate(s) on a currently registered vehicle, will I receive the same license plate number and letter combination?** Yes, for an additional fee, if you are replacing license plates on a currently registered vehicle, your license plates will be replaced with the same number and letter combination as shown on the vehicle computer record as long as the plate meets a current approved license plate configuration and background.

Note: If the license plate has been reported as stolen or if the department record indicates the vehicle has been stolen, the same number and letter combination will not be issued.

NEW SECTION

**WAC 308-96A-022 Defective plates replacement.** Individuals may qualify for free or reduced-cost replacements for defective license plates as authorized by section 2, chapter 172, Laws of 2026.

(1) **Free replacements.** The department will replace license plates deemed defective free of charge when requested within 24 months of the original issuance of the plates.

The request must be made or postmarked on or before the last day of the 24-month period.

(2) **Reduced fees.** The department will replace license plates deemed defective at reduced cost if requested between 24 months and 60 months of the original issuance of the plates.

The request must be made on or before the last day of the 60-month period.

(3) **Reduced-fee plate replacement fees.** Reduced-fee replacement plates are subject only to the following fees:

(a) The filing fee in accordance with RCW 46.17.005;

(b) The license service fee in accordance with RCW 46.17.025;

(c) The service fee in accordance with RCW 46.17.040 (1)(b);

(d) The retention fee in accordance with RCW 46.17.200, when applicable;

(e) The department may charge a fee to cover the costs of production and postage.

(4) **Retention fee requirements.** The retention fee is required when the owner wishes to retain the same configuration on a standard license plate or special background license plate.

No retention fee is charged on license plates with personalized configurations.

(5) **Requesting replacements.** The department will determine if the plate(s) meet the requirement of being defective.

(a) Plate owners may request replacements for defective plate(s) in one of the following ways:

(i) By visiting a vehicle licensing office.

(ii) By mailing the request and defective plate(s) to the department.

(b) Owners must surrender their assigned plate(s) to receive free or reduced cost defective plates. If only one plate in a set is deemed defective, both plates must be surrendered.

(c) If defective, the vehicle licensing office or the department will issue replacement plate(s) either free of cost, or at the combined cost of fees outlined in this section.

(6) **Denied requests.** The department, agents, and subagents may deny any requests for free or reduced-cost replacement plates when any of the following apply:

(a) The license plate is legible, clearly identifiable, and does not have any damage or minor cosmetic wear that would interfere with the function of the license plate.

(b) The requester is found to have made an excessive number of requests within 60 months of original issuance of the plate(s).

(c) For any reason outlined in section 2(4), chapter 172, Laws of 2026.

**WSR 26-16-086**
**PROPOSED RULES**
**PUGET SOUND**
**CLEAN AIR AGENCY**
[Filed August 5, 2026, 9:12 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: Amend Regulation I, Sections 3.11 Civil Penalties and 3.25 Federal Regulation Reference Date.

Hearing Location(s): On September 24, 2026, at 8:45 a.m., via Zoom at https://us02web.zoom.us/j/87677729331, Webinar ID 876 7772 9331; Dial in 833 548 0276 US toll free. The meeting can also be attended in person at the Puget Sound Clean Air Agency (agency), 1904 3rd Avenue, Suite 105, Seattle, WA.

Date of Intended Adoption: September 24, 2026.

Submit Written Comments to: Betsy Wheelock, Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, email RegUpdates@pscleanair.gov, fax 206-343-7522, beginning August 24, 2026, 8:00 a.m., by September 23, 2026, 4:30 p.m.

Assistance for Persons with Disabilities: Contact agency receptionist, phone 206-343-8800, fax 206-343-7522, email RegUpdates@pscleanair.gov, by September 18, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **Section 3.11** - The agency's practice for many years has been to annually adjust the maximum civil penalty amount as allowed by law. The proposed adjustment to the maximum civil penalty amount accounts for inflation, as authorized by RCW 70A.15.3160 (formerly RCW 70.94.431) and as determined by the state economic and revenue forecast council. Without this adjustment, the maximum penalty amount would effectively decrease each year. The consumer price index (CPI) for the Seattle/Tacoma/Bellevue area increased by 3.07 percent for the 2025 calendar year, which amounts to an increase of $801.00 in the maximum civil penalty amount. The agency has used the CPI for wage earners (CPI-W) in the Puget Sound region for many years to make this inflation-based adjustment because it reflects the data of what happened (i.e., not a forecast) and it represents local economic information.

The proposed amendment does not affect the way the agency determines actual civil penalty amounts in individual cases. This continues to be done following civil penalty worksheets previously approved by the board.

**Section 3.25** - This section currently provides that whenever federal rules are referenced in agency regulations, the effective date of the federal regulations referred to is July 1, 2025. This provides certainty so that persons affected by the regulations and agency staff know which version of a federal regulation to reference. For many years, the agency's practice has been to update this date annually to stay current with federal regulations. Following this practice, the proposed amendments would change the reference date to July 1, 2026.

Reasons Supporting Proposal: See purpose above.

Statutory Authority for Adoption: Chapter 70A.15 RCW.

Statute Being Implemented: Chapter 70A.15 RCW.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: John Dawson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4060; Implementation and Enforcement: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, 206-689-4052.

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

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 does not apply to local air agencies, per RCW 70A.15.2040.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Is exempt under RCW 19.85.011.

Explanation of exemptions: Chapter 19.85 RCW does not appear to apply to local air agencies.

Scope of exemption for rule proposal:

Is fully exempt.

July 30, 2026
Christine Cooley
Executive Director

**AMENDATORY SECTION**
**REGULATION I, SECTION 3.11 CIVIL PENALTIES**

(a) Any person who violates any of the provisions of chapter 70A.15 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed $((~~26,040.00~~)) 26,841.00, per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70A.15 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than $((~~26,040.00~~)) 26,841.00, for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the procedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

**AMENDATORY SECTION**

**REGULATION I, SECTION 3.25 FEDERAL REGULATION REFERENCE DATE**

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ((~~2025~~)) 2026.

**WSR 26-16-090**
**PROPOSED RULES**
**DEPARTMENT OF LICENSING**
[Filed August 5, 2026, 10:28 a.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); and proposal is exempt under RCW 34.05.350 Emergency rules and amendments.

Title of Rule and Other Identifying Information: WAC 308-96A-080 Undercover and confidential license plates—Application procedures, and 308-96A-095 Undercover or confidential license plates—Cancellation.

Hearing Location(s): On September 14, 2026, at 10:30 a.m., via Zoom meeting at https://us06web.zoom.us/j/89992460071?pwd=vxryUtmBIoFjaTTeTMBnZUEEBYICg3.1 or meeting chat link at https://us06web.zoom.us/launch/jc/89992460071, Meeting ID 899 9246 0071, Passcode 907007; or One-tap mobile +12532158782,,89992460071#,,,,*907007# US (Tacoma), +12532050468,,89992460071#,,,,*907007# US; or join by SIP 89992460071@zoomcrc.com. Join instructions at https://us06web.zoom.us/meetings/89992460071/invitations?signature=kxNYlbyqJ6OOCtzeDoAd_buX7u4hsdjrjGR8t6hWyfM. If you are having trouble accessing the virtual meeting, call 360-902-3486 at the time of the hearing to request assistance. Email rulescoordinator@dol.wa.gov if you would like to request an interpreter, or other accommodations, at least one week in advance of the public hearing.

NOTE: Hearing participants are encouraged to attend in person or be prepared to use the telephonic option (call in) if they experience technical difficulties. In-person attendance will take place at the Highways and Licensing Building, 1125 Washington Street S.E., Olympia, WA 98504.

Date of Intended Adoption: September 15, 2026.

Submit Written Comments to: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98501, email rulescoordinator@dol.wa.gov, beginning August 5, 2026, by September 14, 2026.

Assistance for Persons with Disabilities: Contact Ellis Starrett, phone 360-902-3846, email rulescoordinator@dol.wa.gov, by August 31, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarify the department of licensing's (department) authority to deny, cancel, or refuse to renew confidential and undercover license plates based on the conduct of the units of local government, state departments, agencies and officials, and federal departments and agencies.

Reasons Supporting Proposal: Clarifying the department's authority to deny, cancel, or refuse to renew confidential and undercover license plates is a matter of imminent public safety. The department seeks to ensure that confidential and undercover license plates are not used to further policies found to be unconstitutional or in violation of Washington state or federal law.

Statutory Authority for Adoption: RCW 46.01.110 Rule-making authority.

Statute Being Implemented: RCW 46.08.066 Publicly owned vehicles—Confidential license plates, drivers' licenses, identicards—Issuance, rules governing.

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

Name of Proponent: Department of licensing, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Ellis Starrett, 1125 Washington Street S.E., Olympia, WA 98501, 360-902-3846.

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

A cost-benefit analysis is not required under RCW 34.05.328. The department is further clarifying already existing authority. There are no additional costs or requirements being placed on applicants for a confidential or undercover license plate.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Scope of exemption for rule proposal:

Is fully exempt.

August 5, 2026
Ellis Starrett
Rules and Policy Manager

**RDS-7229.3**

AMENDATORY SECTION (Amending WSR 06-04-026, filed 1/24/06, effective 2/24/06)

**WAC 308-96A-080 Undercover and confidential license plates—Application procedures.** (1) **What are undercover and confidential license plates?** They are standard issue license plates assigned only to vehicles owned or operated by government agencies as identified in RCW 46.08.066. These vehicles include, but are not limited to, off road vehicles, trailers, and snowmobiles.

(2) **When is an undercover or confidential license plate issued?** An undercover or confidential license plate is issued to government agencies when being used in confidential, investigative, or undercover work.

(3) **When are undercover and confidential license plates used?**

(a) These plates are used for official business by government agencies or any state elected official.

(b) For the personal security of any other public officer, or public employee, for use on an unmarked publicly owned or controlled vehicle for the conduct of business for the period of time required.

(4) **How are undercover and confidential vehicles registered?**

(a) An undercover license plate record will show fictitious names and addresses on all department records subject to public disclosure.

(b) A confidential license plate record will show the government agency name and address on all department records subject to public disclosure.

(5) **Who is responsible for verifying that only fictitious names and addresses are used for undercover vehicle registrations?** The individual signing the application.

(6) **How does a government agency apply for undercover or confidential license plates?**

(a) A completed application form approved by the department needs to be signed by the government agency head or designated contact person.

(b) A copy of the current title, registration or other documents approved by the department of licensing that proves the vehicle is owned or operated by the government agency.

(c) Provided, however, that the department shall have discretion to deny, cancel, or refuse to renew confidential or undercover plates to any state, local, or federal law enforcement agency or department that acted under a policy a court has found unconstitutional or illegal under Washington state or federal law and has not taken corrective action to reform its unconstitutional or illegal policy.

AMENDATORY SECTION (Amending WSR 02-21-118, filed 10/23/02, effective 11/23/02)

**WAC 308-96A-095 Undercover or confidential license plates—Cancellation.** (1) **Who may cancel undercover or confidential license plates?** Undercover or confidential license plates may be canceled one of two ways:

(a) The department may cancel or refuse to renew undercover or confidential license plates when the department has reasonable cause to believe the license plates are being used for purposes other than those authorized in RCW 46.08.066 or by any state, local, or federal law enforcement agency or department that has acted under a policy a court has found unconstitutional or illegal under Washington state or federal law and has not taken corrective action to reform its unconstitutional or illegal policy; or

(b) A government agency may request cancellation of their undercover or confidential license plates when the license plates are no longer required.

(2) **How does a government agency cancel undercover or confidential license plates?** The government agency notifies the department in writing that the undercover or confidential license plates are no longer required, and indicates that the license plates and registration are being returned to the department or are being destroyed.

(3) **May the undercover or confidential license plates remain on the vehicle when it is removed from the program?** No, the license plates must be removed from the vehicle and returned to the department or destroyed.