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 eleven 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) x (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 wine making 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 non-production 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

REGULATION I ARTICLE 6
AMENDATORY SECTION

SECTION 6.03 NOTICE OF CONSTRUCTION

(a) It shall be unlawful for any person to cause or allow the establishment of a new source, or the replacement or substantial alteration of control equipment installed on an existing source, unless a "Notice of Construction application" has been filed and an "Order of Approval" has been issued by the Agency. The exemptions in Sections 6.03 (b) and (c) of this regulation shall not apply to:

(1) Any project that qualifies as construction, reconstruction, or modification of an affected facility within the meaning of 40 CFR Part 60 (New Source Performance Standards), except for Subpart AAA (New Residential Wood Heaters), Subpart BB (Kraft Pulp Mills), Subpart S (Primary Aluminum Reduction Plants), Subpart OOO (Nonmetallic Mineral Processing Plants), Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines, and Subpart JJJJ pertaining to owners and operators of emergency stationary spark ignited internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) for which an Order of Approval has been previously issued by the Agency;

(2) Any project that qualifies as a new or modified source within the meaning of 40 CFR 61.02 (National Emission Standards for Hazardous Air Pollutants), except for Subpart B (Radon from Underground Uranium Mines), Subpart H (Emissions of Radionuclides other than Radon from Department of Energy Facilities), Subpart I (Radionuclides from Federal Facilities other than Nuclear Regulatory Commission Licensees and not covered by Subpart H), Subpart K (Radionuclides from Elemental Phosphorus Plants), Subpart Q (Radon from Department of Energy Facilities), Subpart R (Radon from Phosphogypsum Stacks), Subpart T (Radon from Disposal of Uranium Mill Tailings), Subpart W (Radon from Operating Mill Tailings), and for demolition and renovation projects subject to Subpart M (Asbestos);

(3) Any project that qualifies as a new source as defined under 40 CFR 63.2 (National Emission Standards for Hazardous Air Pollutants for Source Categories), except for the provisions of Subpart M (Dry Cleaning Facilities) pertaining to area source perchloroethylene dry cleaners, Subpart LL (Primary Aluminum Reduction Plants), the provisions of Subpart S (Pulp and Paper Industry) and Subpart MM (Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills) pertaining to kraft and sulfite pulp mills, the provisions of Subpart ZZZZ (Reciprocating Internal Combustion Engines) pertaining to emergency and limited-use stationary reciprocating internal combustion engines, Subpart DDDDD (Industrial, Commercial, and Institutional Boilers and Process Heaters), Subpart WWWWW (Hospitals: Ethylene Oxide Sterilizers), Subpart CCCCCC (Gasoline Dispensing Facilities), Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations), Subpart WWWWWW (Plating and Polishing Operations), Subpart XXXXXX (Nine Metal Fabrication and Finishing Source Categories), Subpart YYYYYY (Ferroalloys Production Facilities), and Subpart ZZZZZZ (Aluminum, Copper, and Other Nonferrous Foundries);

(4) Any new major stationary source or major modification as defined under WAC 173-400-030; and

(5) Any stationary source previously exempted from review that is cited by the Agency for causing air pollution under Section 9.11 of this regulation.

(b) **Notifications.** A Notice of Construction application and Order of Approval are not required for the new sources identified in this

section, provided that a complete notification is filed with the Agency. It shall be unlawful for any person to cause or allow establishment of a new source identified in this section unless a complete notification has been filed with the Agency:

Liquid Storage and Transfer

(1) Storage tanks used exclusively for:

(A) Gasoline dispensing and having a rated capacity of ≥1,001 gallons, PROVIDED THAT they are installed in accordance with the current California Air Resources Board Executive Orders;

(B) Organic liquids with a true vapor pressure of 2.2-4.0 psia and having a rated capacity of 20,000-39,999 gallons; or

(C) Organic liquids with a true vapor pressure of 0.5-0.75 psia and having a rated capacity ≥40,000 gallons.

(2) Loading, and unloading equipment used exclusively for the storage tanks exempted above, including gasoline dispensers at gasoline stations.

Relocation of Portable Batch Plants

(3) Relocation of the following portable facilities: ((~~asphalt batch plants,~~)) nonmetallic mineral processing plants, and concrete batch plants for which an Order of Approval has been previously issued by the Agency. *All the conditions in the previously issued Order of Approval remain in effect.*

Dry Cleaning

(4) Unvented, dry-to-dry, dry-cleaning system that uses perchloroethylene as the cleaning solvent and is equipped with emission control equipment to recover the cleaning solvent, PROVIDED THAT the system and installation comply with all requirements of 40 CFR 63, Subpart M (Dry Cleaning Facilities).

Printing

(5) Non-heatset, web offset presses and wholesale, sheet-fed offset presses (lithographic or letterpress) using exclusively soy-based or kerosene-like oil-based inks, fountain solutions with ≤6% VOC by volume or ≤8.5% if refrigerated to <60°F, and cleaning solvents with a vapor pressure ≤25mm Hg or a VOC content ≤30% by volume.

Water Treatment

(6) ((~~Industrial and commercial wastewater evaporators (except flame impingement) used exclusively for wastewater generated on-site that meets all discharge limits for disposal into the local municipal sewer system (including metals, cyanide, fats/oils/grease, pH, flammable or explosive materials, organic compounds, hydrogen sulfide, solids, and food waste). *A letter from the local sewer district documenting compliance is required in order to use this exemption.*~~)) Reserved.

Sanding Equipment

(7) Sanding equipment controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of <3.5:1 (for reverse-air or manual cleaning) or <12:1 (for pulse-jet cleaning).

Ventilation and Control Equipment

(8) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow of 2,000-5,000 cfm and an air-to-cloth ratio of <3.5:1 (for mechanical or manual cleaning) or <12:1 (for pulse-jet cleaning).

(9) Replacement of an existing paint spray booth that has previously received an Order of Approval, with like kind equipment and for spray coating operations that continue to operate consistent with the previously issued Order of Approval. *All the conditions in the previously issued Order of Approval remain in effect.*

Miscellaneous

(10) Any source not otherwise exempt under Section 6.03(c) of this regulation that has been determined through review of a Notice of Construction application by the Control Officer not to warrant an Order of Approval because it has a de minimis impact on air quality and does not pose a threat to human health or the environment.

Coffee Roasters

(11) Batch coffee roasters with a maximum rated capacity of ((~~10 lbs~~)) 5 kg per batch or less.

(c) **Exemptions.** A Notice of Construction application and Order of Approval are not required for the following new sources, provided that sufficient records are kept to document the exemption:

Combustion

(1) Fuel-burning equipment (except when combusting pollutants generated by a non-exempt source) having a rated capacity:

(A) <10 million Btu per hour heat input burning exclusively distillate fuel oil, natural gas, propane, butane, biodiesel that meets ASTM D 6751 specifications (or any combination thereof);

(B) <0.5 million Btu per hour heat output burning waste-derived fuel (including fuel oil not meeting the specifications in Section 9.08 of this regulation); or

(C) <1 million Btu per hour heat input burning any other fuel.

(2) All stationary gas turbines with a rated heat input <10 million Btu per hour.

(3) Stationary internal combustion engines having a rated capacity:

(A) <50 horsepower output;

(B) Used solely for instructional purposes at research, teaching, or educational facilities; or

(C) Portable or standby units operated <500 hours per year, PROVIDED THAT they are not operated at a facility with a power supply contract that offers a lower rate in exchange for the power supplier's ability to curtail energy consumption with prior notice.

(4) Relocation of portable, stationary internal combustion engines or gas turbines for which an Order of Approval has been previously issued by the Agency.

(5) All nonroad compression ignition engines subject to 40 CFR Part 89 and land-based nonroad compression engines subject to 40 CFR Part 1039.

Metallurgy

(6) Crucible furnaces, pot furnaces, or induction furnaces with a capacity ≤1,000 pounds, PROVIDED THAT no sweating or distilling is conducted, and PROVIDED THAT only precious metals, or an alloy containing >50% aluminum, magnesium, tin, zinc, or copper is melted.

(7) Crucible furnaces or pot furnaces with a capacity ≤450 cubic inches of any molten metal.

(8) Ladles used in pouring molten metals.

(9) Foundry sand-mold forming equipment.

(10) Shell core and shell-mold manufacturing machines.

(11) Molds used for the casting of metals.

(12) Die casting machines with a rated capacity ≤1,000 pounds that are not used for copper alloys.

(13) Equipment used for heating metals immediately prior to forging, pressing, rolling, or drawing, if any combustion equipment is also exempt.

(14) Forming equipment used exclusively for forging, rolling, or drawing of metals, if any combustion equipment is also exempt.

(15) Heat treatment equipment used exclusively for metals, if any combustion equipment is also exempt.

(16) Equipment used exclusively for case hardening, carburizing, cyaniding, nitriding, carbonitriding, siliconizing, or diffusion treating of metals, if any combustion equipment is also exempt.

(17) Atmosphere generators used in connection with metal heat-treating processes.

(18) Sintering equipment used exclusively for metals other than lead, PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

(19) Welding equipment, and thermal cutting of metals other than stainless steel. Exceptions or specific conditions that apply to these exemptions are identified as follows:

(A) Thermal cutting of stainless steel (defined as an alloy with a minimum chromium content of 10.5%, by weight) installed after November 1, 2013, shall not be exempt. Thermal cutting of stainless steel installed on or before November 1, 2013, shall be exempt;

(B) Thermal cutting of stainless steel performed solely for plant maintenance activities shall be exempt;

(C) Thermal cutting of stainless steel refers to all thermal cutting technologies, including but not limited to, plasma arc, air carbon arc, laser, powder torch, and oxy-fuel technologies.

(20) Soldering or brazing, or equipment, including brazing ovens.

(21) Equipment used exclusively for surface preparation, passivation, deoxidation, and/or stripping that meets all of the following tank content criteria:

(A) ≤50 grams of VOC per liter;

(B) No acids other than citric, methanesulfonic, carbonic, boric, formic, acetic, phosphoric, sulfuric, or ≤12% hydrochloric; and

(C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium hydroxide, potassium hydroxide, and water in any concentration.

Associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment are also exempt. (This exemption does not include anodizing, hard anodizing, chemical milling, circuit board etching using ammonia-based etchant, electrocleaning, or the stripping of chromium, except sulfuric acid and/or boric acid anodizing with a total bath concentration of ≤20% by weight and using ≤10,000 amp-hours per day, or phosphoric acid anodizing with a bath concentration of ≤15% by weight of phosphoric acid and using ≤20,000 amp-hours per day.)

(22) Equipment used exclusively for electrolytic plating (except the use of chromic and/or hydrochloric acid) or electrolytic stripping (except the use of chromic, hydrochloric, nitric, or sulfuric acid) of brass, bronze, copper, iron, tin, zinc, precious metals, and associated rinse tanks and waste storage tanks used exclusively to store the solutions drained from this equipment. Also, equipment used to electrolytically recover metals from spent or pretreated plating solutions that qualify for this exemption.

Ceramics and Glass

(23) Kilns used for firing ceramic-ware or artwork, if any combustion equipment is also exempt.

(24) Porcelain enameling furnaces, porcelain enameling drying ovens, vitreous enameling furnaces, or vitreous enameling drying ovens, if any combustion equipment is also exempt.

(25) Hand glass melting furnaces, electric furnaces, and pot furnaces with a capacity ≤1,000 pounds of glass.

(26) Heat-treatment equipment used exclusively for glass, if any combustion equipment is also exempt.

(27) Sintering equipment used exclusively for glass PROVIDED THAT no coke or limestone is used, if any combustion equipment is also exempt.

Plastics and Rubber and Composites

(28) Equipment used exclusively for conveying and storing plastic pellets.

(29)(A) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.

(B) Filament-based three-dimensional printing.

(C) Resin-based three-dimensional printing where resin usage is less than 7,500 kg per year.

(D) Laser sintering of nylon or plastic powders where powder usage is less than 7,500 kg per year, including any post-processing breakout operation using hand-held tools.

(30) Equipment used for extrusion, compression molding, and injection molding of plastics, PROVIDED THAT the VOC content of all mold release products or lubricants is ≤1% by weight.

(31) Injection or blow-molding equipment for rubber or plastics, PROVIDED THAT no blowing agent other than compressed air, water, or carbon dioxide is used.

(32) Presses or molds used for curing, post-curing, or forming composite products and plastic products, PROVIDED THAT the blowing agent contains no VOC or chlorinated compounds.

(33) Presses or molds used for curing or forming rubber products and composite rubber products with a ram diameter ≤26 inches, PROVIDED THAT it is operated at ≤400°F.

(34) Ovens used exclusively for the curing or forming of plastics or composite products, where no foam-forming or expanding process is involved, if any combustion equipment is also exempt.

(35) Ovens used exclusively for the curing of vinyl plastisols by the closed-mold curing process, if any combustion equipment is also exempt.

(36) Equipment used exclusively for softening or annealing plastics, if any combustion equipment is also exempt.

(37) Hot wire cutting of expanded polystyrene foam and woven polyester film.

(38) Mixers, roll mills, and calenders for rubber or plastics where no material in powder form is added and no organic solvents, diluents, or thinners are used.

Material Working and Handling

(39)(A) Equipment used for mechanical buffing (except tire buffers), polishing, carving, cutting, drilling, grinding, machining, planing, pressing, routing, sawing, stamping, or turning of wood, ceramic artwork, ceramic precision parts, leather, metals, plastics, rubber, fiberboard, masonry, glass, silicon, semiconductor wafers, carbon, graphite, or composites.

(B) Direct laser marking, etching, or engraving equipment controlled by HEPA filtration and used for identification, traceability, decoration, or similar limited surface-modification purposes, provided that no inks, solvents, adhesives, or other added process materials are used and the equipment is not used for laser cutting or for ablation, stripping, or cleaning conducted primarily to remove coatings or surface treatments.

(40) Hand-held sanding equipment.

(41) Sanding equipment controlled by a fabric filter with an airflow of <2,000 cfm.

(42) Equipment used exclusively for shredding of wood (e.g., tub grinders, hammermills, hoggers), or for extruding, pressing, handling, or storage of wood chips, sawdust, or wood shavings.

(43) Paper shredding and associated conveying systems and baling equipment.

(44) Hammermills used exclusively to process aluminum and/or tin cans.

(45) Tumblers used for the cleaning or deburring of metal products without abrasive blasting.

Abrasive Blasting

(46) Portable abrasive blasting equipment used at a temporary location to clean bridges, water towers, buildings, or similar structures, PROVIDED THAT any blasting with sand (or silica) is performed with ≥66% by volume water.

(47) Portable vacuum blasting equipment using steel shot and vented to a fabric filter.

(48) Hydroblasting equipment using exclusively water as the abrasive.

(49) Abrasive blasting cabinets vented to a fabric filter, PROVIDED THAT the total internal volume of the cabinet is ≤100 cubic feet.

(50) Shot peening operations, PROVIDED THAT no surface material is removed.

Cleaning

(51) Solvent cleaning:

(A) Non-refillable, hand-held aerosol spray cans of solvent; or

(B) Closed-loop solvent recovery systems with refrigerated, air-cooled, or water-cooled condensers used for recovery of waste solvent generated on-site.

(52) Steam-cleaning equipment.

(53) Unheated liquid solvent tanks used for cleaning or drying parts:

(A) With a solvent capacity ≤10 gallons and containing ≤5% by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(B) Using a solvent with a true vapor pressure ≤0.6 psi containing ≤5% by weight perchloroethylene, methylene chloride, carbon tetrachloride, chloroform, 1,1,1-trichloroethane, trichloro-ethylene, or any combination thereof; or

(C) With a remote reservoir and using a solvent containing ≤5% by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof; or

(D) With a solvent capacity ≤2 gallons; or

(E) Using solutions with a Volatile Organic Compound (VOC) content of ≤1% by weight and no identified Hazardous Air Pollutant (HAP), and are heated below the boiling point of the solution.

(54) Hand-wipe cleaning.

Coating, Resin, and Adhesive Application

(55) Powder-coating equipment.

(56) Portable coating equipment and pavement stripers used exclusively for the field application of architectural coatings and industrial maintenance coatings to stationary structures and their appurtenances or to pavements and curbs.

(57) High-volume low-pressure (HVLP) spray-coating equipment having a cup capacity ≤8 fluid ounces, PROVIDED THAT it is not used to coat >9 square feet per day and is not used to coat motor vehicles or aerospace components.

(58) Airbrushes having a cup capacity ≤2 fluid ounces and an airflow of 0.5-2.0 cfm.

(59) Hand-held aerosol spray cans having a capacity of ≤1 quart of coating and hand-held brush and rollers for coating application.

(60) Spray-coating equipment used exclusively for application of automotive undercoating or bed liner materials with a flash point >100°F.

(61) Ovens associated with an exempt coating operation, if any combustion equipment is also exempt.

(62) Ovens associated with a coating operation that are used exclusively to accelerate evaporation, if any combustion equipment is also exempt. (Note: The coating operation is not necessarily exempt.)

(63) Radiation-curing equipment using ultraviolet or electron beam energy to initiate a chemical reaction forming a polymer network in a coating.

(64) Hand lay, brush, and roll-up resins equipment and operations.

(65) Equipment used exclusively for melting or applying of waxes or natural and synthetic resins.

(66) Hot-melt adhesive equipment.

(67) Any adhesive application equipment that exclusively uses materials containing <1% VOC by weight and <0.1% HAP.

(68) Equipment used exclusively for bonding of linings to brake shoes, where no organic solvents are used.

Printing

(69) Retail, sheet-fed, non-heatset offset presses (lithographic or letter-press).

(70) Presses using exclusively UV-curable inks.

(71) Presses using exclusively plastisols.

(72) Presses using exclusively water-based inks (<1.5 lbs VOC per gallon, excluding water, or <10% VOC by volume) and cleaning solvents without VOC.

(73) Presses used exclusively for making proofs.

(74) Electrostatic, ink jet, laser jet, and thermal printing equipment.

(75) Ovens used exclusively for exempt printing presses, if any combustion equipment is also exempt.

Photography

(76) Photographic process equipment by which an image is reproduced upon material sensitized by radiant energy, excluding equipment using perchloroethylene.

Liquid Storage and Transfer

(77) Storage tanks permanently attached to a motor vehicle.

(78) Storage tanks used exclusively for:

(A) Liquefied gases, including any tanks designed to operate in excess of 29.7 psia without emissions;

(B) Asphalt at a facility other than an asphalt storage and transfer terminal, asphalt roofing plant, asphalt processing plant, hot mix asphalt plants, or petroleum refinery;

(C) *Any* liquids (other than asphalt) that also have a rated capacity ≤1,000 gallons;

(D) Organic liquids (other than gasoline or asphalt) that also have a rated capacity <20,000 gallons;

(E) Organic liquids (other than asphalt) with a true vapor pressure <2.2 psia (e.g., ASTM spec. fuel oils and lubricating oils) that also have a rated capacity <40,000 gallons;

(F) Organic liquids (other than asphalt) with a true vapor pressure <0.5 psia that also have a rated capacity ≥40,000 gallons;

(G) Sulfuric acid or phosphoric acid with an acid strength ≤99% by weight;

(H) Nitric acid with an acid strength ≤70% by weight;

(I) Hydrochloric acid or hydrofluoric acid tanks with an acid strength ≤30% by weight;

(J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains ≤1% VOC by weight;

(K) Liquid soaps, liquid detergents, vegetable oils, fatty acids, fatty esters, fatty alcohols, waxes, and wax emulsions;

(L) Tallow or edible animal fats intended for human consumption and of sufficient quality to be certifiable for United States markets;

(M) Water emulsion intermediates and products, including latex, with a VOC content ≤5% by volume or a VOC composite partial pressure of ≤0.1 psi at 68°F; or

(N) Wine, beer, or other alcoholic beverages.

(79) Loading and unloading equipment used exclusively for the storage tanks exempted above.

(80) Loading and unloading equipment used exclusively for transferring liquids or compressed gases into containers having a rated capacity <60 gallons, except equipment transferring >1,000 gallons per day of liquid with a true vapor pressure >0.5 psia.

(81) Equipment used exclusively for the packaging of sodium hypochlorite-based household cleaning or pool products.

Mixing

(82) Mixing equipment, PROVIDED THAT no material in powder form is added and the mixture contains <1% VOC by weight.

(83) Equipment used exclusively for the mixing and blending of materials at ambient temperature to make water-based adhesives.

(84) Equipment used exclusively for the manufacture of water emulsions of waxes, greases, or oils.

(85) Equipment used exclusively for the mixing and packaging of lubricants or greases.

(86) Equipment used exclusively for manufacturing soap or detergent bars, including mixing tanks, roll mills, plodders, cutters, wrappers, where no heating, drying, or chemical reactions occur.

(87) Equipment used exclusively to mill or grind coatings and molding compounds in a paste form, PROVIDED THAT the solution contains <1% VOC by weight.

(88) Batch mixers with a rated working capacity ≤55 gallons.

(89) Batch mixers used exclusively for paints, varnishes, lacquers, enamels, shellacs, printing inks, or sealers, PROVIDED THAT the mixer is equipped with a lid that contacts ≥90% of the rim.

Water Treatment

(90) Oil/water separators, except those at petroleum refineries.

(91) Water cooling towers and water cooling ponds not used for evaporative cooling of process water, or not used for evaporative cooling of water from barometric jets or from barometric condensers, and in which no chromium compounds are contained.

(92) Equipment used exclusively to generate ozone and associated ozone destruction equipment for the treatment of cooling tower water or for water treatment processes.

(93) Municipal sewer systems, including wastewater treatment plants and lagoons, PROVIDED THAT they do not use anaerobic digesters or chlorine sterilization. This exemption does not include sewage sludge incinerators.

(94) Soil and groundwater remediation projects involving <15 pounds per year of benzene or vinyl chloride, <500 pounds per year of perchloroethylene, and <1,000 pounds per year of toxic air contaminants.

Landfills and Composting

(95) Passive aeration of soil, PROVIDED THAT the soil is not being used as a cover material at a landfill.

(96) Closed landfills that do not have an operating, active landfill gas collection system.

(97) Non-commercial composting.

Agriculture, Food, and Drugs

(98) Equipment used in agricultural operations, in the growing of crops, or the raising of fowl or animals.

(99) Insecticide, pesticide, or fertilizer spray equipment.

(100) Equipment used in retail establishments to dry, cook, fry, bake, or grill food for human consumption, including charbroilers, smokehouses, barbecue units, deep fat fryers, cocoa and nut roasters, but not including coffee roasters.

(101) Cooking kettles (other than deep frying equipment) and confection cookers where all the product in the kettle is edible and intended for human consumption.

(102) Bakery ovens with a total production of yeast leavened bread products <10,000 pounds per operating day, but only if any combustion equipment is also exempt.

(103) Equipment used to dry, mill, grind, blend, or package <1,000 tons per year of dry food products such as seeds, grains, corn, meal, flour, sugar, and starch.

(104) Equipment used to convey, transfer, clean, or separate <1,000 tons per year of dry food products or waste from food production operations.

(105) Storage equipment or facilities containing dry food products that are not vented to the outside atmosphere, or that handle <1,000 tons per year.

(106) Equipment used exclusively to grind, blend, package, or store tea, cocoa, spices, coffee, flavor, fragrance extraction, dried flowers, or ((~~spices~~)) cannabis, PROVIDED THAT no organic solvents are used in the process.

(107) Equipment used to convey or process materials in bakeries or used to produce noodles, macaroni, pasta, food mixes, and drink mixes where products are edible and intended for human consumption, PROVIDED THAT no organic solvents are used in the process. This exemption does not include storage bins located outside buildings.

(108)(A) Brewing operations at facilities producing <3 million gallons per year of beer.

(B) Fermentation tanks for production of distilled alcoholic beverages.

(C) 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.

(109)(A) Fermentation tanks for wine (excluding tanks used for the commercial production of yeast for sale).

(B) Storage of wine if no more than 360,000 gallons of wine is stored or aged in wood barrels.

(110) Equipment used exclusively for tableting, or coating vitamins, herbs, or dietary supplements, PROVIDED THAT no organic solvents are used in the process.

(111) Equipment used exclusively for tableting or packaging pharmaceuticals and cosmetics, or coating pharmaceutical tablets, PROVIDED THAT no organic solvents are used.

Quarries, Nonmetallic Mineral Processing Plants, and Concrete and Asphalt Batch Plants

(112) Portable nonmetallic mineral processing plants.

(113) Fixed nonmetallic mineral processing plants.

(114) (Reserved).

(115) Mixers and other ancillary equipment at concrete batch plants (or aggregate product production facilities) with a rated capacity <15 cubic yards per hour.

(116) Concrete mixers with a rated working capacity of ≤1 cubic yard.

(117) Drilling or blasting (explosives detonation).

(118) Asphaltic concrete crushing/recycling equipment with a throughput <5,000 tons per year.

Construction

(119) Asphalt paving application.

(120) Asphalt (hot-tar) roofing application.

(121) Building construction or demolition, except that notification of demolitions is required under Section 4.03 of Regulation III.

Ventilation and Control Equipment

(122) Comfort air-conditioning systems, or ventilating systems (forced or natural draft), PROVIDED THAT they are not designed or used to control air contaminants generated by, or released from, sources subject to Notice of Construction.

(123) Refrigeration units, except those used as, or in conjunction with, air pollution control equipment.

(124) Refrigerant recovery and/or recycling units, excluding refrigerant reclaiming facilities.

(125) Emergency ventilation systems used exclusively to contain and control emissions resulting from the failure of a compressed gas storage system.

(126) Emergency ventilation systems used exclusively to scrub ammonia from refrigeration systems during process upsets or equipment breakdowns.

(127) Negative air machines equipped with HEPA filters used to control asbestos emissions from demolition/renovation activities.

(128) Portable control equipment used exclusively for storage tank degassing.

(129) Vacuum-cleaning systems used exclusively for industrial, commercial, or residential housekeeping purposes controlled by a fabric filter with an airflow <2,000 cfm.

(130) Control equipment used exclusively for sources that are exempt from Notice of Construction under Section 6.03(c) of this regulation.

(131) Routine maintenance, repair, or similar parts replacement of control equipment.

Testing and Research

(132)(A) Laboratory testing and quality assurance/control testing equipment used exclusively for chemical and physical analysis, teaching, or experimentation, used specifically in achieving the purpose of the analysis, test, or teaching activity. ((~~Non-production bench scale research equipment is also included.~~))

(B) Non-production bench-scale research equipment, where "bench-scale" refers to testing on a small spatial scale, such as on a laboratory bench or laboratory worktable or inside a laboratory hood.

Miscellaneous

(133) Single-family and duplex dwellings.

(134) Oxygen, nitrogen, or rare gas extraction and liquefaction equipment, if any combustion equipment used to power such equipment is also exempt.

(135) Equipment, including dryers, used exclusively for dyeing, stripping, or bleaching of textiles where no organic solvents, diluents, or thinners are used, if any combustion equipment used to power such equipment is also exempt.

(136) Chemical vapor sterilization equipment where no ethylene oxide is used, and with a chamber volume of ≤2 cubic feet used by healthcare facilities.

(137) Ozone generators that produce <1 pound per day of ozone.

(138) Fire extinguishing equipment.

(d) Each Notice of Construction application and Section 6.03(b) notification shall be submitted on forms provided by the Agency and shall be accompanied by the appropriate fee as required by Section 6.04 of this regulation. Notice of Construction applications shall also include any additional information required to demonstrate that the requirements of this Article are met. Notice of Construction applications shall also include an environmental checklist or other documents demonstrating compliance with the State Environmental Policy Act.

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 (LHJ), 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)

A brief description of the proposed rule, including the current situation/rule, followed by the history of the issue and why the proposed rule is needed. A description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule: In 2021, ESHB 1184 (chapter 156, Laws of 2021) was passed, requiring the department to set standards and adopt rules for ONWS. ONWS are systems that collect, treat, and reuse nondrinking water from local sources. These systems are optional treatment systems. They are not required at any implementation scale; however, if implemented, the systems must comply with the standards adopted in compliance with ESHB 1184 and rules imposed by the department.

The proposed rules establish risk-based and construction standards for the removal of pathogens, including enteric viruses, bacteria, and parasitic protozoa, from nonpotable source waters. Allowable source waters under this chapter include blackwater, greywater, stormwater, rooftop runoff, foundation drainage, and air conditioning (AC) condensate. Blackwater includes wastewater from toilets, urinals, kitchen sinks, and dishwashers. Greywater includes water from bathroom sinks, showers, bathtubs, clothes washers, and laundry sinks. The nonpotable source waters can be collected and treated on site or nearby so they can be put to beneficial use, where high-quality drinking water, also known as potable water, is not needed. Allowable end uses for the treated nonpotable water include toilet and urinal flushing, priming drain traps, clothes washing, irrigation, and dust suppression.

The proposed rules establish standards and requirements for design, operations, and maintenance of ONWS at the following implementation scales: Multifamily residential; commercial; mixed-use buildings; and district-scale projects, which can include a mix of the aforementioned building types. They do not include single-family residential scale because quantitative microbial risk assessments (QMRA) were not used to relate human health risk with exposure to microbial hazards in single-family residential dwellings.

The proposed rules also 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.

History: Centralized water and wastewater systems are one of the most significant public health advancements of our time. However, many of these centralized water and wastewater systems were built a century ago and for conditions vastly different than those cities currently face. This leaves them inflexible when it comes to adapting to rapidly changing climatic conditions. They are simply insufficient to meet our 21st century challenges.

Despite growing interest in incorporating ONWS to meet broader integrated water resource management goals, a lack of public health-based state or national standards, streamlined permitting processes, and regulatory guidance for ONWS has created barriers to implementation. To address this, the United States Environmental Protection Agency (EPA) conducted risk-based modeling to understand the human health risks associated with on-site nonpotable reuse. QMRA models were developed to characterize potential risks associated with ONWS and to define the levels of pathogen removal needed. These reduction targets, reported for each of the three major groups of pathogens (viruses, bacteria, and protozoa) across various combinations of water sources and end uses, have provided specific performance metrics for ONWS.

The National Blue Ribbon Commission for Onsite Non-Potable Water Systems (NBRC) is a nationwide group of utilities and state and local public health agencies that was tasked with advancing ONWS. NBRC has produced several industry guidance documents that incorporate the results of EPA research. The majority of these proposed rules are based upon the framework provided by NBRC guidance documents. Additionally, the water and wastewater technical expertise on this rule making has been provided by two commissioners involved in the development of NBRC models and guidance documents.

Why the proposed rule is needed: As water supplies become more strained, climate change persists, and populations grow, communities are looking for new ways to develop and manage local water supplies and increase the resiliency of water infrastructure. While the last several decades have witnessed significant investment in centralized municipal wastewater treatment plants to treat wastewater and generate reclaimed water, water rights, including instream flow rules, continue to be an insurmountable barrier to water reuse at the municipal scale. This is especially true in the eastern portion of the state, where water reuse is needed the most.

As a result of these barriers to larger scale water reclamation, there is growing interest in the development of ONWS as an additional water reuse strategy to develop local, sustainable water supplies to address the impacts from climate change. The adoption and implementation of the ONWS rule is another key development on a path the Washington state legislature began more than 30 years ago when it passed the Reclaimed Water Act of 1992. The legislature again affirmed its commitment to water reuse with the 2021 amendment to this law directing the department to adopt ONWS rules.

The decentralization of water treatment and water reuse is the cornerstone of climate-resilient communities. Because ONWS are decentralized water treatment systems they can be used in all the places where:

- A reliable and renewable source of nonpotable water is needed in perpetuity.
- It is too costly to build a centralized distribution network.
- Existing wastewater collection and treatment infrastructure is at or near capacity.

Implemented strategically and at scale, ONWS could delay or eliminate expensive capital expenditures to increase the capacity at a centralized wastewater treatment plant. These are costs that are often passed on to water users, impacting low-income and otherwise disadvantaged communities the hardest. ONWS also helps diversify water supplies, an important need for many water systems across the state, especially in rural areas of Washington state. ONWS can improve stormwater management and enhance the resilience of urban water systems.

Population growth and a changing climate will increase pressures on Washington's water and energy supplies. Buildings account for 40 percent of global greenhouse gas emissions today. By 2050, the built environment could be responsible for 80 percent of greenhouse gas emissions. By reducing the energy required to treat and transport wastewater, on-site water reuse can play a central role in mitigating climate change impacts and building local energy and water resiliency.

If the proposed ONWS rules are adopted and implemented, communities across Washington state can:

- Reduce the amount of wastewater treatment plant effluent, including nutrients, emptied into rivers and Puget Sound.
- Reduce potable water consumption by providing an alternative sustainable source of nonpotable water for nonpotable beneficial end uses.
- Bolster local water supplies by reducing the use of potable water for end uses that do not require drinking-water-quality water.
- Increase resilience to droughts by providing a backup source of water in times of water scarcity. If implemented in low-income

affordable housing, this could provide lower-cost nonpotable water in perpetuity.
- Help manage polluted stormwater runoff, combined sewer overflows, and flooding by capturing and treating rooftop runoff and stormwater and putting it to beneficial use on site for things like toilets and urinals which do not need potable water.
- Reduce the energy intensive and costly need to pump drinking water and wastewater over miles and miles.
- Capture energy from wastewater for use on site, further reducing energy costs.
- Protect water resources by reducing the need to remove fresh water from natural habitats; and reducing the nutrient load from centralized wastewater treatment plants discharging polluted effluent to waters of the state.

Using treated nonpotable water saves the highest quality water for drinking and reduces the pressure on local drinking water supplies. According to the San Francisco Public Utilities Commission (SFPUC), "onsite water systems can reduce potable [drinking] water use up to 45% in residential buildings, and up to 75% in commercial buildings."[1]

[1] SFPUC, *Onsite Water Reuse System Projects Around the World*. 2021. Retrieved July 16, 2026 from https://www.sfpuc.gov/sites/default/files/construction-and-contracts/design-guidelines/3. Case Studies Around the World_2021.pdf.

Integrated across the water cycle and sector, this decentralized, fit for purpose, treated nonpotable water, together with nature-based solutions like low impact development, can create local, resilient, and sustainable water supplies to help Washington communities better manage shared water resources, as well as mitigate and prepare for emergencies and climate change impacts. By creating a clear statewide regulatory pathway for these advanced water treatment systems, the proposed rule is a central component of integrated water resource management and the sustainable use of shared water resources.

Compliance requirements and professional services: If a business or nonprofit organization chooses to implement an ONWS, the compliance requirements will be the same whether it is a small business or a large business. To design and implement a system that meets the requirements of the proposed rule, businesses will have to hire purveyors, operators, professional engineers, designers, plumbers, water system operators, and other contractors as necessary. These individuals will be needed to provide the professional services and carry out the duties/responsibilities described in the significant analysis.

Identification and summary of which businesses are required to comply with the proposed rule using the North American Industry Classification System (NAICS): ONWS are optional treatment systems. They are not required at any implementation scale; however, if implemented, the systems must comply with the standards adopted in compliance with ESHB 1184 and rules imposed by the department. Any commercial or residential business, provided that it has sufficient investment, capital, and technical expertise, can choose to develop and implement an ONWS on its premises. The department anticipates that commercial, real estate holding, and hospitality companies will account for the majority of the types of businesses that will be installing an ONWS in the state. Nonprofit organizations may also be interested in these systems.

In Table 1 below, the department has included an NAICS code for a type of business that is already implementing an ONWS in the state, as an example. However, as noted above, ONWS can be implemented by a va-

riety of industry types. Due to the uncertainty regarding the exact types of businesses likely to install an ONWS, the department is unable to assign specific NAICS codes for this analysis and has made the determination to complete the SBEIS to be most protective of small businesses.

Table 1. Summary of Businesses Required to Comply with the Proposed Rule

NAICS Code (4, 5, or 6 digit)	NAICS Business Description	Number of Businesses in Washington State	Minor Cost Threshold
236220	Commercial and Institutional Building Construction	817	$24,498.80

Analysis of probable costs of businesses in the industry to comply to the proposed rule, which includes the cost of equipment, supplies, labor, professional services, and administrative costs. The analysis considers if compliance with the proposed rule will cause businesses in the industry to lose sales or revenue: ONWS technology and the risk-based standards proposed in this chapter are based on a national model code that has only been implemented in a handful of places, mostly at the local level and with varying other requirements that may influence the cost of an ONWS project. Because the proposed rules establish standards for several implementation scales, nonpotable source waters, and end uses, there are a number of potential combinations of these factors that could make up a single project, resulting in a wide range of potential costs and cost savings.

A lack of data has prompted some of the jurisdictions that are implementing ONWS programs to begin looking at the cost of requiring ONWS at various implementation scales. In 2022, SFPUC drafted a District-Scale Water Reuse Memorandum (memo)[2] evaluating the challenges and opportunities of requiring the construction, operation, and maintenance of district-scale nonpotable water systems. This memo is based on recent ONWS data using comparable standards to those proposed in this chapter. The memo also includes multiple case studies and controls for different cost variables across the represented projects.

[2] SFPUC, *District-Scale Water Reuse Memorandum* (memo). 2022. Currently unavailable online.

The SFPUC memo highlights the following components as representative of the "main cost elements"[3] of an onsite water reuse system:

- **"Initial Capital Cost** - The first costs, both soft and hard, related to the design and construction of the collection, treatment, and distribution components of the onsite reuse system.
- **Ongoing Operating Costs** - Significant over the life of the project, the annual operations & maintenance cost typically represent the majority of the life cycle cost for an onsite reuse system.
- **Ongoing Avoided Water and Sewer Fees** - An onsite reuse system will result in long term savings due to reduced potable water consumption and reduced wastewater discharge to the City sewer system.
- **Loss of Building Area** - Onsite reuse system[s] require space to house the treatment, storage, and pumping equipment, typically in a dedicated room within the ground floor or basement."[4]

[3] Ibid 2.
[4] Ibid 2.

The department lacks the necessary resources to conduct an analysis comparable to that in the SFPUC memo. This has prompted the department to determine that the bulk of this cost analysis will be based on the cost estimates and assumptions in this memo. Most of the proposed rule sections described below have costs associated with either initial capital costs, ongoing operating costs, or both. For these rule sections, the department references the appropriate table that summarizes the relevant cost data from the SFPUC report, for both building- and district-scale projects. Where possible, the department has also produced cost estimates based on experience and expertise reviewing large on-site sewage projects, as well as knowledge of water and wastewater system operation.

Construction costs: According to the SFPUC memo, "though projects have myriad differences in equipment and approach that can influence construction costs, it is reasonable to summarize the major capital cost components [as such]:

- **Graywater Collection Plumbing:** Some reuse systems, particularly those within building-scale residential buildings, will include dual plumbing within the building to collect graywater supply (defined as wastewater from clothes washers, bathtubs, showers, and bathroom sinks) separate from the total combined wastewater (or blackwater defined as wastewater from toilets, dishwashers, kitchen sinks, and utility sinks).
- **Treatment/Storage/Pumping Equipment:** All projects will include treatment, storage (often very large if rainwater is also being collected), and pumping equipment, either located within each building or centralized somewhere within the district.
- **Treated Nonpotable Water (TNW) Distribution Plumbing:** All projects will include dual plumbing outside the building to distribute nonpotable water to the end uses (e.g. toilets or irrigation).
- **TNW Distribution Pipes:** Most district-scale projects will also need water piping outside of the buildings, within the parcel(s) and/or right-of-way, to distribute nonpotable water from the district-scale treatment system to all buildings and end use."[5]

5 Ibid 2.

Operations and maintenance (O&M) costs: According to the SFPUC memo, "the ongoing operations and maintenance (O&M) costs include labor (operators, repair technicians, lab work), materials needed to repair and replace components, chemical inputs, solids disposal, and the cost of energy for pumping and treatment for both collection and distribution plumbing."[6] Furthermore, "the labor involved in O&M, for regular monitoring and sampling, preparing reports, and routing maintenance, is a significant portion of the overall cost and typically larger than the initial capital cost as a component of the total life cycle cost."[7]

6 Ibid 2.
7 Ibid 2.

Ongoing avoided water and sewer fees: Even though an on-site reuse system adds initial and ongoing costs to a project, the reduction in potable water use will also result in ongoing savings through lower utility fees. The SFPUC memo found that "for building-scale projects, the savings will typically never surpass the costs over the life of a

project, but as the amount of nonpotable water produced increases, the value of the associated savings outpace the increase in costs."[8]

[8] Ibid 2.

Loss of building area: The SFPUC memo notes the challenges in quantifying the loss of building area as a component of the life cycle cost analysis, but also notes the potential significance of these costs in the context of real estate values in San Francisco. This significance can likely be assumed for other high cost of living areas, like Seattle, but could have less of an impact in more rural areas or where real estate costs are not as high.

The memo provides some context of the scale and impact to building area loss costs, using the following example:

"For a district-scale project serving 12 mid-rise buildings, the treatment and pumping equipment would require a space around 2,500 or 3,000 square feet. A single mid-rise building-scale reuse project would need a 600 to 900 square foot room for the reuse equipment. Comparing the two, 12 building-scale systems at 600 square feet each would require 7,200 square feet in total space. Per a recent industry real estate market report, the average annual rent for Class A commercial space in San Francisco during Q3 2021 was $77.03/square foot. Compared to a 3,000 square foot district-scale system, the additional space for the building-scale approach could "cost" over $300,000 per year in potential lost rent."[9]

[9] Ibid 2. Costs presented in 2022 United States dollars (USD).

Portions of the proposed rule are exempt under RCW 19.85.025(3). The remaining sections of the proposed rule have probable costs for businesses in the industry. For the purpose of this analysis, the department anticipates that any costs described below that are attributed to individuals such as an ONWS owner, purveyor, or engineer, will be passed on to the business that is installing and operating the ONWS.

WAC 246-275-120 Allowed source waters.

Description: The proposed rule establishes the allowable nonpotable source waters. RCW 90.46.290 (2)(a) states that the department's rules must address risk-based log reduction targets (LRTs) for the removal of pathogens for alternative water sources, including wastewater from all domestic fixtures, greywater, rainwater, and stormwater. The statute provides a nonexhaustive list of types of source waters. The proposed rule further adds AC condensate, foundation drainage, and roof runoff as allowed source waters based on NBRC's list.

Cost(s): The costs of processing and treating the allowed source waters are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.

Table 3. Construction and Initial Capital Costs[10]

[10] Ibid 2.

Building Scale	**Footprint (sq ft)**	**Building Area (gross sq ft)**			**Residential Occupants**	**Commercial Occupants**
		Total	Residential	Commercial		
	20,000	380,000	270,000	110,000	520	590
	Source Scenario	**Annual Supply (MG/yr)**	**Annual Demand (MG/yr)**	**Annual Reuse (MG/yr)**	**Daily Reuse (gpd)**	
	Greywater	5.7	6.5	4.3	12,000	
	Blackwater	9.1	6.5	4.9	14,000	
	Source Scenario	**Life Cycle Cost Analysis Building Scale Construction Cost***			**Avoided Utility Cost - NPV*,****	
	Greywater	$2.3M			$(5.4) M	
	Blackwater	$1.8M			$(6.2) M	
District Scale	**Footprint (sq ft)**	**Building Area (gross sq ft)**			**Residential Occupants**	**Commercial Occupants**
		Total	Residential	Commercial		
	160,000	760,000	510,000	250,000	990	1,300
	Source Scenario	**Annual Supply (MG/yr)**	**Annual Demand (MG/yr)**	**Annual Reuse (MG/yr)**	**Daily Reuse (gpd)**	
	Greywater	11.0	13.1	8.3	23,000	
	Blackwater	18.0	13.1	9.8	27,000	
	Source Scenario	**Life Cycle Cost Analysis District-Scale Construction Cost***			**Avoided Utility Cost - NPV*,****	
	Greywater	$3.9M			$(10.4) M	
	Blackwater	$2.8M			$(12.4) M	

(MG/yr) = million gallons per year; (gpd) = gallons per day; M = million

*Adjusted for inflation from 2020 USD to 2026 USD using the United States Bureau of Labor Statistics, consumer price index (CPI) inflation calculator. Costs were rounded up.

**Net present value (NPV) is "the discounted monetized value of expected net benefits (i.e., benefits minus costs). NPV is computed by assigning monetary values to benefits and costs, discounting future benefits and costs using an appropriate discount rate, and subtracting the sum total of discounted costs from the sum total of discounted benefits."[11]

[11] The White House, *Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs*. Circular A-94 (Accessed on July 16, 2026).

Table 4. Operations and Maintenance Costs[12]

[12] Ibid 2.

Building Scale	**Footprint (sq ft)**	**Building Area (gross sq ft)**			**Residential Occupants**	**Commercial Occupants**
		Total	Residential	Commercial		
	20,000	380,000	270,000	110,000	520	590
	Source Scenario	**Annual Supply (MG/yr)**	**Annual Demand (MG/yr)**	**Annual Reuse (MG/yr)**	**Daily Reuse (gpd)**	
	Greywater	5.7	6.5	4.3	12,000	
	Blackwater	9.1	6.5	4.9	14,000	
	Source Scenario	**Life Cycle Cost Analysis Building Scale Construction Cost***			**Avoided Utility Cost - NPV*,****	
	Greywater	$3.3M			$(5.4) M	
	Blackwater	$3.6M			$(6.2) M	

	Footprint (sq ft)	Building Area (gross sq ft)			Residential Occupants	Commercial Occupants
		Total	Residential	Commercial		
	160,000	760,000	510,000	250,000	990	1,300
District Scale	**Source Scenario**	**Annual Supply (MG/yr)**	**Annual Demand (MG/yr)**	**Annual Reuse (MG/yr)**	**Daily Reuse (gpd)**	
	Greywater	11.0	13.1	8.3	23,000	
	Blackwater	18.0	13.1	9.8	27,000	
	Source Scenario	**Life Cycle Cost Analysis District-Scale Construction Cost***			**Avoided Utility Cost - NPV*,****	
	Greywater	$4.1M			$(10.4) M	
	Blackwater	$4.5M			$(12.4) M	

(MG/yr) = million gallons per year; (gpd) = gallons per day; M = million

*Adjusted for inflation from 2020 USD to 2026 USD using United States Bureau of Labor Statistics, CPI inflation calculator. Costs were rounded up.

**NPV is "the discounted monetized value of expected net benefits (i.e., benefits minus costs). NPV is computed by assigning monetary values to benefits and costs, discounting future benefits and costs using an appropriate discount rate, and subtracting the sum total of discounted costs from the sum total of discounted benefits."[13]

[13] The White House, *Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs*. Circular A-94 (Accessed on July 16, 2026).

WAC 246-275-125 Allowed end uses.

Description: The proposed rule establishes the allowable end uses. RCW 90.46.290 (2)(a) states that the department's rules must address risk-based LRTs for the removal of pathogens for nonpotable end uses such as toilet and urinal supply water, clothes washing, irrigation, and dust suppression. The proposed rule lists these allowed end uses, adds the priming of drain traps, and clarifies which end uses are not allowed.

Cost(s): The department does not anticipate any additional cost for the proposed rule.

WAC 246-275-140 Engineering qualifications.

Description: The proposed rule requires work that is performed under the direction of a professional engineer to bear the seal, date, and signature of the engineer. This is a requirement under RCW 18.43.030. The proposed rule also requires the professional engineer to have experience commensurate with the complexity of the ONWS, which is an industry standard.

Cost(s): The department does not anticipate any additional cost for the proposed rule. Any professional engineer working on an ONWS will already meet these requirements under the standards set by chapter 18.43 RCW, as well as industry standards.

WAC 246-275-145 Legacy ONWS.

Description: The proposed rule outlines requirements for a legacy ONWS. The purveyor of a legacy ONWS is required to submit an engineering report by the date specified in the rule, that describes the existing system and any required modifications that are necessary to comply with the proposed rule and RCW 90.46.290 (3)(a) and, if applicable (b). Pursuant to RCW 90.46.290 (3)(a), the proposed rule allows the purveyor of a legacy ONWS to apply for a waiver if compliance requiring engineering, repair, or replacement of the system is cost prohibitive. The proposed rule outlines the components of a waiver appli-

cation and specifies that a waiver may not apply to greater than a three-year term.

If the waiver is granted, the purveyor is required to deliver annual, dated notice to all users via mail, email, or publicly posted notice, explaining the requirements for which the waiver has been granted, the costs associated with coming into compliance, and the expiration date of the waiver.

Cost(s): The department anticipates costs to the purveyor and owner of a legacy ONWS to upgrade systems to comply with the rule, but total costs are indeterminate and unable to be estimated due to variability of design and complexity.

The department anticipates that it may take a purveyor 10-20 hours to put together a waiver request package and submit it to the department, assuming that the engineering has been completed. **The department estimated a range from $580.50 to $1,161.00 for a purveyor to put together a waiver request package.[14] In most situations, the department expects that if a subsequent waiver is needed after the initial three-year waiver period concludes, the recurrent cost every third year will be negligible because the purveyor will be resubmitting the package with minimal updates.**

14 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The department anticipates that it may take a purveyor five hours to deliver the annual, dated notice to users. **The department estimated an annual cost of $290.25 for a purveyor to deliver the annual, dated notice to users, for an active waiver.[15]**

15 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

WAC 246-275-150 Waivers.

Description: The proposed rule clarifies the waiver process as allowed in RCW 90.46.290. A purveyor of an ONWS may request a waiver from a specific requirement of the rule. The request is required to be in writing, identify the requirement being waived, state the reason for the waiver, and provide any supporting documentation. If the waiver is granted, the purveyor is required to deliver annual, dated notice to all users via mail, email, or publicly posted notice, explaining the requirements for which the waiver has been granted and the expiration date of the waiver.

Cost(s): The department anticipates that it may take a purveyor 10-20 hours to put together a waiver request package and submit it to the department, assuming that the engineering has been completed. **The department estimated a range from $580.50 to $1,161.00 for a purveyor to put together a waiver request package.[16] The department sets the expiration date for standard waivers. Therefore, this could potentially be a recurring cost. The length of waivers can range from one year to the duration of the system being in operation.**

16 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The department anticipates that it may take a purveyor five hours to deliver the annual, dated notice to users. **The department estimated an annual cost of $290.25 for a purveyor to deliver the annual, dated notice to users for an active waiver.[17]**

17 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

WAC 246-275-155 Extensions.

Description: The proposed rule establishes that if construction of an ONWS does not begin within two years of the department approving the plans and specifications of the project, the plans and specifica-

tions and notice to construct will expire, and the purveyor will have to resubmit the project for approval.

The proposed rule allows the owner to request a single extension of up to two years of the plans and specifications approval prior to the two-year expiration date. The request must be in writing and include a status report and construction schedule.

If the extension is granted, the owner is required to deliver annual, dated notice to all users via mail, email, or publicly posted notice, explaining the reason for the extension and when construction is anticipated to be completed.

Cost(s): The department anticipates that it may take an owner up to or less than five hours to put together a construction extension request package and submit it to the department. This cost would only apply if a construction extension request is needed. **The department estimated a one-time cost of up to or less than $826.80 for an owner to put together a construction extension request package if a construction extension request is needed.[18]**

[18] Average Hourly Wage of Chief Executives, $165.36. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The department anticipates that it may take an owner five hours to deliver the annual, dated notice to users. **The department estimated an annual cost of $826.80 for an owner to deliver the annual, dated notice to users.[19] This notice would be delivered a maximum of two times. After the single, two-year extension, the purveyor will have to resubmit the project for approval.**

[19] Average Hourly Wage of Chief Executives, $165.36. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

WAC 246-275-160 Variances.

Description: The proposed rule establishes the process for applying for a variance. A purveyor of an ONWS may request a variance from a certain requirement of the rule. The request must be in writing, identify the requested variance, state the reason for the variance, and provide any supporting documentation.

Cost(s): The cost of applying for a variance is captured under the process of compiling the engineering report analyzed under WAC 246-275-210. Variances are a part of the design process. The engineering report will capture any variances from the design requested by the purveyor.

WAC 246-275-200 New systems and major modifications to approved ONWS.

Description: The proposed rule outlines the sequence of steps that an owner or purveyor must take when they propose either a new ONWS or major modifications to an already approved ONWS. This section does not contain any new requirements that are not already described in other sections.

Cost(s): There are no new costs for the proposed rule. The costs for each of the steps in the proposed rule are outlined in their respective sections.

WAC 246-275-205 Feasibility study.

Description: The proposed rule requires the submission of a feasibility study for review and approval before submitting the engineering report or construction documents, and before the installation of any ONWS component. The study must include, at a minimum, contact information for the project, location of the ONWS, vicinity and site maps, expected operator qualifications, proposed source waters, treatment unit processes, end uses, consideration of financial and staffing

requirements, and identification of all local permits affecting the project.

Cost(s): The department anticipates that the cost of completing and submitting the feasibility study will vary, depending on whether the owner or design engineer have previously worked on a project of a similar nature and scope, as opposed to never having completed a project before. The costs may be less if the owner or design engineer have that prior design experience.

The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3.

WAC 246-275-210 Engineering report submittal.

Description: The proposed rule outlines the requirements for engineering reports, which are required for a legacy ONWS, new ONWS, or for major modifications to any ONWS.

Cost(s): The department anticipates that it may take an engineer at least 100 hours to prepare and submit both the engineering report required under this section, and the construction documents required under WAC 246-275-215. The costs are described together because it is likely that the engineer will be compiling them simultaneously. **The department estimated a one-time cost of at least $5,805.00 for an engineer to prepare and submit the required engineering report and construction documents.[20]**

20 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The remaining costs of this proposed rule section are incorporated into the construction and initial capital costs in Table 3.

WAC 246-275-215 Construction documents submittal.

Description: The proposed rule requires the submission of all construction documents for review and approval before either beginning construction on major modifications or before requesting the notice to proceed to conditional startup mode. The construction documents must show how the project was or will be modified or constructed in accordance with the approved engineering report and include elements such as detailed construction specifications and assembly techniques, testing criteria, and disinfection procedures.

Cost(s): The costs of this proposed rule are captured under WAC 246-275-210.

WAC 246-275-220 Construction completion report and facility inventory.

Description: The proposed rule requires the submission of a construction completion report and record drawings to the department after construction is completed. These documents 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 facility inventory must be included with the construction completion report.

Cost(s): The department anticipates that it may take an engineer 10 hours to prepare and submit the construction completion report, record drawings, and facility inventory. **The department estimated a one-time cost of $580.50 for the engineer to prepare and submit these documents.[21]**

21 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The remaining costs of this proposed rule section are incorporated into the construction and initial capital costs in Table 3.

WAC 246-275-300 Pathogen log reduction targets (LRT).

Description: The proposed rule requires the ONWS to have a treatment process design that achieves LRTs specified in this section, and to have inadequately treated nonpotable water that does not meet LRTs automatically divert to sanitary or storm sewers. LRTs proposed in the rule are based on the NBRC model, which uses QMRA to derive LRTs. QMRA is a scientific approach to estimate the potential human health risks associated with exposure to microbial hazards such as human pathogenic viruses, bacteria, and protozoa.

Cost(s): The costs of this proposed rule are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M cost in Table 4.

WAC 246-275-305 Log reduction credits.

Description: The proposed rule states that log reduction credits (LRC) are assigned by the department based on the ability of each treatment unit process to achieve an assigned or validated LRC. Table 3 of the proposed rule summarizes the LRCs assigned for each treatment unit process. Additionally, the proposed rule allows for alternate treatment unit process LRC validation, if verifiable evidence is provided in an approved validation engineering report.

Cost(s): The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.

WAC 246-275-310 Water quality limits.

Description: The proposed rule requires ONWS to have a treatment process design that continuously achieves the water quality limits specified in this section, as well as the automatic diversion requirements specified in WAC 246-275-300 and 246-275-315. Limits are established for the following parameters beyond LRTs: Five-day biological oxygen demand (BOD5); free chlorine residual for secondary disinfection; pH; total suspended solids; and turbidity.

Cost(s): The costs of this proposed rule are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4, since there will be initial capital costs associated with designing and constructing the system in a way that meets the water quality limits and ongoing costs to continue meeting the limits throughout the life cycle of the project.

WAC 246-275-315 Design requirements for all ONWS.

Description: The proposed rule establishes design requirements for all ONWS, including provisions related to: Human contact; automatic shutdown; automatic diversion and overflow; signage; flow meters; water quality sample taps; free chlorine residual for secondary disinfection; seals; cross-connection control; air quality; screens; continuous monitoring; and makeup water.

Cost(s): The costs of this proposed rule are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4, since there will be initial capital costs associated with constructing the system to meet the design requirements and ongoing costs to continue meeting the requirements throughout the life cycle of the project. The cost of the proposed rule on a particular ONWS is deemed indeterminate by the department because the design requirements are system dependent.

WAC 246-275-320 Design requirements based on source water.

Description: The proposed rule establishes design requirements based on the individual nature of the system's source water. The proposed rule requires:

- Any system treating blackwater or greywater must include biological treatment resulting in stabilized, nonputrescible nonpotable water that contains dissolved oxygen. The system must also include filtration and properly vented storage tanks.
- Any system treating roof runoff or stormwater must include a first flush diverter or debris excluder and address corrosivity of the treated nonpotable water on end use plumbing and fixtures.
- Any system treating AC condensate must address corrosivity of the treated nonpotable water on end use plumbing and fixtures.

Cost(s): The department anticipates that these design requirement costs would be incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4, since there will be initial capital costs associated with constructing the system to meet the design requirements and ongoing costs to continue meeting the requirements throughout the life cycle of the project. The cost of the proposed rule on a particular ONWS is deemed indeterminate by the department because the design requirements are system dependent.

WAC 246-275-325 Design requirements for irrigation end use.

Description: The proposed rule requires ONWS that treat nonpotable water for irrigation to include design features so that the treated nonpotable water does not: Leave the approved irrigation area as spray or surface flow or runoff, including when soils are saturated; enter a dwelling or food handling facility; or contact a drinking water fountain.

Cost(s): The department does not anticipate that the proposed rule will have any additional costs associated with it, as it simply describes design considerations for systems that treat nonpotable water for irrigation end use.

WAC 246-275-330 Design requirements for district-scale implementation.

Description: The proposed rule requires ONWS collecting, treating, receiving, or distributing water for a district-scale project to 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.

Cost(s): Several different types of lockable valves can be used for the purpose of controlling the flow of water. Ball valve lockout devices can range from $16.85 to $84.07 per unit.[22] Universal valve lockout devices can range from $49.29 to $168.90 per unit.[23] The department anticipates that an ONWS system ranges from needing at least two to up to 20 lockout devices for a district-scale project, depending on the complexity and size of the system. **The department estimated a range of $33.70 to $1,681.40 for an ONWS needing ball valve lockout devices and $98.58 to $3,378.00 for an ONWS needing universal lockout devices for a per system cost.**

[22] Ball Valve Lockout Devices - Grainger Industrial Supply.
[23] Universal Valve Lockout Devices - Grainger Industrial Supply.

WAC 246-275-400 Conditional startup mode operations.

Description: The proposed rule describes the process and requirements for conditional startup mode operations. Conditional startup mode is a testing period after construction or major modification but before final permitting. The ONWS is required to operate in conditional startup mode for 12 months, unless a reduction of the duration of

this period is granted by the regulatory authority. Prior to distribution and use, the treated nonpotable water must be automatically diverted to the sewer and all fixtures must be operated using makeup water, until LRTs and water quality limits are met continuously for 30 days. Once the requirements are continuously met for 30 days, the treated nonpotable water can be distributed and used for the remainder of the conditional use startup mode performance period. Anytime that LRTs and water quality limits are not achieved, inadequately treated water must be diverted. Once the performance period ends, the purveyor is required to submit a final report that summarizes compliance with LRT and water quality limits.

Cost(s): The requirements for water quality sampling during conditional startup mode are described in WAC 246-272-500, and therefore, the costs associated with this activity are captured under that section.

The department anticipates that it may take a purveyor 10 hours to collect, organize, and report the required information in the final report. **The department estimated a one-time cost of $580.50 for a purveyor to put together the final report.**[24] The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.

[24] Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

WAC 246-275-405 Operating permit.

Description: The proposed rule outlines the steps that an operator must take to get an operating permit, as well as lists the terms and conditions that the operating permit must contain. The proposed rule also contains information on how to renew an operating permit and requires the regulatory authority to 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 in processing.

Cost(s): Under the proposed rule, the LHJ will incur costs associated with the requirement to issue the renewal operating permit within 30 days of receiving a complete application. The department did not consider the costs for this requirement, because this section of rule is exempt from analysis under RCW 19.85.025(4). LHJs are a governmental entity that does not meet the definition of "small business" in RCW 19.85.020.

The additional costs for each of the steps in the proposed rule are outlined in their respective sections.

WAC 246-275-410 Operator qualifications and duties.

Description: The proposed rule requires the owner or purveyor to directly employ or maintain a service contract with a qualified operator who has expertise commensurate with the complexity of the operation and provides a nonexhaustive list of the types of expertise that an operator may have, based on the source water that the system uses.

Under the proposed rule, the operator must also hold a valid department-issued certification as a cross-connection control specialist. The proposed rule also establishes and describes the duties of the operator and requires the owner or purveyor to notify the regulatory authority in writing within 30 days of replacement of the operator.

Cost(s): The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.

Additionally, the operator will incur a cost associated with obtaining the department-issued certification as a cross-connection con-

trol specialist. **The one-time application fee for the cross-connection specialist examination is $83, with an annual renewal fee of $68.**[25]

[25] WAC 246-292-995 Certified operator and public water system certification fees, https://app.leg.wa.gov/WAC/default.aspx?cite=246-292-995.

WAC 246-275-415 Cross-connection control and makeup water supply.

Description: The proposed rule requires ONWS to prevent cross-connections. Cross-connection refers to any physical connection or arrangement between potable water and any source of contamination. Cross-connection testing is required for ONWS under the Uniform Plumbing Code and this rule to ensure that there are no cross-connections between the potable and nonpotable water supplies. The proposed rule also requires ONWS to include a source of makeup water, unless it is an irrigation-only system. When temporarily operating with makeup water, the ONWS is not required to maintain a chlorine residual.

Cost(s): The costs of this proposed rule are incorporated into both construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4, since cross-connection testing must occur within 60 calendar days of the completion of construction and continued cross-connection monitoring must occur throughout the life cycle of the project. The department anticipates that the majority of these costs will be capital costs.

WAC 246-275-420 Operations and maintenance.

Description: The proposed rule requires the purveyor to operate and maintain the ONWS in a manner that maintains compliance with the rule and the terms and conditions of the operating permit. It also specifies that the purveyor is required to operate the system based on the site-specific O&M manual and requires the operator to conduct periodic inspections of all components to ensure that the system is in compliance with the conditions of the operating permit, the O&M manual, chapter 51-56 WAC, this chapter, and the district-scale agreement. The proposed rule reiterates that treated nonpotable water must continuously achieve LRTs and water quality standards and that the treatment, collection, storage, or distribution of source water, the diversion of inadequately treated water, or the use of the treated water must not create a nuisance.

Cost(s): The proposed rule describes the core activities that the purveyor must do to keep ONWS operating effectively. The cost of these activities is entirely dependent on the system and will scale with the scale of the project. The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-425 Change of ownership.

Description: The proposed rule establishes that ONWS permits are nontransferable and requires an owner of an ONWS to report any change in purveyor, to the regulatory authority, a minimum of 30 days prior to the change taking effect. The proposed rule also requires a new owner to submit a complete application for a new operating permit 30 days before assuming ownership. The regulatory authority can either approve or deny the change of ownership and is required to communicate the decision in writing. If the change of ownership is approved, the regulatory authority must issue the new owner an operating permit within 30 days of receiving a complete application. Finally, the proposed rule outlines options if the change of ownership is denied by the regulatory authority.

Cost(s): Under the proposed rule, the owner of the ONWS will incur costs associated with notifying the regulatory authority whenever there is a change in the purveyor, as well as with the time that it takes to complete and submit a new application form, if applicable.

The department anticipates that it may take a purveyor up to five hours, at most, to do this work on behalf of the owner. **The department estimated a one-time cost of up to $290.25 for a purveyor to notify the regulatory authority and complete and submit a new application form.**[26]

[26] Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

Additionally, under the proposed rule, the LHJ will incur costs associated with the requirement to issue the operating permit within 30 days of receiving a complete application. The department did not consider the costs for this requirement, because this section of rule is exempt from analysis under RCW 19.85.025(4). LHJs are a governmental entity that does not meet the definition of "small business" in RCW 19.85.020.

WAC 246-275-430 Abandonment.

Description: The proposed rule requires the purveyor to submit an abandonment plan as an element of the O&M manual. The abandonment plan is required to contain a written notice of abandonment that is submitted to the regulatory authority, notification to users of system abandonment, removal and disposal of all sewage, removal of all mechanical and electrical equipment that is no longer in use, disconnection of all abandoned components, and removal or crushing of underground storage tanks.

Cost(s): The proposed rule requires the purveyor to compile a plan that identifies what will happen to the system when it is abandoned. Since this is a requirement of the O&M manual, the cost of the proposed rule is captured under WAC 246-275-440.

WAC 246-275-435 District-scale agreement.

Description: The proposed rule requires a purveyor of a district-scale project to enter into an executed, enforceable legal agreement which defines the roles and responsibilities of each property owner or entity in relation to the maintenance and use of the system. The proposed rule clarifies that this agreement must require that only the purveyor and authorized qualified operators are allowed to alter or maintain ONWS.

Cost(s): The cost of the proposed rule is that of drafting the agreement, likely with the oversight of an attorney. The department has determined that the cost of the proposed rule is indeterminate, as the scope of the agreement will determine the amount of hours spent by the purveyor of a district-scale project and the extent of legal representation (in hours).

WAC 246-275-440 Operations and maintenance manual (O&M manual).

Description: The proposed rule requires a purveyor to develop and implement a site-specific O&M manual that is consistent with the size, complexity, past performance, implementation scale, source waters, and end uses of ONWS. The proposed rule outlines the information that must, at a minimum, be described in the O&M manual. It also grants the regulatory authority the discretion to require additional information or changes to the O&M manual as necessary to protect public health. Finally, the proposed rule requires the O&M manual to be reviewed annually and updated as appropriate.

Cost(s): The costs of this proposed rule reflect the time and effort needed for an engineer to create the O&M manual. The department anticipates that the purveyor will either already have contracted engineers or will subcontract an engineer to do this work. The department also estimates that the flat-rate, one-time cost will be comparable to the cost for a large on-site sewage system O&M manual, which

ranges from $5,000 to $10,000. This estimate is based on the department's experience reviewing and approving hundreds of O&M manuals. The department anticipates that the recurrent cost of reviewing and updating the manual will be negligible.

WAC 246-275-500 Monitoring and sampling.

Description: The proposed rule establishes the frequency and locations of LRTs and water quality sampling along with several laboratory handling and quality assurance requirements.

The two tables in this section establish both the conditional startup mode and final use mode monitoring frequencies and locations by source water for the following: LRTs; secondary free chlorine residual; heterotrophic plate count; pH; turbidity - media or membrane filter; BOD5 and total suspended solids; and total source water treated/flow rates.

Cost(s): The proposed rule requires the ongoing collection and analysis of water quality samples. The cost of this is variable depending on which lab the samples are sent to, what is being tested for, and how many samples ONWS is sending every year. For example, while unlikely, shipping the samples to a lab outside of the state of Washington would be more costly than doing the testing in-state. Additionally, the analysis of certain chemicals such as synthetic chemicals can cost hundreds of dollars per sample. The department anticipates that a year's worth of analyses may cost an ONWS at least $10,000, with a top estimate being indeterminate due to the variability listed above.

This estimate and all costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-505 Routine water quality reporting.

Description: The proposed rule requires the purveyor, on or before the 10th day of each month during conditional startup, to report all required water quality laboratory results and surrogate parameter instrumentation summaries from the previous month. The data must be reported on a signed data and monitoring report (DMR) form and include descriptions of any component failures, treatment upsets or disruptions, bypasses, odors, complaints, or other system operation anomalies. The proposed rule also requires the purveyor to submit, during final use mode, an annual report and a quarterly DMR if blackwater is a source water for ONWS.

Cost(s): The costs of the proposed rule reflect the time and effort needed for the purveyor to collect, organize, and report the required information. The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-510 Annual reporting.

Description: The proposed rule requires the purveyor to submit an annual report each calendar year. The annual report describes the terms and conditions established in the operating permit, summarizes any complaints received, lists any malfunctions, describes the population served by ONWS, and provides data on annual volumes of potable water, treated nonpotable water, and makeup water.

Cost(s): The costs of the proposed rule reflect the time and effort needed for the purveyor and operator to collect, organize, and report the required information. The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-515 Malfunction notification and reporting.

Description: The proposed rule outlines several different requirements for the notification and reporting of system malfunctions. In the event that a source water or inadequately treated nonpotable

water enters the treated nonpotable water distribution system, the purveyor is required to notify the regulatory authority within 24 hours. If this occurs, the purveyor is also required to notify all system users of what occurred, how it will impact them, and when service is expected to resume. This notification must take place within 15 business days of the notification to the regulatory authority. Notification can be distributed via mail, email, or posted notice. Any time that there is a malfunction, the purveyor is required to notify the regulatory authority within 24 hours and must provide information such as a description of the malfunction, the components involved, suspected causes, mitigation steps, and estimated times for when the malfunction started, when it stopped or will be stopped, and when the system is expected to return to normal operations.

Cost(s): The department anticipates that it may take the purveyor of an ONWS five to 10 hours to both generate the report describing the malfunction and notify users. The proposed rule provides options for how the notification is distributed, allowing the purveyor to choose the most appropriate and cost-effective method for the situation. For example, the purveyor can send an email to all users or create a notice that is posted in a conspicuous place within the building. **The department estimated a range from $290.25 to $580.05 for a purveyor to both generate the required report, as well as notify users of the malfunction.[27]**

27 Average Hourly Wage of Environmental Engineers, $58.05. Occupational Employment and Wage Statistics (Accessed on May 14, 2026).

The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-520 Recordkeeping.

Description: The proposed rule outlines the types of system records that must be kept on site and requires the purveyor to retain engineering documents until the system is abandoned. Other ONWS records are required to be kept for at least five years. Finally, the proposed rule requires that records must be made available for inspection by the department and the LHJ under a joint plan of responsibility.

Cost(s): The department anticipates that any costs associated with one-time or recurrent recordkeeping, such as procuring a file cabinet or paying for digital storage of records, will be negligible, as the purveyor likely already has recordkeeping systems in place. The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-525 User communications.

Description: The proposed rule outlines several different requirements related to user communications. The proposed rule references signage requirements in chapter 51-56 WAC and the malfunction notifications outlined in WAC 246-275-515. All communication with users is required to use clear, concise, and simple language and be provided in languages commonly understood by the populations served. The proposed rule requires the purveyor to maintain a complete list of user complaints and responses, as well as address complaints in a timely manner. Finally, the purveyor is required to provide a copy of the most recent annual report to any user upon request.

Cost(s): The department anticipates costs to the purveyor associated with translating communications into the language(s) spoken by the populations served by the system, but total costs are indeterminate and unable to be estimated due to variability in building type,

demographic makeup of the tenants/users and the languages spoken, and the number of notices being distributed.

The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.

WAC 246-275-600 Modification, suspension, and revocation of operating permits.

Description: The proposed rule provides a list of causes that can lead the regulatory authority to modify, revoke, suspend, or deny an operating permit issued for an ONWS.

Cost(s): The department does not anticipate any additional cost for the proposed rule.

WAC 246-275-605 Notice of violations, enforcement actions, and penalties.

Description: The proposed rule provides a list of possible enforcement actions that the regulatory authority may initiate when an ONWS is out of compliance. The proposed rule also requires that notices and orders issued under this section are in writing, name the person to whom the order is directed, briefly describe each action or inaction, specify any required corrective action, specify the effective date of the order and the time frame required for coming into compliance and provide notice of the consequences of failure to comply. Enforcement orders are required to be served in the manner of service of a summons in a civil action or in another manner showing proof of receipt.

Cost(s): The department does not anticipate additional costs to the proposed rule to permit holders as long as they stay in compliance and do not violate the rules.

Summary of all cost(s):

Table 5. Summary of Section 3 Probable Cost(s)

WAC Section and Title	Probable Cost(s)
WAC 246-275-120 Allowed source waters.	The costs of processing and treating the allowed source waters are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.
WAC 246-275-125 Allowed end uses.	No anticipated additional cost for the proposed rule.
WAC 246-275-140 Engineering qualifications.	No anticipated additional cost for the proposed rule.
WAC 246-275-145 Legacy ONWS.	Indeterminate costs for a purveyor and owner to upgrade the legacy system to come into compliance. $580.50 to $1,161.00 For a purveyor to put together a waiver request package. In most situations, the department expects that if a subsequent waiver is needed after the initial three-year waiver period concludes, the recurrent cost every third year will be negligible because the purveyor will be resubmitting the package with minimal updates. $290.25 for a purveyor to deliver the annual, dated notice to users, for an active waiver.
WAC 246-275-150 Waivers.	$580.50 to $1,161.00 for a purveyor to put together a waiver request package. The department sets the expiration date for standard waivers. Therefore, this could potentially be a recurring cost. The length of waivers can range from one year to the duration of the system being in operation. $290.25 for a purveyor to deliver the annual, dated notice to users, for an active waiver.
WAC 246-275-155 Extensions.	Less than $826.80 for an owner to put together a construction extension request package if a construction extension request is needed. $826.80 for an owner to deliver the annual, dated notice to users. This notice would be delivered a maximum of two times. After the single, two-year extension, the purveyor will have to resubmit the project for approval.
WAC 246-275-160 Variances.	The cost of applying for a variance is captured under the process of compiling the engineering report analyzed under WAC 246-275-210.

WAC Section and Title	Probable Cost(s)
WAC 246-275-200 New systems and major modifications to approved ONWS.	There are no new costs for the proposed rule. The costs for each of the steps in the proposed rule are outlined in their respective sections.
WAC 246-275-205 Feasibility study.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3.
WAC 246-275-210 Engineering report submittal.	One-time cost of at least $5,805.00 for an engineer to prepare and submit the required engineering report and construction documents. The remaining costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3.
WAC 246-275-215 Construction documents submittal.	The costs of this proposed rule are captured under WAC 246-275-210.
WAC 246-275-220 Construction completion report and facility inventory.	One-time cost of $580.50 for the engineer to prepare and submit the required documents. The remaining costs of this proposed rule section are incorporated into the construction and initial capital costs in Table 3.
WAC 246-275-300 Pathogen log reduction targets (LRT).	The costs of this proposed rule are incorporated into both the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.
WAC 246-275-305 Log reduction credits.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.
WAC 246-275-310 Water quality limits.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.
WAC 246-275-315 Design requirements for all ONWS.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4. The cost of the proposed rule on a particular ONWS is deemed indeterminate because the design requirements are system dependent.
WAC 246-275-320 Design requirements based on source water.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4. The cost of the proposed rule on a particular ONWS is deemed indeterminate because the design requirements are system dependent.
WAC 246-275-325 Design requirements for irrigation end use.	No new costs anticipated as the proposed rule describes design considerations for systems that treat nonpotable water for irrigation end use.
WAC 246-275-330 Design requirements for district-scale implementation.	A district-scale project would need at least two to up to 20-lockout devices, with a per system cost ranging between $33.70 and $1,681.40 for ball valve lockout devices and $98.58 and $3,378.00 for universal lockout devices.
WAC 246-275-400 Conditional startup mode operations.	The requirements for water quality sampling during conditional startup mode are described in WAC 246-272-500, and therefore, the costs associated with this activity are captured under that section. One-time cost of $580.50 for a purveyor to put together the final report. The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-405 Operating permit.	The additional costs for each of the steps in the proposed rule are outlined in their respective sections.
WAC 246-275-410 Operator qualifications and duties.	The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4. Additionally, the operator will incur a cost associated with obtaining the department-issued certification as a cross-connection control specialist. The one-time application fee for the cross-connection specialist examination is $83, with an annual renewal fee of $68.
WAC 246-275-415 Cross-connection control and makeup water supply.	The costs of this proposed rule are incorporated into the construction and initial capital costs in Table 3 and the ongoing O&M costs in Table 4.
WAC 246-275-420 Operations and maintenance.	The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-425 Change of ownership.	One-time cost of up to $290.25 for a purveyor to notify the regulatory authority and complete and submit a new application form.
WAC 246-275-430 Abandonment.	The proposed rule requires the purveyor to compile a plan that identifies what will happen to the system when it is abandoned. Since this is a requirement of the O&M manual, the cost of the proposed rule is captured under WAC 246-275-440.

WAC Section and Title	Probable Cost(s)
WAC 246-275-435 District-scale agreement.	The cost of the proposed rule is that of drafting the agreement, likely with the oversight of an attorney. The cost of the proposed rule is indeterminate, as the scope of the agreement will determine the amount of hours spent by the purveyor of the district-scale project and the extent of legal representation (in hours).
WAC 246-275-440 Operations and maintenance manual (O&M manual).	One-time cost of $5,000 to $10,000 for an engineer to create the O&M manual. Estimated negligible recurrent costs for reviewing and updating the manual.
WAC 246-275-500 Monitoring and sampling.	A year's worth of analyses may cost an ONWS at least $10,000 with a top estimate being indeterminate due to the variability associated with what is being tested for, and how many samples ONWS is sending every year. This estimate and all costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-505 Routine water quality reporting.	The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-510 Annual reporting.	The costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-515 Malfunction notification and reporting.	$290.25 to $580.05 For a purveyor to both generate the required report, as well as notify users of the malfunction. The remaining costs of this proposed rule section are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-520 Recordkeeping.	Negligible one-time and recurrent costs for recordkeeping and file storage. The remaining costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-525 User communications.	Anticipated costs to the purveyor associated with translating communications into the language(s) spoken by the populations served by the system. Total costs are indeterminate and unable to be estimated due to variability in building type, demographic makeup of the tenants/users and the languages spoken, and the number of notices being distributed. The remaining costs of this proposed rule are incorporated into the ongoing O&M costs in Table 4.
WAC 246-275-600 Modification, suspension, and revocation of operating permits.	No anticipated additional cost for the proposed rule.
WAC 246-275-605 Notice of violations, enforcement actions, and penalties.	No anticipated costs to permit holders as long as they stay in compliance and do not violate the rules.

The department does not anticipate that compliance with the proposed rule will cause businesses in the industry to lose sales or revenue.

Analysis on if the proposed rule may impose more-than-minor costs for businesses in the industry. Includes a summary of how the costs were calculated: As described in section 2, the department is unable to assign NAICS codes, and therefore, establish a minor cost threshold for this analysis. Therefore, to be the most protective of businesses, the department has determined that the estimated costs of the proposed rule will exceed the minor cost threshold.

Determination on if the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule: The department does not currently have data to determine whether any existing ONWS or future ONWS will be installed within a building owned by a small business. Therefore, it is not possible to determine if any small businesses would be disproportionally affected by the proposed rule. However, the installation of an ONWS at any of the implementation scales described in the proposed rule is a business decision and the department anticipates that any costs incurred by a small business will be the same as the costs incurred by a large business;

therefore, to be the most protective of business, the department has elected to complete the SBEIS in full, as not enough is known to make a determination.

If the proposed rule has a disproportionate impact on small businesses, the following steps have been identified and taken to reduce the costs of the rule on small businesses. If costs cannot be reduced an explanation has been provided below about why the costs cannot be reduced: The proposed rules have been written to be as least burdensome as possible to encourage businesses to adopt these systems. The following are several examples of ways in which the department incorporated less burdensome alternatives for the regulatory requirements.

- The water quality monitoring requirements in the proposed rules allow the operator and purveyor to conduct their own sampling, as opposed to requiring it to be done by an independent, third party. Additionally, the department could have required direct sampling, instead of relying on LRTs and secondary parameter sampling. Direct sampling would have entailed constantly taking samples of the finished water to verify that the final effluent is safe and meets all requirements, which is a more burdensome and staff-intensive alternative.
- LRTs in the proposed rule are in direct alignment with the latest industry science and are designed to be as minimal as possible while still meeting public health goals.
- The proposed rules set different requirements based on source waters, rather than requiring the highest standard of treatment regardless of the source waters.
- The proposed rules include a robust permitting process for legacy systems so that these systems do not have to immediately come up to code. This approach will enable these systems to take the time that they need to make all necessary updates.
- The proposed rules are an alternative to what has been required by the plumbing code, which prescribes certain treatment processes that are not as protective of public health.
- The reporting requirements in the proposed rules are based on NBRC reporting standards. Rather than requiring monthly reporting and the reporting of additional parameters, the department's proposed rules require that the annual reporting for permit renewals be based on conditions established in the operating permit. The other reporting requirements, such as for conditional start-up mode operations and basic water quality sampling, are the baseline reports that would be standard for any ONWS program.
- The proposed rules reduce the frequency of inspections by having minimal allowances for inspections, as needed. The proposed rules eliminate duplicative inspections with plumbing inspectors, and require the operator to conduct periodic inspections.

Description of how small businesses were involved in the development of the proposed rule: At the onset of this rule-making project in August 2021, the department convened a rules advisory committee (RAC) to serve as subject matter experts for the development of the rule. RAC was comprised of individuals representing a diverse group of trade associations, private companies, LHJs, and public utilities. Several of the private companies that design proprietary treatment products and provide consulting and education services provided a small business perspective during the rule-making process. Additionally, the department held three informal comment periods, during which a broader

array of interested parties, including small businesses, were invited to give feedback on the draft rules.

The estimated number of jobs that will be created or lost in result of the compliance with the proposed rule: The department does not anticipate that compliance with the proposed rule will result in either jobs created or lost.

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
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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 nondegradable 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 Ta-

ble 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 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
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 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 Flow rate UV dose
Chlorine disinfection	Up to 5.0/0/5.0 (CT dependent)	US EPA free chlorine CT tables Australian WaterVal Validation Protocol	Chlorine residual Flow rate
Ozone disinfection	Up to 4.0/3.0/4.0 (CT dependent)	EPA Disinfection Profiling and Benchmarking Guidance Manual (1999)	Ozone residual 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) 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 make-up 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 maintenance 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; 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; 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; 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; 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 26-17-033
PROPOSED RULES
DEPARTMENT OF TRANSPORTATION
[Filed August 11, 2026, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-05-034.

Title of Rule and Other Identifying Information: Amending WAC 468-16-130 pertaining to classes of work for contractors prequalified to perform highway construction.

Hearing Location(s): On Thursday, September 24, 2026, at 9:00 a.m., virtual hearing in Microsoft Teams at https://bit.ly/WAC-468-16-130-Sept-24-2026. To join the virtual hearing, use the web address shown for the hearing location or dial in by phone at +1 206-531-0324,,823312392# for United States, Seattle. You can use this link to find a local number https://dialin.teams.cloud.microsoft/039e7852-bef4-4986-949b-6b82f4e2095f?id=823312392, Phone Conference ID 823 312 392#.

For further details about joining a Microsoft Teams meeting, visit https://aka.ms/JoinTeamsMeeting?omkt=en-US.

Date of Intended Adoption: September 24, 2026.

Submit Written Comments to: Jenna Kemp, 1655 South 2nd Avenue S.W., Tumwater, WA 98512, email jenna.kemp@wsdot.wa.gov, fax 360-705-6810, beginning the date and time of this filing, by September 23, 2026, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Washington state department of transportation (WSDOT) Americans with Disabilities Act (ADA) office, phone toll-free 855-362-4ADA(4232), TTY 711, email wsdotada@wsdot.wa.gov, by September 16, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WSDOT has determined that there are two additional types of work in which we would like to establish contractor experience to ensure that contractors have the necessary experience, organization, and technical qualifications to perform the proposed contract. The new classifications are high friction surface treatment and movable bridge construction.

Reasons Supporting Proposal: Establishing the new classifications to qualify contractors under will ensure that these types of contracts are performed by qualified vendors in the future.

Statutory Authority for Adoption: RCW 47.01.101, 47.28.030, and 47.28.070.

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

Name of Proponent: WSDOT, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jenna Kemp, Tumwater, Washington, 360-705-7017.

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 is not required because WSDOT is not subject to RCW 34.05.328 (5)(a)(i) and has not made RCW 34.05.328 applicable to this rule.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: WSDOT's prequalification process is no cost to vendors. This change simply adds new types of work and would

not change the process or effort required to become prequalified, which remains no cost and unchanged.

Scope of exemption for rule proposal:

Is fully exempt.

August 11, 2026
Sam Wilson, Director
Business Support Services

RDS-6985.3

AMENDATORY SECTION (Amending WSR 15-01-170, filed 12/23/14, effective 1/23/15)

WAC 468-16-130 Prequalification work classes. A contractor seeking prequalification under this chapter will be classified for one or more of the following listed work classes in accordance with the adequacy of the firm's equipment and plant facilities and its demonstrated ability to perform the work class sought.

Class 1	**Clearing, grubbing, grading and draining** Removal of tree stumps, shrubs, modification of the ground surface by cuts and fills, excavating of earth materials, placement of drainage structures, and construction of structural earth walls.
Class 2	**Production and placing of crushed materials** Production and placing crushed surfacing materials and gravel.
Class 3	**Bituminous surface treatment** Placing of crushed materials with asphaltic application.
Class 4	**Asphalt concrete paving** Production and placing Asphalt Concrete Plant Mix Pavement.
Class 5	**Cement concrete paving** Production and placing cement concrete pavement.
Class 6	**Bridges and structures** Construction of bridges and other major structures of timber, steel, and concrete.
Class 7	**Buildings** Construction of buildings and related structures and major reconstruction and remodeling of such buildings.
Class 8	**Painting** Painting bridges, buildings, and related structures.
Class 9	**Traffic signals** Installation of traffic signal and control systems.
Class 10	**Structural tile cleaning**

Cleaning tunnels, large buildings and structures and storage tanks.

Class 11 **Guardrail**

Construction of a rail secured to uprights and erected as a barrier between, or beside lanes of a highway.

Class 12 **Pavement marking (excluding painting)**

Thermoplastic markings, stripes, bars, symbols, etc. Traffic buttons, lane markers, guide posts.

Class 13 **Demolition**

Removal of timber, steel, and concrete structures and obstructions.

Class 14 **Drilling and blasting**

Controlled blasting of rock and obstructions by means of explosives.

Class 15 **Sewers and water mains**

Draining, pipe jacking, water systems, pumping stations, storm drainage systems, sewer rehabilitation, sewage pumping stations, pressurized lines.

Class 16 **Illumination and general electrical**

Highway illumination, navigational lighting, wiring, junction boxes, conduit installation.

Class 17 **Cement concrete curb and gutter**

Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.

Class 18 **Asphalt concrete curb and gutter**

Sidewalks, spillways, driveways, monument cases and covers, right of way markers, traffic curbs, and gutters.

Class 19 **Riprap and rock walls**

Mortar, rubble, and masonry walls; rock retaining walls, and placing of large broken stone on earth surfaces for protection against the action of water.

Class 20 **Concrete structures except bridges**

Cast-in-place median barrier, prestressing, post-tensioned structures, footings, prefabricated panels and walls, retaining walls, and ramps, foundations, rock bolts, and concrete slope protection.

Class 21 **Tunnels and shaft excavation**

Tunnel excavation, rock tunneling, and soft bore tunneling.

Class 22 **Piledriving**

Driving concrete, steel, and timber piles.

Class 23 **Concrete surface finishes**

Architectural concrete surface finishes (fractured fin, random board, exposed aggregate, etc.). Waterproofing concrete surfaces (clear or pigmented sealer).

Class 24 **Fencing**

Wire and metal fencing, glare screens.

Class 25 **Bridge deck repair**

Bridge expansion joint repair and modification, bridge deck resurfacing and repair, deck seal.

Class 26 **((~~Not used~~)) <u>High friction surface treatment</u>**

<u>High quality aggregate and polymer binder installation.</u>

Class 27 **Signing**

Sign structures and sign foundations.

Class 28 **Drilled large diameter slurry shafts**

Drilled shafts 4' diameter or larger and greater than 15' deep when excavation is performed utilizing the wet method and concrete is placed by tremie methods under slurry.

Class 29 **Slurry diaphragm and cut-off walls**

Slurry excavation and the construction of structural concrete walls and slurry cut-off walls.

Class 30 **Surveying**

Highway construction surveying.

Class 31 **Water distribution and irrigation**

Irrigation systems and heavy duty water distribution.

Class 32 **Landscaping**

Landscape irrigation, planting, sodding, seeding, fertilizing, mulching, herbicide application, insecticide application, weed control, mowing, liming, soil binder, topsoil.

Class 33 **Engineering**

Work other than surveying, including engineering calculations, drawing and other related work for highway construction.

Class 34 **Erosion control**

Seeding, fertilizing, mulching, slope protection, topsoil application, hydro-seeding, soil stabilization, soil sampling.

Class 35 **Precast median barrier**

A concrete barrier that is cast and cured in other than its final position used to divide the median of two adjacent highways or temporarily placed to divert traffic in construction zones.

Class 36 **Earth retention and anchoring**

Installation of permanent soil nails, soldier piles, timber lagging and micropiles. Soldier pile tie-back anchor wall construction.

Class 37 **Impact attenuators**

Installation of approved protective systems filled with sand, water, foam, or other substances which prevent errant vehicles from impacting roadside hazards.

Class 38 **Paint striping**

Painted bars, letters, symbols, and striping.

Class 39 **Slope protection**

The installation of a zinc coated steel wire mesh anchored by wire rope and reinforced concrete posts or anchor rods. Used for dampening the effects of rolling rocks onto the highway. Slope scaling, horizontal drains, rock dowels, and rock bolts for slope stabilization.

Class 40 **Gabion and gabion construction**

Construction of walls made with containers of galvanized steel hexagonal wire mesh and filled with stone.

Class 41 **Intelligent transportation systems (ITS)**

Traffic sensors systems, highway advisory radios, environmental sensing stations, variable message signs, nonfiber optic based closed circuit television, and video systems.

Class 42 **Electronics - Fiber optic based communications systems**

Design and installation of fiber optic based communication systems.

Class 43 **Mechanical**

Plumbing work and the installation of heating or air conditioning units.

Class 44 **Asbestos abatement**

Asbestos abatement (L & I certified workers).

Class 45 **Hazardous waste removal**

The containment, cleanup, and disposal of toxic materials. Companies seeking this classification shall have full-time personnel with current hazardous waste training (certifications).

Class 46 **Concrete restoration**

Pavement subseal, cement concrete repair, epoxy coatings, epoxy repair, masonry repair, masonry cleaning, special coatings, epoxy injection, gunite, shotcrete grouting, pavement jacking, gunite repair, and pressure grouting.

Class 47 **Concrete sawing, coring, and grooving**

Concrete sawing, concrete planing, grinding, grooving, bump grinding, joint repair, concrete coring and rumble strips.

Class 48 **Dredging**

Excavating underwater materials.

Class 49 **Marine work**

Underwater surveillance, testing, repair, subaquatic construction, anchors, and cable replacement, floating concrete pontoon repairs and modifications, disassembly and assembly of floating concrete pontoons.

Class 50 **Ground modification**

Pressure grouting, blast densification, stone column, jet grouting, compaction, dynamic compaction, soil mixing, gravel drain.

Class 51 **Well drilling**

Drilling wells, installing pipe casing and pumping stations.

Class 52 **Sewage disposal**

Hauling and disposing liquid and solid wastes.

Class 53 **Traffic control**

Providing piloted traffic control, traffic control labor, and maintenance and protection of traffic.

Class 54 **Railroad construction**

Construction of railroad subgrade, placing of ballast, ties, and track and other items related to railroad work.

Class 55 **Steel fabrication**

Welding of steel members, heat straightening steel.

Class 56 **Street cleaning**

Street sweeping with self-propelled sweeping equipment.

Class 57 **Materials transporting**

Truck hauling.

Class 58 **Sand blasting and steam cleaning**

Steam cleaning, sand blasting, shot blasting, and water blasting.

Class 59 **Movable bridge installation and rehabilitation**

Construction, repair, or alteration of counterweight and operating wire ropes, counterweight and deflector sheaves, counterweights, trunnions and trunnion bearings, movable spans and leaves, span drive motors, hydraulic span drive and auxiliary drive systems, motor control centers, span drives, programmable logic control and relay control systems, span locks, motor and machinery brakes, drive machinery, warning gates and barrier gate systems.

WSR 26-17-041
PROPOSED RULES
DEPARTMENT OF
RETIREMENT SYSTEMS
[Filed August 12, 2026, 9:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-13-074.

Title of Rule and Other Identifying Information: Medical expense reimbursement payments.

Hearing Location(s): On September 24, 2026, at 2:00 p.m., via Microsoft Teams at https://www.drs.wa.gov/sitemap/rules/#proposed-rule-hearings, Meeting ID 280 694 205 212 956, Passcode SM2Qv2hV; or phone 833-322-1218, Code 419 387 507#.

Date of Intended Adoption: October 1, 2026.

Submit Written Comments to: Bianca Stoner, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504-8380, email drs.rules@drs.wa.gov, beginning August 31, 2026, 8:00 a.m., by September 24, 2026, 2:00 p.m.

Assistance for Persons with Disabilities: Contact Bianca Stoner, phone 360-664-7291, TTY 711, email drs.rules@drs.wa.gov, by September 21, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifying that under the law enforcement officers' and firefighters' Plan 2, medical expense reimbursement payments are fringe benefits instead of basic salary.

Statutory Authority for Adoption: RCW 41.50.050.

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

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement; Seth Miller, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7304.

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)(a)(i) does not apply to this proposed rule, and DRS is not voluntarily making it applicable.

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: Rules from DRS only affect members and beneficiaries of the state retirement systems and participating public employers. As a result, the rules do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

August 12, 2026
Bianca Stoner
Rules Coordinator

RDS-7252.2

AMENDATORY SECTION (Amending WSR 03-06-042, filed 2/27/03, effective 4/1/03)

WAC 415-104-385 Fringe benefits are not LEOFF Plan 2 basic salary. Fringe benefits provided by an employer are not a salary or wage and therefore do not qualify as basic salary for LEOFF Plan 2. Fringe benefits include, but are not limited to:

(1) Employer retirement contributions;

(2) Any type of insurance such as medical, dental, or life insurance; and any employer contribution to meet the premium or charge for the insurance; or

(3) Any employer payments into a private fund to provide health or welfare benefits for the member (or the member and the member's dependents), with the exception of compensation paid pursuant to a bona fide cafeteria plan, flexible benefit plan, or similar arrangement as described in WAC 415-104-367.

Example:

The employer participates in a medical expense reimbursement program (MERP) where a trust fund has been established to pay health insurance premiums for eligible future retirees and their dependents. If the employee works at all during the pay period, the employer contributes $100 per pay period to this trust. This $100 payment is for a fringe benefit, is not basic salary, and is not reportable to the department of retirement systems.

WSR 26-17-042
PROPOSED RULES
HEALTH CARE AUTHORITY
[Filed August 12, 2026, 9:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-05-031.

Title of Rule and Other Identifying Information: WAC 182-543-2000 Eligible providers and provider requirements, 182-543-5500 Medical supplies and related services, new 182-543-6100 Urological and incontinent supplies, new 182-543-6200 Urinary and incontinent supplies under the mail order incontinence and urinary supplies and services contract, and 182-543-9000 General reimbursement.

Hearing Location(s): On September 22, 2026, at 10:00 a.m., via Microsoft Teams webinar. To attend, you must register in advance at https://events.gcc.teams.microsoft.com/event/69803d74-295c-4581-a5b9-323091969802@11d0e217-264e-400a-8ba0-57dcc127d72d. After registering, you will receive a confirmation email containing information about joining the public hearing. You will be able to join the public hearing through most standard internet browsers; you do not need to install Microsoft Teams.

Date of Intended Adoption: Not sooner than September 23, 2026.

Submit Written Comments to: Health Care Authority (HCA) Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning August 13, 2026, 8:00 a.m., by September 22, 2026, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Jessica Nguyen, phone 360-725-1174, fax 360-586-9727, telecommunication relay service 711, email arc@hca.wa.gov, by September 4, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is proposing amendments to the following sections of chapter 182-543 WAC, Medical equipment, supplies, and appliances: WAC 182-543-2000, 182-543-5500, and 182-543-9000, and new WAC 182-543-6100 and 182-543-6200.

These revisions support HCA's plan to offer incontinence and urinary supplies and services provided to eligible apple health (medicaid) clients by mail order through contract. HCA will reimburse only the provider who holds the mail order incontinence and urinary supplies and services contract for urinary and incontinence supplies. The requirement applies only when medicaid fee-for-service is the primary payor. This does not apply to clients enrolled in an HCA-contracted managed care organization.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-5128; Implementation and Enforcement: Andrea Allen, P.O. Box 45530, Olympia, WA 98504-5530, 360-725-9805.

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

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

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

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The rule proposal is a change to payment methodology; therefore, does not impose more-than-minor costs on small businesses.

August 12, 2026
Wendy Barcus
Rules Coordinator

RDS-7283.2

AMENDATORY SECTION (Amending WSR 25-07-045, filed 3/12/25, effective 5/1/25)

WAC 182-543-2000 Eligible providers and provider requirements. (1) The medicaid agency pays, on a fee-for-service basis, providers (including providers who supply medical equipment and supplies in an outpatient clinical setting), pharmacies, and suppliers, for medical equipment, medical supplies, complex rehabilitation technology (CRT), and related repair services.

(a) Providers, pharmacies, and suppliers (including out-of-state providers, pharmacies, and suppliers) must:

(i) Be enrolled with medicare as a pharmacy, supplier of medical equipment, medical supplies, and related repair services, or as a CRT supplier (CRT suppliers must also comply with the requirements in WAC 182-543-4400); and

(ii) Possess a national provider identifier (NPI) for a pharmacy, supplier of medical equipment, medical supplies, and related repair services, or CRT supplier.

(b) Prosthetics and orthotics providers, and occupational therapists providing orthotics, must meet the licensing regulations of the state in which they practice.

(2) Providers and suppliers of medical equipment and supplies must:

(a) Meet the general provider requirements in chapter 182-502 WAC, except when the client is dual-eligible, medicare is the primary payer, and the agency is being billed only for one or more of the copay, coinsurance, or deductible;

(b) Have the proper business license and be certified, licensed and bonded if required, to perform the services billed to the agency;

(c) Have a valid prescription, which is referred to as a standard written order (SWO), for the medical equipment or supplies. A SWO is a written order communicated by the treating provider to the supplier that:

(i) Is written by an authorized practitioner as defined in WAC 182-551-2010 and meets the face-to-face encounter requirements described in WAC 182-551-2040;

(ii) Includes the following information:

(A) Client's full name;

(B) Order date, which is the date the order was written or electronically signed by the treating practitioner;

(C) General item description, which may be either a general description (for example, wheelchair or hospital bed), a HCPCS code, a HCPCS code narrative, or a brand name or model number;

(I) For equipment, in addition to the base item description, the SWO may include all concurrently ordered options, accessories, or additional features that are separately billed or require an upgraded code (list each separately);

(II) For supplies, in addition to the base item description, the order/prescription may include all concurrently ordered supplies that are separately billed (list each separately);

(D) If applicable, the quantity to be provided and the frequency of use;

(E) If applicable, the length of time the item is required; and

(F) The name, NPI, and signature of the treating practitioner, practitioner credentials, and the signature date.

(d) Provide instructions for use of equipment;

(e) Provide only new equipment to clients, which include full manufacturer and dealer warranties. See WAC 182-543-2250(3);

(f) Provide documentation of proof of delivery, upon agency request (see WAC 182-543-2200); and

(g) Bill the agency using only the allowed procedure codes that are listed in the agency's published billing guides.

(3) For the urological and incontinent supplies identified in WAC 182-543-6200 and covered under the contract, the agency limits who may bill for these supplies. (Also see WAC 182-543-9000.)

AMENDATORY SECTION (Amending WSR 18-24-021, filed 11/27/18, effective 1/1/19)

WAC 182-543-5500 Medical supplies and related services. The medicaid agency pays for the following medical supplies and related services without prior authorization unless otherwise specified:

(1) Antiseptics and germicides:

(a) Alcohol (isopropyl) or peroxide (hydrogen) - One pint per month;

(b) Alcohol wipes (box of ((~~two hundred~~)) 200) - One box per month;

(c) Betadine or pHisoHex solution - One pint per month;

(d) Betadine or iodine swabs/wipes (box of ((~~one hundred~~)) 100) - One box per month;

(2) Bandages, dressings, and tapes;

(3) Batteries - Replacement batteries:

(a) The agency pays for the purchase of replacement batteries for wheelchairs with prior authorization.

(b) The agency does not pay for wheelchair replacement batteries that are used for speech generating devices (SGDs) or ventilators.

(4) Blood monitoring/testing supplies:

(a) Replacement battery of any type, used with a client-owned, medically necessary or specialized blood glucose monitor - One in a three-month period;

(b) Spring-powered device for lancet - One in a six-month period;

(c) Diabetic test strips as follows:

(i) For clients age ((~~twenty~~)) 20 and younger, as follows:

(A) Insulin dependent, ((~~three hundred~~)) 300 test strips and ((~~three hundred~~)) 300 lancets per client, per month.

(B) For noninsulin dependent, ((~~one hundred~~)) 100 test strips and ((~~one hundred~~)) 100 lancets per client, per month.

(ii) For clients age ((~~twenty-one~~)) 21 and older:

(A) Insulin dependent, ((~~one hundred~~)) 100 test strips and ((~~one hundred~~)) 100 lancets per client, per month.

(B) For noninsulin dependent, ((~~one hundred~~)) 100 test strips and ((~~one hundred~~)) 100 lancets per client, every three months.

(iii) For pregnant people with gestational diabetes, the agency pays for the quantity necessary to support testing as directed by the client's physician, up to ((~~sixty~~)) 60 days postpartum.

(d) See ((~~WAC 182-543-5500(12)~~)) subsection (11) of this section for blood glucose monitors.

(5) Braces, belts, and supportive devices:

(a) Knee brace (neoprene, nylon, elastic, or with a hinged bar) - Two per ((~~twelve~~)) 12-month period;

(b) Ankle, elbow, or wrist brace - Two per ((~~twelve~~)) 12-month period;

(c) Lumbosacral brace, rib belt, or hernia belt - One per ((~~twelve~~)) 12-month period;

(d) Cervical head harness/halter, cervical pillow, pelvic belt/harness/boot, or extremity belt/harness - One per ((~~twelve~~)) 12-month period.

(6) Decubitus care products:

(a) Cushion (gel, sacroiliac, or accuback) and cushion cover (any size) - One per ((~~twelve~~)) 12-month period;

(b) Synthetic or lamb's wool sheepskin pad - One per ((~~twelve~~)) 12-month period;

(c) Heel or elbow protectors - Four per ((~~twelve~~)) 12-month period.

(7) Ostomy supplies:

(a) Adhesive for ostomy or catheter: Cement; powder; liquid (e.g., spray or brush); or paste (any composition, e.g., silicone or latex) - Four total ounces per month.

(b) Adhesive or nonadhesive disc or foam pad for ostomy pouches - ((~~Ten~~)) 10 per month.

(c) Adhesive remover or solvent - Three ounces per month.

(d) Adhesive remover wipes, ((~~fifty~~)) 50 per box - One box per month.

(e) Closed pouch, with or without attached barrier, with a one- or two-piece flange, or for use on a faceplate - ((~~Sixty~~)) 60 per month.

(f) Closed ostomy pouch with attached standard wear barrier, with built-in one-piece convexity - ((~~Ten~~)) 10 per month.

(g) Continent plug for continent stoma - ((~~Thirty~~)) 30 per month.

(h) Continent device for continent stoma - One per month.

(i) Drainable ostomy pouch, with or without attached barrier, or with one- or two-piece flange - ((~~Twenty~~)) 20 per month.

(j) Drainable ostomy pouch with attached standard or extended wear barrier, with or without built-in one-piece convexity - ((~~Twenty~~)) 20 per month.

(k) Drainable ostomy pouch for use on a plastic or rubber faceplate (only one type of faceplate allowed) - ((~~Ten~~)) 10 per month.

(l) Drainable urinary pouch for use on a plastic, heavy plastic, or rubber faceplate (only one type of faceplate allowed) - ((~~Ten~~)) 10 per month.

(m) Irrigation bag - Two every six months.

(n) Irrigation cone and catheter, including brush - Two every six months.

(o) Irrigation supply, sleeve - One per month.

(p) Ostomy belt (adjustable) for appliance - Two every six months.

(q) Ostomy convex insert - ((~~Ten~~)) 10 per month.

(r) Ostomy ring - ((~~Ten~~)) 10 per month.

(s) Stoma cap - ((~~Thirty~~)) 30 per month.

(t) Ostomy faceplate - ((~~Ten~~)) 10 per month. The agency does not pay for either of the following when billed in combination with an ostomy faceplate:

(i) Drainable pouches with plastic face plate attached; or

(ii) Drainable pouches with rubber face plate.

(8) Syringes and needles;

(9) ((~~Urological supplies - Diapers and related supplies:~~

~~(a) The standards and specifications in this subsection apply to all disposable incontinent products (e.g., briefs, diapers, pull-up pants, underpads for beds, liners, shields, guards, pads, and undergarments). See subsections (b), (c), (d), and (e) of this section for additional standards for specific products. All of the following apply to all disposable incontinent products:~~

~~(i) All materials used in the construction of the product must be safe for the client's skin and harmless if ingested;~~

~~(ii) Adhesives and glues used in the construction of the product must not be water-soluble and must form continuous seals at the edges of the absorbent core to minimize leakage;~~

~~(iii) The padding must provide uniform protection;~~

~~(iv) The product must be hypoallergenic;~~

~~(v) The product must meet the flammability requirements of both federal law and industry standards; and~~

~~(vi) All products are covered for client personal use only.~~

~~(b) In addition to the standards in subsection (a) of this section, diapers must meet all the following specifications. They must:~~

~~(i) Be hourglass shaped with formed leg contours;~~

~~(ii) Have an absorbent filler core that is at least one-half inch from the elastic leg gathers;~~

~~(iii) Have leg gathers that consist of at least three strands of elasticized materials;~~

~~(iv) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling materials;~~

~~(v) Have a back sheet that is moisture impervious and is at least 1.00 mm thick, designed to protect clothing and linens;~~

~~(vi) Have a top sheet that resists moisture returning to the skin;~~

~~(vii) Have an inner lining that is made of soft, absorbent material; and~~

~~(viii) Have either a continuous waistband, or side panels with a tear-away feature, or refastenable tapes, as follows:~~

~~(A) For child diapers, at least two tapes, one on each side.~~

~~(B) The tape adhesive must release from the back sheet without tearing it, and permit a minimum of three fastening/unfastening cycles.~~

~~(c) In addition to the standards in subsection (a) of this section, pull-up pants and briefs must meet the following specifications. They must:~~

~~(i) Be made like regular underwear with an elastic waist or have at least four tapes, two on each side or two large tapes, one on each side;~~

~~(ii) Have an absorbent core filler that is at least one-half inch from the elastic leg gathers;~~

~~(iii) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling;~~

~~(iv) Have leg gathers that consist of at least three strands of elasticized materials;~~

~~(v) Have a back sheet that is moisture impervious, is at least 1.00 mm thick, and is designed to protect clothing and linens;~~

~~(vi) Have an inner lining made of soft, absorbent material; and~~

~~(vii) Have a top sheet that resists moisture returning to the skin.~~

~~(d) In addition to the standards in subsection (a) of this section, underpads are covered only for incontinent purposes in a client's bed and must meet the following specifications:~~

~~(i) Have an absorbent layer that is at least one and one-half inches from the edge of the underpad;~~

~~(ii) Be manufactured with a waterproof backing material;~~

~~(iii) Be able to withstand temperatures not to exceed one hundred-forty degrees Fahrenheit;~~

~~(iv) Have a covering or facing sheet that is made of nonwoven, porous materials that have a high degree of permeability, allowing fluids to pass through and into the absorbent filler. The patient contact surface must be soft and durable;~~

~~(v) Have filler material that is highly absorbent. It must be heavy weight fluff filler or the equivalent; and~~

~~(vi) Have four-ply, nonwoven facing, sealed on all four sides.~~

~~(e) In addition to the standards in subsection (a) of this section, liners, shields, guards, pads, and undergarments are covered for incontinence only and must meet the following specifications:~~

~~(i) Have channels to direct fluid throughout the absorbent area, and leg gathers to assist in controlling leakage, and/or be contoured to permit a more comfortable fit;~~

~~(ii) Have a waterproof backing designed to protect clothing and linens;~~

~~(iii) Have an inner liner that resists moisture returning to the skin;~~

~~(iv) Have an absorbent core that consists of cellulose fibers mixed with absorbent gelling materials;~~

~~(v) Have pressure-sensitive tapes on the reverse side to fasten to underwear; and~~

~~(vi) For undergarments only, be contoured for good fit, have at least three elastic leg gathers, and may be belted or unbelted.~~

~~(f) The agency pays for urological products when they are used alone. The following are examples of products the agency does not pay for when used in combination with each other:~~

~~(i) Disposable diapers;~~

~~(ii) Disposable pull-up pants and briefs;~~

~~(iii) Disposable liners, shields, guards, pads, and undergarments;~~

~~(iv) Rented reusable diapers (e.g., from a diaper service); and~~

~~(v) Rented reusable briefs (e.g., from a diaper service), or pull-up pants.~~

~~(g) The agency approves a client's use of a combination of products only when the client uses different products for daytime and~~

~~nighttime use. Example: pull-up pants for daytime use and disposable diapers for nighttime use. The total quantity of all products in this section used in combination cannot exceed the monthly limitation for the product with the highest limit.~~

~~(h) Purchased disposable diapers (any size) are limited to two hundred per month for clients age three and older.~~

~~(i) Reusable cloth diapers (any size) are limited to:~~

~~(i) Purchased - Thirty-six per year; and~~

~~(ii) Rented - Two hundred per month.~~

~~(j) Disposable briefs and pull-up pants (any size) are limited to:~~

~~(i) Two hundred per month for a client age three through age eighteen; and~~

~~(ii) One hundred fifty per month for a client age nineteen and older.~~

~~(k) Reusable briefs, washable protective underwear, or pull-up pants (any size) are limited to:~~

~~(i) Purchased - Four per year.~~

~~(ii) Rented - One hundred fifty per month.~~

~~(l) Disposable pant liners, shields, guards, pads, and undergarments are limited to two hundred per month.~~

~~(m) Underpads for beds are limited to:~~

~~(i) Disposable (any size) - One hundred eighty per month.~~

~~(ii) Purchased, reusable (large) - Forty-two per year.~~

~~(iii) Rented, reusable (large) - Ninety per month.~~

~~(10) Urological supplies - Urinary retention:~~

~~(a) Bedside drainage bag, day or night, with or without anti-reflux device, with or without tube - Two per month. The agency does not pay for these when billed in combination with any of the following:~~

~~(i) With extension drainage tubing for use with urinary leg bag or urostomy pouch (any type, any length), with connector/adapter; and/or~~

~~(ii) With an insertion tray with drainage bag, and with or without catheter.~~

~~(b) Bedside drainage bottle, with or without tubing - Two per six month period.~~

~~(c) Extension drainage tubing (any type, any length), with connector/adapter, for use with urinary leg bag or urostomy pouch. The agency does not pay for these when billed in combination with a vinyl urinary leg bag, with or without tube.~~

~~(d) External urethral clamp or compression device (not be used for catheter clamp) - Two per twelve-month period.~~

~~(e) Indwelling catheters (any type) - Three per month.~~

~~(f) Insertion trays:~~

~~(i) Without drainage bag and catheter - One hundred and twenty per month. The agency does not pay for these when billed in combination with other insertion trays that include drainage bag, catheters, and/or individual lubricant packets.~~

~~(ii) With indwelling catheters - Three per month. The agency does not pay for these when billed in combination with other insertion trays without drainage bag and/or indwelling catheter, individual indwelling catheters, and/or individual lubricant packets.~~

~~(g) Intermittent urinary catheter - One hundred twenty per month. The agency does not pay for these when billed in combination with an insertion tray with or without drainage bag and catheter, or other individual intermittent urinary catheters.~~

~~(h) Irrigation syringe (bulb or piston). The agency does not pay for these when billed in combination with irrigation tray or tubing.~~

~~(i) Irrigation tray with syringe (bulb or piston) - Thirty per month. The agency does not pay for these when billed in combination with irrigation syringe (bulb or piston), or irrigation tubing set.~~

~~(j) Irrigation tubing set - Thirty per month. The agency does not pay for these when billed in combination with an irrigation tray or irrigation syringe (bulb or piston).~~

~~(k) Leg straps (latex foam and fabric), replacement only.~~

~~(l) Male external catheter, specialty type, or with adhesive coating or adhesive strip - Sixty per month.~~

~~(m) Urinary suspensory with leg bag, with or without tube - Two per month. The agency does not pay for these when billed in combination with a latex urinary leg bag, urinary suspensory without leg bag, extension drainage tubing, or a leg strap.~~

~~(n) Urinary suspensory without leg bag, with or without tube - Two per month.~~

~~(o) Urinary leg bag, vinyl, with or without tube - Two per month. The agency does not pay for these when billed in combination with drainage bag and without catheter.~~

~~(p) Urinary leg bag, latex - One per month. The agency does not pay for these when billed in combination with or without catheter.~~

~~(11)~~)) See WAC 182-543-6100 for urological and incontinent supplies.

(10) Miscellaneous supplies:

(a) Bilirubin light therapy supplies when provided with a bilirubin light which the agency prior authorized - Five days supply.

(b) Continuous passive motion (CPM) softgoods kit - One, with rental of CPM machine.

(c) Eye patch with elastic, tied band, or adhesive, to be attached to an eyeglass lens - One box of ((~~twenty~~)) 20.

(d) Eye patch (adhesive wound cover) - One box of ((~~twenty~~)) 20.

(e) Nontoxic gel (e.g., LiceOff TM) for use with lice combs - One bottle per ((~~twelve~~)) 12-month period.

(f) Nonsterile gloves - ((~~Two hundred~~)) 200, per client, per month.

(i) For clients residing in an assisted living facility, the agency pays, with prior authorization, for additional nonsterile gloves up to the quantity necessary as directed by the client's physician, not to exceed a total of ((~~four hundred~~)) 400 per client, per month.

(ii) Prior authorization requests must include a completed:

(A) General Information for Authorization form (HCA 13-835). The agency's electronic forms are available online (see WAC 182-543-7000 Authorization); and

(B) Limitation Extension Request Incontinent Supplies and Gloves form (HCA 13-870).

(g) Sterile gloves - ((~~Thirty~~)) 30 pair, per client, per month.

((~~(12)~~)) (11) Miscellaneous medical equipment:

(a) Bilirubin light or light pad - Five days rental per ((~~twelve~~)) 12-month period for at-home newborns with jaundice.

(b) Blood glucose monitor - One in a three-year period. See ((~~WAC 182-543-5500(4)~~)) subsection (4) of this section for blood monitoring/testing supplies. The agency does not pay for continuous glucose monitoring systems including related equipment and supplies under the durable medical equipment benefit. See WAC 182-553-500 home infusion therapy/parenteral nutrition program.

(c) Continuous passive motion (CPM) machine - Up to ((~~ten~~)) 10 days rental and requires prior authorization.

(d) Lightweight protective helmet/soft shell (including adjustable chin/mouth strap) - Two per ((~~twelve~~)) 12-month period.

(e) Lightweight ventilated hard-shell helmet (including unbreakable face bar, woven chin strap with adjustable buckle and snap fastener, and one set of cushion pads for adjusting fit to head circumference) - Two per ((~~twelve~~)) 12-month period.

(f) Pneumatic compressor - One in a five-year period.

(g) Positioning car seat - One in a five-year period.

NEW SECTION

WAC 182-543-6100 Urological and incontinent supplies. (1) The agency pays for urological and incontinent supplies for eligible clients based on agency rules. Prior authorization (PA) may be required. See subsections (8) and (9) of this section for quantity limits. To exceed quantity limits, providers must request a limitation extension (LE). See WAC 182-543-7200 and 182-501-0169 for LE information.

(2) Automatic refills (renewals) by a qualified supplier are not allowed. Prior to refilling an order for urological and incontinent supplies, a qualified supplier must have confirmation from the client or the client's representative that the refill requested is needed. The confirmation must be documented in the client's record.

(3) The agency does not pay for urological and incontinent supplies when intended and used for the same purpose, except as allowed in subsection (4) of this section. The following are examples of products the agency does not pay for when used in combination with each other:

(a) Disposable diapers;

(b) Disposable pull-up pants and briefs;

(c) Disposable liners, shields, guards, pads, and undergarments;

(d) Rented reusable diapers (e.g., from a diaper service); and

(e) Rented reusable briefs (e.g., from a diaper service), or pull-up pants.

(4) The agency may approve a client's use of a combination of products only when the client uses different products for daytime and nighttime use. Example: Pull-up pants for daytime use and disposable diapers for nighttime use.

(5) When the client uses different products for daytime and nighttime use, the total quantity of urological and incontinent supplies used cannot exceed the monthly limitation for the product with the highest limit.

(6) For clients residing in a nursing facility, the agency pays for urological and incontinent supplies only if the supplies are not included in the facility per diem rate.

(7) All urological and incontinent supplies must be for client personal use only.

(8) **Urological supplies:**

**Billing provisions are limited to a one-month supply. One month equals 30 days unless otherwise specified.*

Category	Product Type/Description	Quantity Limit
Catheters	Intermittent urinary catheter; straight or coudé tip, with or without coating (e.g., hydrophilic, teflon, or silicone), with or without insertion supplies	180 per month
	Male external catheter, with or without adhesive, disposable	35 per month
	Female external urinary collection device; pouch – does not include suction pump	31 per month
	Male external catheter with integral collection chamber	30 per month
	Indwelling catheter; Foley (two-way or three-way) or specialty type (coudé, mushroom, wing), in silicone, polyurethane, or coated latex (teflon, silicone elastomer, hydrophilic)	2 per month
	Female external urinary collection device; metal cup	2 per month
	Rectal catheter with or without balloon	**PA Required**
Trays & Tubing	Irrigation tray with bulb or piston	30 per month
	Irrigation tubing set for continuous bladder irrigation (through three-way foley)	4 per month
	Insertion tray; with or without drainage bag, with or without catheter (accessories only, two-way coated latex/all-silicone, or three-way irrigation foley)	2 per month
	Extension drainage tubing, any type	2 per month
Bags & Bottles	Bedside drainage bag, day or night	2 per month
	Urinary drainage bag, leg or abdomen, vinyl, with or without tube, with straps	2 per month
	Urinary suspensory with leg bag, with or without tube	2 per month
	Bedside drainage bottle with or without tubing, rigid or expandable	2 per 180 days
	Urinary drainage bag, leg or abdomen, latex, with or without tube, with strap	1 per month
Strap & Clamp Anchors	Urinary catheter anchoring device, adhesive skin attachment	12 per month
	Disposable external urethral clamp or compression device, with pad and/or pouch	2 per month
	External urethral clamp or compression device	1 per month
	Urinary catheter anchoring device, leg strap (*or latex/fabric replacement*)	1 per month
Ostomy & Fecal Bags	Ostomy pouch, drainable, with extended wear barrier & filter (*with or without built in convexity*)	40 per month
	Perianal fecal collection pouch with adhesive	**PA Required**
Ointments & Wipes	Lubricant, individual sterile packet	200 per month
	Adhesive remover wipes, per wipe	50 wipes per month
	Skin barrier wipes, 50 in box (antiseptic), per wipe	50 wipes per month
	Lubricant per ounce	8 per month
Specialized Irrigation	*Enema tube, with or without adapter, any type, replacement only*	**PA Required**
	Manual transanal irrigation system	**PA Required**
Misc.	Urethral insert	**PA Required**

(9) **Incontinent supplies:**

**Billing provisions are limited to a one-month supply. One month equals 30 days unless otherwise specified.*

Category	Youth/Pediatric Limits (Age 3 through 20 unless otherwise indicated)	Adult Limits (Ages 21+)
Pediatric Briefs/Pull-Ons Sizes: Small/Medium, Large	200 per month	PA required
Youth Briefs/Pull-Ons Any size	200 per Month (*Ages 6 through 20*)	PA required
Adult Briefs or Protective Briefs Any size	Requires PA	200 per month
Adult Protective Underwear/Pull-Ons Any size	200 per month (*Ages 6 through 20*)	150 per month
Diaper Service Reusable rental	200 per month	200 per month
Reusable Incontinence Brief Any size	36 per month	36 per month
Disposable Liners/Shields/Pads For daytime use only Excludes diaper doublers	200 per month	200 per month
Diaper doubler	90 per month (PA required)	90 per month (PA required)
Disposable Underpads Large For client's bed only Min. 810 square inches	180 per month	180 per month
Reusable Underpads Bed size	42 per year for purchase or 90 per month for rental	42 per year for purchase or 90 per month for rental
Reusable Protective Underwear All sizes	4 per year for purchase or 150 per month for rental	4 per year for purchase or 150 per month for rental

(10) **Incontinence products specifications:**

Feature	Briefs (Adult & Youth) or Pull-On Briefs	Underpads	Liners, Shields, Guards, Pads & Undergarments
Form, Fit & Gathers	• Hourglass with formed leg contours. • Soft, absorbent material inner lining. • At least 3 strands of elasticized material.	• Patient contact surface must be soft and durable.	• Contoured fit and/or channels to direct fluid. • Soft, durable patient contact surface. • Elastic leg gathers to control leakage (at least 3 for undergarments).
Absorbent Core & Border	• Cellulose fibers mixed with gelling materials. • Core filler at least 0.5 inches from elastic leg gathers.	• Heavyweight fluff filler or equivalent. • Absorbent layer at least 1.5 inches from outer edge.	• Cellulose fibers mixed with gelling materials. • Core border is not applicable.
Sheet Construction	• **Back Sheet:** Moisture impervious; at least 1.00 mm thick. • **Top Sheet:**Resists moisture returning to skin.	• **Back Sheet:** Waterproof backing; sealed on all 4 sides. • **Top Sheet:** 4-ply, nonwoven, highly porous, permeable material.	• **Back Sheet:** Waterproof backing designed to protect clothing and linens. • **Inner Liner:** Resists moisture returning to skin.
Fasteners & Performance	• Continuous waistband, OR side panels with tear-away, OR refastenable tapes (at least 2 for children). • Tape adhesive must permit at least 3 fastening cycles without tearing back sheet.	• Withstands temperatures not to exceed 140 degrees Fahrenheit.	• Pressure-sensitive tape on reverse side to fasten to underwear. • Undergarments only may be belted or unbelted. • Thermal limits are not applicable.

(11) For urinary and incontinent supplies under the mail order incontinence and urinary supplies and services contract. See WAC 182-543-6200.

(12) If the supply is not listed, prior authorization can be requested. See WAC 182-543-0500.

NEW SECTION

WAC 182-543-6200 Urinary and incontinent supplies under the mail order incontinence and urinary supplies and services contract. (1) This section applies when medicaid fee-for-service is the primary payer. This section does not apply to clients enrolled in an agency-contracted managed care organization.

(2) The agency reimburses only the provider who holds the mail order incontinence and urinary supplies and services contract for the urinary and incontinent supplies listed in subsection (4) of this section.

(3) Clients must request the urinary and incontinent supplies through this contracted provider for the agency to reimburse the provider for the supplies.

(4) The urinary and incontinent supplies reimbursed under the contract and addressed in this section include:

(a) Bedside drainage bag;
(b) Brief adult size, small, medium, large, x-large;
(c) Brief pediatric size, small, medium, large;
(d) Brief youth size;
(e) Brief, adult size, bariatric;
(f) Diaper doublers;
(g) Brief/incontinent pant reuseable/washable;
(h) Extension drainage tubing;
(i) Female external urinary collection device;
(j) Indwelling catheter;
(k) Insertion tray;
(l) Intermittent urinary catheter;
(m) Irrigation tray;
(n) Irrigation syringe;
(o) Liner, disposable;
(p) Lubricant;
(q) Male external catheter;
(r) Miscellaneous supplies when required for application of other supplies under the contract;
(s) Perianal fecal collection pouch;
(t) Pull-on adult size, small, medium, large, x-large;
(u) Pull-on pediatric size, small, medium, large;
(v) Pull-on, youth size;
(w) Pull-on, adult size, bariatric;
(x) Reusable washable underwear;
(y) Skin barrier wipes;
(z) Underpads, disposable;
(aa) Urinary catheter anchoring device;
(bb) Urinary leg bag.

AMENDATORY SECTION (Amending WSR 26-01-207, filed 12/24/25, effective 1/24/26)

WAC 182-543-9000 General reimbursement. (1) The medicaid agency pays ((~~qualified providers who meet all conditions in WAC 182-502-0100 for~~)) enrolled providers who are qualified to deliver medical equipment, repairs, and related services ((~~provided~~)) on a fee-for-service (FFS) basis ((~~as follows:~~

~~(a) To agency-enrolled medical equipment providers, qualified complex rehabilitation technology (CRT) suppliers, pharmacies, and home health agencies under their national provider identifier (NPI) numbers, subject to the limitations of this chapter, and according to the procedures and codes in the agency's current medical equipment billing guide;~~

~~(b)~~)), based on agency rules. (Also see WAC 182-543-2000.)

(2) Providers must:

(a) Bill in accordance with the health care common procedure coding system (HCPCS) guidelines for product classification and code assignation; and

((~~(c) Providers must~~)) (b) Code the specific brand and model of wheelchair or complex rehabilitation technology (CRT) products dispensed according to the centers for medicare and medicaid services' (CMS) pricing, data analysis, and coding (PDAC) website.

((~~(2)~~)) (3) The agency sets, evaluates, and updates the maximum allowable fees for medical equipment and related services at least once yearly, unless otherwise directed by the legislature or determined necessary by the agency.

((~~(3)~~)) (4) The agency sets the rates for medical equipment codes subject to the federal financial participation (FFP) limitation at the lesser of medicare's prevailing payment rates in the Durable Medical Equipment Prosthetics/Orthotics, and Supplies (DMEPOS) Fee Schedule or Competitive Bid Area (CBA) rate. For all other procedure codes, the agency sets rates using one of the following:

(a) Medicare fee schedules;

(b) Legislative direction;

(c) Input from stakeholders or relevant sources that the agency determines to be reliable and appropriate;

(d) Pricing clusters; ((~~or~~))

(e) A by-report (BR) basis; or

(f) Contracted services.

((~~(4)~~)) (5) The medicaid agency evaluates a by-report (BR) item, procedure, or service for its medical necessity, appropriateness and reimbursement value on a case-by-case basis. The agency's reimbursement rate is a percentage of the manufacturer's list or manufacturer's suggested retail price (MSRP), or a percentage of the wholesale acquisition cost (AC). The MSRP or invoice must be dated within 12 months prior to the date of service and must substantiate the specific supply being billed. The agency uses the following percentages:

(a) For basic standard wheelchairs, 65 percent of MSRP or 140 percent of AC;

(b) For wheelchair parts and add-on CRT accessories and parts, 84 percent of MSRP or 140 percent of AC;

(c) For wheelchair seat and back cushions, CRT manual wheelchair base, and up-charge modifications and seating systems, 80 percent of MSRP or 140 percent of AC;

(d) For CRT power-drive wheelchair base, 85 percent of MSRP or 140 percent of AC;

(e) For prosthetics and orthotics and medical supplies and related services, 85 percent of MSRP or 125 percent of AC;

(f) For other medical equipment, 80 percent of MSRP or 125 percent of AC;

(g) For medical supplies, 85 percent of MSRP or 125 percent of AC.

((~~(5)~~)) (6) When establishing reimbursement rates for medical equipment based on pricing clusters for a specific HCPCS code, the maximum allowable fee is the median or average amount of all items in the cluster. The pricing cluster is comprised of all the brands/models for which the agency obtains pricing information. However, the agency may limit the number of brands/models included in the pricing cluster due to:

(a) A client's medical needs;

(b) Product quality;

(c) Introduction, substitution or discontinuation of certain brands/models; and/or

(d) Cost.

((~~(6)~~)) (7) When there is only a rental rate on the DMEPOS fee schedule, the agency sets the maximum allowable purchase rate at either the DMEPOS rate divided by 0.15 or multiplied by 10. The agency sets the maximum allowable fee for daily rental at one-three-hundredth of the new purchase price or one-thirtieth of the monthly rental rate on the DMEPOS fee schedule;

((~~(7)~~)) (8) The agency may adopt policies, procedure codes, and/or rates that are inconsistent with those set by medicare if the agency determines that such actions are necessary to:

(a) Assure that payments are sufficient to enlist providers and maintain access to care and services; or

(b) Comply with legislative budget directives.

((~~(8)~~)) (9) The agency's maximum payment for medical equipment and related services is the lesser of either the:

(a) Providers' usual and customary charges; or

(b) Established rates, except as provided in WAC 182-543-8200.

((~~(9)~~)) (10) The agency is the payor of last resort for clients with medicare or third-party insurance.

((~~(10)~~)) (11) The agency's reimbursement for a prosthetic or orthotic includes the cost of any necessary molds, fitting, shipping, handling or any other administrative expenses related to provision of the prosthetic or orthotic to the client.

((~~(11)~~)) (12) The agency's reimbursement rate for purchased or rented covered medical equipment and related services includes all of the following:

(a) Any adjustments or modifications to the medical equipment required within three months of the date of delivery or covered under the manufacturer's warranty. This does not apply to adjustments required because of changes in the client's medical condition;

(b) Any pick-up or delivery fees or associated costs (e.g., mileage, travel time, gas, etc.);

(c) Telephone calls;

(d) Shipping, handling, and/or postage;

(e) Routine maintenance that includes testing, cleaning, regulating, and assessing the client's equipment;

(f) Fitting and set-up; and

(g) Instruction to the client or client's caregiver in the appropriate use of the medical equipment.

((~~(12)~~)) (13) Medical equipment and related services supplied to eligible clients under the following reimbursement methodologies are included in those methodologies and are not reimbursed under fee-for-service:

(a) Hospice providers' per diem reimbursement;

(b) Hospitals' diagnosis-related group (DRG) reimbursement;

(c) Managed care plans' capitation rate;

(d) Skilled nursing facilities' per diem rate; and

(e) Professional services' resource-based relative value system reimbursement (RBRVS) rate.

((~~(13)~~)) (14) The agency may enter into a contract for the delivery of medical supplies when fee-for-service is the primary payer, consistent with agency rules.

(a) The agency reimburses the contracted provider for medical supplies based on the contracted amount.

(b) When medicaid is not the primary payer, the agency reimburses providers according to program rules. (See also WAC 182-502-0100 and 182-501-0200.)

(15) The provider must make warranty information, including date of purchase, applicable serial number, model number or other unique identifier of the equipment, and warranty period, available to the agency upon request.

((~~(14)~~)) (16) The dispensing provider who furnishes the medical equipment to a client is responsible for any costs incurred to have a different provider repair the equipment when:

(a) Any medical equipment the agency considers purchased requires repair during the applicable warranty period;

(b) The provider refuses or is unable to fulfill the warranty; and

(c) The equipment continues to be medically necessary.

((~~(15)~~)) (17) If the rental medical equipment must be replaced during the warranty period, the agency recoups 50 percent of the total amount previously paid toward rental and eventual purchase of the medical equipment delivered to the client if:

(a) The provider is unwilling or unable to fulfill the warranty; and

(b) The equipment continues to be medically necessary.

((~~(16)~~)) (18) The agency does not reimburse for medical equipment, related services, and related repairs and labor charges under fee-for-service when the client is:

(a) An inpatient hospital client;

(b) Eligible for both medicare and medicaid, and is staying in a skilled nursing facility in lieu of hospitalization;

(c) Terminally ill and receiving hospice care; or

(d) Enrolled in a risk-based managed care plan that includes coverage for such items and/or services.

((~~(17)~~)) (19) The agency rescinds any purchase order for a prescribed item if the equipment was not delivered to the client before the client:

(a) Dies;

(b) Loses medical eligibility;

(c) Becomes covered by a hospice agency; or

(d) Becomes covered by a managed care organization.

((~~(18)~~)) (20) A provider may incur extra costs for customized equipment that may not be easily resold. In these cases, for purchase orders rescinded in subsection ((~~(7)~~)) (19) of this section, the agency may pay the provider an amount it considers appropriate to help de-

fray these extra costs. The agency requires the provider to submit justification sufficient to support such a claim.

((~~(19)~~)) (21) For clients residing in skilled nursing facilities, see WAC 182-543-5700.

WSR 26-17-052
PROPOSED RULES
SOUTHWEST CLEAN
AIR AGENCY
[Filed August 12, 2026, 1:58 p.m.]

Original Notice.

Proposal is exempt under RCW 70A.15.2040(1).

Title of Rule and Other Identifying Information: Southwest Clean Air Agency (SWCAA) 400-010 Policy and Purpose, existing rule section identifying the purpose and general policy of SWCAA.

SWCAA 400-020 Applicability, existing rule section identifying SWCAA's geographic boundaries and source jurisdiction.

SWCAA 400-025 Adoption of Federal Rules, existing rule section establishing an adoption by reference date for federal regulations cited in other sections of SWCAA 400.

SWCAA 400-030 Definitions, existing rule section containing definitions for words and phrases used throughout SWCAA 400.

SWCAA 400-075 Emission Standards for Stationary Sources Emitting Hazardous Air Pollutants, existing rule section adopting by reference federal standards relating to hazardous air pollutant standards contained in 40 C.F.R. Parts 61, 63, and 65.

SWCAA 400-100 Registration Requirements, existing rule section identifying requirements for registration and inspection of air contaminant sources.

SWCAA 400-101 Emission Units Exempt from Registration Requirements, existing rule section identifying exemption thresholds and exempt equipment for the air contaminant source registration program.

SWCAA 400-103 Operating Permit Fees, existing rule section containing methodology for calculating and assessing fees for the operating permit program.

SWCAA 400-105 Records, Monitoring and Reporting, existing rule section identifying requirements for emission monitoring, emission sampling and reporting, and submission of emission inventories.

SWCAA 400-109 Air Discharge Permit Applications, existing rule section identifying requirements for the submission and content of air discharge permit applications.

SWCAA 400-110 Application Review Process for Stationary Sources (New Source Review), existing rule section identifying requirements for the processing and approval of air discharge permit applications.

SWCAA 400-111 Requirements for New Sources in a Maintenance Plan Area, existing rule section identifying requirements specific to new sources located in a maintenance plan area.

SWCAA 400-112 Requirements for New Sources in Nonattainment Areas, existing rule section identifying requirements specific to new sources located in nonattainment areas.

SWCAA 400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas, existing rule section identifying requirements specific to new sources located in attainment or nonclassifiable areas.

SWCAA 400-114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source, existing rule section identifying requirements specific to replacement or alteration of existing emission control technology.

SWCAA 400-115 Standards of Performance for New Sources, existing rule section adopting by reference federal standards for new sources contained in 40 C.F.R. Part 60.

SWCAA 400-171 Public Involvement, existing section identifying public notice requirements for SWCAA actions, and the process by which public involvement is to be administered.

SWCAA 400-230 Regulatory Actions and Civil Penalties, existing section identifying powers of SWCAA to issue orders and levy civil penalties.

SWCAA 400 Appendix C - Federal Standards Adopted by Reference, existing rule section containing informational lists of federal regulations adopted by reference, pursuant to SWCAA 400-075 and 400-115.

Hearing Location(s): On October 28, 2026, at 6:00 p.m., via virtual online hearing. Contact SWCAA to register for online hearing.

Date of Intended Adoption: November 5, 2026.

Submit Written Comments to: Wess Safford, 5101 N.E. 82nd Avenue, Suite 102, Vancouver, WA 98662, email wess@swcleanair.org, by October 30, 2026.

Assistance for Persons with Disabilities: Contact Tina Hallock, phone 360-574-3058 ext. 110, TTY 360-574-3058, email tina@swcleanair.org, by October 18, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: SWCAA 400-010 Policy and Purpose. Update RCW citation from chapter 70.94 RCW to chapter 70A.15 RCW.

SWCAA 400-020 Applicability. Update RCW citation from chapter 70.94 RCW to chapter 70A.15 RCW.

SWCAA 400-025 Adoption of Federal Rules. Update adoption by reference date for federal regulations cited in other sections of SWCAA 400.

SWCAA 400-030 Definitions. Revise definition of "nonroad engine."

SWCAA 400-075 Emission. Addition of Subpart A exemptions to list of maximum achievable control technology adoption exceptions. Administrative edits.

SWCAA 400-100 Registration Requirements. Change "stationary source" to "emission unit" to clarify registration requirements. Add provision allowing use of permitted potential emissions when no emission inventory is submitted by source. Add fee for late payment of annual registration fees. Remove provisions for air contaminant emission related inspection and records collection.

SWCAA 400-101 Emission Units Exempt from Registration Requirements. Change toxic air pollutant exemption threshold from "small quantity emission rate" to "de minimis rate," per chapter 173-460 WAC. Revise comfort heating exemption language. Add exemption thresholds for gasoline stations. Administrative edits.

SWCAA 400-103 Operating Permit Fees. Change late fee language from a presumptive penalty equal to three times fees to a discretionary penalty of up to three times fees. Administrative edits.

SWCAA 400-105 Records, Monitoring and Reporting. Add requirement to submit calculations and other information used to quantify air emissions in emission inventories. Clarify and expand description of SWCAA's power to enter property for the purposes of investigating conditions specific to the release of air contaminants. Administrative edits.

SWCAA 400-109 Air Discharge Permit Applications. Change toxic air pollutant exemption threshold from "small quantity emission rate" to "de minimis rate," per chapter 173-460 WAC. Remove chapter 173-460 WAC date reference. Revise comfort heating exemption language. Administrative edits.

SWCAA 400-110 Application Review Process for Stationary Sources (New Source Review). Change toxic air pollutant exemption threshold

from "small quantity emission rate" to "de minimis rate," per chapter 173-460 WAC. Remove chapter 173-460 WAC date reference. Revise best available control technology citation for change of conditions to improve consistency with WAC 173-400-111(8). Administrative edits.

SWCAA 400-111 Requirements for New Sources in a Maintenance Plan Area. Remove chapter 173-460 WAC date reference. Administrative edits.

SWCAA 400-112 Requirements for New Sources in Nonattainment Areas. Remove chapter 173-460 WAC date reference. Administrative edits.

SWCAA 400-113 Requirements for New Sources in Attainment or Nonclassifiable Areas. Remove chapter 173-460 WAC date reference. Administrative edits.

SWCAA 400-114 Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source. Change application reference from SWCAA 400-110 to SWCAA 400-109. Clarify applicability. Administrative edits.

SWCAA 400-115 Standards of Performance for New Sources. Update list of adoption exceptions.

SWCAA 400-171 Public Involvement. Remove fax reference. Clarification that website publication of information in support of a determination is presumed to meet public availability requirements. Administrative edits.

SWCAA 400-230 Regulatory Actions and Civil Penalties. Replace SWCAA 435 citation with chapter 173-435 WAC citation.

SWCAA 400 Appendix C - FEDERAL STANDARDS ADOPTED BY REFERENCE. Update list of adopted federal regulations.

Reasons Supporting Proposal: The proposed changes are necessary to support SWCAA's implementation of the Washington state Clean Air Act and associated federal standards.

Statutory Authority for Adoption: RCW 70A.15.2040(1).

Statute Being Implemented: RCW 70A.15.2040(1).

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

Name of Proponent: SWCAA, governmental.

Name of Agency Personnel Responsible for Drafting: Wess Safford, 5101 N.E. 82nd Avenue, Suite 102, Vancouver, WA 98662, 360-574-3058 ext. 126; Implementation: Clint Lamoreaux, 5101 N.E. 82nd Avenue, Suite 102, Vancouver, WA 98662, 360-574-3058 ext. 131; and Enforcement: Bryan Smith, 5101 N.E. 82nd Avenue, Suite 102, Vancouver, WA 98662, 360-574-3058 ext. 122.

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. Pursuant to RCW 70A.15.2040(1), section 201, chapter 403, Laws of 1995, does not apply to this rule adoption. SWCAA is not voluntarily invoking section 201, chapter 403, Laws of 1995, for this action.

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

Is exempt under RCW 70A.15.2040(1).

Explanation of exemptions: Pursuant to RCW 70A.15.2040(1), air pollution control authorities are authorized to adopt and amend rules and regulations in accordance with chapter 42.30 RCW and selected portions of chapter 34.05 RCW. SWCAA is not deemed a state agency and is not required to comply with the provisions of chapter 19.85 RCW.

Scope of exemption for rule proposal:

Is fully exempt.

August 12, 2026
Uri Papish
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 26-19 issue of the Register.

WSR 26-17-053
PROPOSED RULES
DEPARTMENT OF HEALTH
[Filed August 12, 2026, 2:47 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: Radiation material medical use notification rule update. The department of health (department) is proposing to incorporate the missing notification language from the federal requirements in 10 C.F.R. 35.14(a), Subpart A by text into WAC 246-240-025. The proposed amendment also corrects subsection numbers, and adds a comma to correct the mailing address. This rule making is necessary to ensure consistency between federal and state rules.

Hearing Location(s): On October 6, 2026, at 3:00 p.m. Register in advance for this webinar at https://us02web.zoom.us/webinar/register/WN_h_RK_pBVTGy4UwruQSMWag. After registering, you will receive a confirmation email containing information about joining the webinar.

Date of Intended Adoption: October 13, 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 October 6, 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 22, 2026 at 11:59 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to add missing federal language from 10 C.F.R. § 35.14(a), Subpart A to WAC 246-240-025. The federal provision requires medical use licensees to notify the regulatory agency when they permit certain individuals to work under the provisions of 10 C.F.R. § 35.13(b) and to submit documentation demonstrating the individual's qualifications. These requirements and provisions provide for the radiation safety of workers, the general public, patients, and human research subjects. The proposal aligns Washington's medical use regulations with Nuclear Regulatory Commission requirements and helps maintain compatibility between the state's radioactive materials program and the federal rule.

Reasons Supporting Proposal: The proposed changes are necessary to align the rule language with the notification requirements language in 10 C.F.R. § 35.14(a), Subpart A.

Statutory Authority for Adoption: RCW 70A.388.040 and 70A.388.050.

Statute Being Implemented: RCW 70A.388.040 and 70A.388.050.

Rule is necessary because of federal law, 10 C.F.R. § 35.14 (April 24, 2002).

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 and Enforcement: Sonam Choudrie, 111 Israel Road S.E., Tumwater, WA 98501, 360-764-0984.

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 did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(iii) exempts rules that adopt or in-

corporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards. The proposed rules incorporate missing federal language from 10 C.F.R. § 35.14(a), Subpart A.

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: 10 C.F.R. § 35.14 (April 24, 2002), *Nuclear Regulatory Commission, Medical Use of Byproduct Material: Notifications*. These revisions are intended to include the missing federal language for radiation material medical use notification rules. This rule making ensures consistency with federal language and an overall safer program.

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 rule incorporates federal regulations without material change, corrects the subsection numbers, and adds a comma to correct the mailing address.

Scope of exemption for rule proposal:

Is fully exempt.

August 12, 2026
Kristin Peterson, JD
Chief of Policy
for Dennis E. Worsham
Secretary of Health

RDS-7318.1

AMENDATORY SECTION (Amending WSR 22-19-084, filed 9/20/22, effective 10/21/22)

WAC 246-240-025 Notifications. (1) A licensee shall provide the department, no later than 30 days after the date the licensee permits an individual to work under the provisions of WAC 246-240-022(2) as an authorized user, authorized medical physicist, ophthalmic physicist, or authorized nuclear pharmacist:

(a) A copy of the board certification and, as appropriate, verification of completion of:

(i) Training for the authorized medical physicist under WAC 246-240-072(3);

(ii) Any additional case experience required in WAC 246-240-210(2)(a)(ii)(G) for an authorized user under WAC 246-240-201; or

(iii) Device specific training in WAC 246-240-399(3) for the authorized user under WAC 246-240-351; or

(b) A copy of the NRC or agreement state license, the permit issued by an NRC master material licensee, the permit issued by an NRC or agreement state licensee of broad scope, the permit issued by an NRC master material license broad scope permittee, or documentation that only accelerator-produced radioactive materials, discrete sources of radium-226, or both, were used for medical use or in the practice of nuclear pharmacy at a government agency or federally recognized Indian tribe before November 30, 2007, or at all other locations of use before August 8, 2009, or an earlier date as noticed by the NRC for each individual whom the licensee permits to work under the provisions of this section.

(2) A licensee shall notify the department no later than 30 days after:

(a) An authorized user, an authorized nuclear pharmacist, a radiation safety officer, an associate radiation safety officer, ophthalmic physicist, or an authorized medical physicist permanently discontinues performance of duties under the license or has a name change;

(b) The licensee's mailing address changes;

(c) The licensee's name changes, but the name change does not constitute a transfer of control of the license as described in WAC 246-232-050(2);

(d) The licensee has added to or changed the areas of use identified in the application or on the license where radioactive material is used under either WAC 246-240-151 or 246-240-157 if the change does not include the addition or relocation of either an area where PET radionuclides are produced or a PET radioactive drug delivery line from the PET radionuclide or PET radioactive drug production area;

(e) The licensee obtains a sealed source for use in manual brachytherapy from a different manufacturer or with a different model number than authorized by its license for which it did not require a license amendment as provided in WAC 246-240-022(9). The notification must include the manufacturer and model number of the sealed source, the isotope, and the quantity per sealed source; or

(f) The licensee permits an authorized user or an individual qualified to be a radiation safety officer, under WAC 246-240-069 and 246-240-081, to function as a temporary radiation safety officer and to perform the functions of a radiation safety officer in accordance with WAC 246-240-051(3).

((~~(2)~~)) (3) The licensee shall send the documents required in this section to the department at P.O. Box 47827, Olympia, WA 98504-7827.

WSR 26-17-056
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed August 12, 2026, 4:39 p.m.]

Supplemental Notice to WSR 26-07-058.

Preproposal statement of inquiry was filed as WSR 25-23-001.

Title of Rule and Other Identifying Information: The partnership, prevention, and services division recently revised the receiving care WAC in chapter 110-50 WAC to comply with the D.S. Settlement Agreement. However, WAC 110-50-0160 was inadvertently not repealed in WSR 26-07-058.

The following section in chapter 110-50 WAC, Child welfare, will be repealed: WAC 110-50-0160 How are rates authorized for reimbursement to receiving home providers?

Hearing Location(s): On September 22, 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 23, 2026.

Submit Written Comments to: Department of children, youth, and families (DCYF) rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, web https://www.dcyf.wa.gov/practice/policy-laws-rules/rul-making/participate/online [https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online], beginning at 8:00 a.m., by 11:59 p.m. on September 22, 2026.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, relay users dial 711, by September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule making will allow DCYF to be compliant with the D.S. Settlement Agreement.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 74.13.031.

Rule is necessary because of federal court decision, *D.S. v. Washington State Department of Children, Youth, and Families*, No. 2:21-cv-00113-BJR (W.D. Wash. 2021).

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Christine Domes, Olympia, 360-391-5692; 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. DCYF is not among the agencies listed as required to comply with 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 rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 12, 2026

Brenda Villarreal
Rules Coordinator

RDS-7354.1

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 110-50-0160	How are rates authorized for reimbursement to receiving home providers?

WSR 26-17-059
PROPOSED RULES
HEALTH CARE AUTHORITY
[Filed August 13, 2026, 8:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-09-111.

Title of Rule and Other Identifying Information: The following sections in chapter 182-55 WAC, Health technology assessment program: WAC 182-55-005 Authority and purpose, 182-55-010 Definitions, 182-55-025 Committee member requirements and committee member terms, 182-55-026 Committee governance, 182-55-030 Committee coverage determination process, 182-55-035 Committee coverage determination, 182-55-040 Health care authority's implementation of final coverage, 182-55-045 Advisory group, 182-55-050 Health technology selection, and 182-55-055 Health technology assessment.

Hearing Location(s): On September 22, 2026, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. Virtual public hearings are held via Microsoft Teams webinar. To attend, you must register in advance at https://events.gcc.teams.microsoft.com/event/69803d74-295c-4581-a5b9-323091969802@11d0e217-264e-400a-8ba0-57dcc127d72d. After registering, you will receive a confirmation email containing information about joining the public hearing. You will be able to join the public hearing through most standard internet browsers; you do not need to install Microsoft Teams.

Date of Intended Adoption: Not sooner than September 23, 2026.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning August 20, 2026, 8:00 a.m., by September 22, 2026, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Jessica Nguyen, phone 360-725-1174, fax 360-586-9727, telecommunication relay service 711, email arc@hca.wa.gov, by September 4, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA revised several sections within chapter 182-55 WAC to carry out the requirements in RCW 70.14.100 and 70.14.110 (amended by SB 5915, chapter 70, Laws of 2026).

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Blake O'Connor, 628 8th Avenue S.E., Olympia, WA 98501, 360-725-1344; Implementation and Enforcement: Val Hamann, 628 8th Avenue S.E., Olympia, WA 98501, 360-725-5126.

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

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

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute.

Explanation of exemptions: Other than housekeeping revisions, the changes are explicitly and specifically dictated by statute in RCW 70.14.100 and 70.14.110 (amended by SB 5915, chapter 70, Laws of 2026, 69th legislature).

Scope of exemption for rule proposal:

Is fully exempt.

August 13, 2026
Wendy Barcus
Rules Coordinator

RDS-7314.2

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-005 Authority and purpose. Under RCW 70.14.080 through 70.14.140, the director of the Washington state health care authority provides administrative support ((~~for,~~)) and adopts rules to govern the health technology clinical committee and a health technology assessment program within the health care authority. The health technology assessment program will:

(1) Contract with ((~~an~~)) evidence-based technology assessment center<u>s</u> to produce health technology assessments;

(2) Administratively support the independent health technology clinical committee; and

(3) Maintain a ((~~centralized, internet-based communication tool~~)) <u>health technology assessment web page on the authority's website</u>.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-010 Definitions. When used in this chapter:

(1) "Advisory group" as defined in RCW 70.14.080 means a group established under RCW 70.14.110 (2)(c).

(2) ((~~"Centralized, internet-based communication tool" means the health care authority's health technology assessment program internet web pages established under RCW 70.14.130(1).~~

~~(3)~~)) "Committee" as defined in RCW 70.14.080 means the health technology clinical committee established under RCW 70.14.090.

((~~(4)~~)) <u>(3)</u> "Coverage determination" as defined in RCW 70.14.080 means a determination of the circumstances, if any, under which a health technology will be included as a covered benefit in a state purchased health care program.

((~~(5)~~)) <u>(4)</u> "Decisions made under the federal medicare program" means national coverage determinations issued by the Centers for Medicare and Medicaid Services stating whether and to what extent medicare covers specific services, procedures, or technologies.

((~~(6)~~)) <u>(5)</u> "Director" means the director of the Washington state health care authority under chapter 41.05 RCW.

((~~(7)~~)) (6) "Health technology" as defined in RCW 70.14.080 means medical and surgical devices and procedures, medical equipment, and diagnostic tests. Health technologies do not include prescription drugs governed by RCW 70.14.050.

((~~(8)~~)) (7) "Health technology assessment" means a report produced by a contracted, evidence-based, technology assessment center or other appropriate entity, as provided for in RCW 70.14.100(4), based on a systematic review of evidence of a technology's safety, efficacy, and cost-effectiveness.

((~~(9)~~)) (8) "Participating agency" as defined in RCW 70.14.080 means the department of social and health services, the state health care authority, and the department of labor and industries.

(9) "Petition for review" for the purposes of this chapter means a formal request for review or rereview of a health technology.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-025 Committee member requirements and committee member terms. (1) As a continuing condition of appointment, committee members must:

(a) Not have a substantial financial conflict of interest((~~, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys~~));

(b) Complete a conflict of interest disclosure form, update the form annually, and keep disclosure statements current;

(c) Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

(d) Not use information gained from committee membership outside of committee responsibilities, unless the information is publicly available.

(2) The director has the sole discretion to terminate a committee member's appointment if the director determines that the committee member has violated a condition of appointment.

(3) Committee members serve staggered three-year terms. To provide for staggered terms, committee members may be appointed initially for less than three years.

(4) A committee member may be appointed for a total of nine years of committee service, but an initial appointment of less than ((~~twenty-four~~)) 24 months is not included in the nine-year limitation.

(5) A committee member may serve until that member's successor is appointed, notwithstanding the limits on service in subsection (3) of this section.

((~~(6) Mid-term vacancies on the committee are filled for the remainder of the unexpired three-year term.~~))

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-026 Committee governance. (1) The committee may establish bylaws, within applicable statutory and regulatory requirements, to govern the orderly resolution of the committee's purposes. Proposed bylaw amendments are published on the ((~~centralized, inter-~~

~~net-based communication tool~~)) authority's website at least ((~~four-teen~~)) 14 calendar days before adoption by the committee. Before adoption, the committee gives an opportunity at an open public meeting for public comment on proposed bylaw amendments. Committee bylaws ((~~shall be~~)) are published on the ((~~centralized, internet-based communication tool~~)) authority's website.

(2) The director appoints a committee chair.

(3) The committee chair:

(a) Selects a vice chair from among the committee membership;

(b) Presents bylaws, or amendments to the bylaws, to the committee for review and ratification; and

(c) Operates the committee according to the bylaws and committee member agreements.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-030 Committee coverage determination process. (1) In making a coverage determination, committee members ((~~shall~~)) will review and consider evidence regarding the safety, efficacy, and cost-effectiveness of the technology as set forth in the health technology assessment. The committee also considers other information it deems relevant, including other information provided by the director, reports or testimony from an advisory group, and submissions or comments from the public.

(2) The committee ((~~shall~~)) will give the greatest weight to the evidence determined, based on objective factors, to be the most valid and reliable, considering the nature and source of the evidence, the empirical characteristic of the studies or trials upon which the evidence is based, and the consistency of the outcome with comparable studies. The committee also considers additional evidentiary valuation factors such as recency, relevance, and bias.

(3) The committee also considers any unique impacts the health technology has on specific populations based on factors like sex, age, ethnicity, race, or disability, as identified in the health technology assessment.

(4) The committee provides an opportunity for public comment after the health technology assessment is published on the ((~~centralized, internet-based communication tool~~)) authority's website and before the committee's final coverage determination decision.

(5) After the committee makes a final coverage determination, the health technology assessment program publishes it on the ((~~centralized, internet-based communication tool~~)) authority's website and submits a notice in the *Washington State Register*.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-035 Committee coverage determination. The committee ((~~shall~~)) will:

(1) Determine the conditions, if any, under which the health technology will be included as a covered benefit in health care programs of participating agencies by deciding that:

(a) Coverage is allowed without special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective for all indicated conditions; or

(b) Coverage is allowed with special conditions because the evidence is sufficient to conclude that the health technology is safe, efficacious, and cost-effective in only certain situations; or

(c) Coverage is not allowed because either the evidence is insufficient to conclude that the health technology is safe, efficacious, and cost-effective or the evidence is sufficient to conclude that the health technology is unsafe, inefficacious, or not cost-effective.

(2) When making determinations for life-threatening or rare diseases, the committee evaluates applicable clinical trials and takes into account information submitted by clinical experts per RCW 70.14.100(5).

(3) Identify whether the coverage determination is consistent with decisions made under the federal medicare program and expert treatment guidelines.

((~~(3)~~)) (4) For decisions that are inconsistent with either decisions made under the federal medicare program or expert treatment guidelines, including those from specialty physician and patient advocacy organizations, specify the substantial evidence regarding the safety, efficacy, and cost-effectiveness of the technology that supports the contrary determination.

((~~(4)~~)) (5) For covered health technologies, specify criteria for participating agencies to use when deciding whether the health technology is medically necessary or proper and necessary treatment.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-040 Health care authority's implementation of final coverage determinations. This section applies to all final coverage determinations made after August 1, 2016.

(1) The health care authority reviews the final coverage determination for conflicts identified in RCW 70.14.120 (1)(a) and (b).

(2) The ((~~health care~~)) authority reviews whether the health technology review process meets the requirements in this subsection before compliance by the ((~~health care~~)) authority's state-purchased health care programs. The review includes whether the:

(a) Notification of the health technology selected for review was made on the ((~~centralized, internet-based communication tool~~)) authority's website as required by RCW 70.14.130 (1)(a);

(b) Health technology assessment provided to the committee met the requirements in RCW 70.14.100(4) and WAC 182-55-055;

(c) Health technology assessment was published on the ((~~centralized, internet-based communication tool~~)) authority's website at least ((~~fourteen~~)) 14 calendar days before the committee's consideration of the health technology assessment;

(d) Health technology assessment was considered by the committee in an open and transparent process, as required by RCW 70.14.110 (2)(a);

(e) Committee provided an opportunity for public comment prior to the committee's final coverage determination decision;

(f) Committee acknowledged public comment timely received after publication of the committee's draft coverage determination and before the committee's final coverage determination decision;

(g) Committee's final coverage determination specifies the reason or reasons for a decision that is inconsistent with the identified decisions made under the federal medicare program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, for the reviewed health technology; and

(h) Committee meetings complied with the requirements of the Open Public Meetings Act as required by RCW 70.14.090(3).

(3) After the ((~~health care~~)) authority completes its reviews under subsections (1) and (2) of this section, it establishes an implementation date for each of the ((~~health care~~)) authority's state-purchased health care programs and publishes the implementation dates on the health care authority's website.

(4) The ((~~health care~~)) authority's implementation of a final coverage determination can be reviewed as other agency action under RCW 34.05.570(4). A petition for review must be filed in superior court and comply with all statutory requirements for judicial review of other agency action required in chapter 34.05 RCW.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-045 Advisory group. (1) The committee chair, upon an affirmative vote of the committee members, may establish ad hoc temporary advisory groups under RCW 70.14.110 (2)(c). At the time an ad hoc temporary advisory group is formed, the committee must state the ad hoc temporary advisory group's objective and questions to address. Notice of the formation of an ad hoc temporary advisory group, and information about how to participate, ((~~shall~~)) will be posted on the ((~~centralized, internet-based communication tool~~)) authority's website.

(2) The committee chair, or designee, may appoint or remove an advisory group member. An ad hoc temporary advisory group must include at least three members. The advisory group will generally include at least one enrollee, client, or patient. The advisory group must have((~~: (a)~~)) two or more experts or specialists within the field relevant to the health technology, preferably with demonstrated experience in the use, evaluation, or research of the health technology((~~;~~

~~(b) At least one expert who is a proponent or advocate of the health technology; and~~

~~(c) At least one expert who is an opponent or critic of the health technology~~)).

(3) Each advisory group member must:

(a) Not have a substantial financial conflict of interest((~~, such as an interest in a health technology company, including the holding of stock options, or the receipt of honoraria, or consultant moneys~~));

(b) Complete an advisory group member agreement, including a conflict of interest disclosure form, and keep disclosure statements current;

(c) Abide by confidentiality requirements and keep all personal medical information and proprietary information confidential; and

(d) Not utilize information gained as a result of advisory group membership outside of advisory group responsibilities, unless such information is publicly available.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-050 Health technology selection. (1) The director, in consultation with participating agencies and the committee, selects health technologies to be reviewed or rereviewed by the committee. The authority follows the criteria for technology selection in RCW 70.14.100(1).

(2) Petition for review. The director or committee may ((~~also~~)) consider petitions ((~~requesting initial~~)) for review of a health technology from interested parties. To suggest a topic for ((~~initial~~)) review, interested parties must use the petition ((~~form~~)) for review made available on the ((~~centralized, internet-based communication tool. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies~~)) authority's website. Petitions for review of an existing topic include evidence that has since become available that could change the previous coverage determination.

(a) Petitions for review are considered by the director, in consultation with participating agencies and the committee.

(b) Only after the director has declined to grant the petition for review can a petition for review be considered for selection by the committee, as described in RCW 70.14.100(3).

(c) The authority publishes receipt of petitions for review on the authority's website within 30 days of receipt.

(d) The committee reviews, completes its determination, and communicates its decision for petitions for review to the submitting party within 180 days of the initial date of submission.

(e) If a health technology is selected by the committee, the health technology is referred to the director for assignment to the next available contract for a health technology assessment review as described in RCW 70.14.100(4).

((~~(3) Interested parties may submit a petition for the rereview of a health technology. Interested parties must use the petition form available on the centralized, internet-based communication tool and may submit to the health technology assessment program evidence that has since become available that could change the previous coverage determination. The health technology assessment program will provide copies of the petition to the director, committee members, and participating agencies.~~

~~(a) Petitions are considered by the director, in consultation with participating agencies and the committee.~~

~~(b) Only after the director has declined to grant the petition can a petition be reviewed by the committee, as described in RCW 70.14.100(3).~~)) (f) If a health technology is not selected by the committee, the committee provides the submitting party with a written substantive explanation of the rationale for the determination within 180 days of the initial date of submission.

AMENDATORY SECTION (Amending WSR 16-18-023, filed 8/26/16, effective 9/26/16)

WAC 182-55-055 Health technology assessment. (1) Upon providing notice on the ((~~centralized, internet-based communication tool~~)) authority's website required by RCW 70.14.100 (1)(b) that the health technology has been selected for review, the director ((~~shall~~)) will post an invitation for interested parties to submit information relevant to the health technology for consideration by the evidence-based technology assessment center. The information must be submitted to the director or designee within ((~~thirty~~)) 30 calendar days from the date of the notice.

(2) Upon notice of the health technology selected for review, the director or designee ((~~shall~~)) will request participating agencies to provide information relevant to the health technology, including data on safety, health outcome, and cost. The relevant information must be submitted to the director or designee within ((~~thirty~~)) 30 calendar days from the date of the notice.

(3) Upon notice of the health technology selected for review, the director or designee ((~~shall~~)) will identify relevant decisions made under the federal medicare program and expert treatment guidelines, including those from specialty physician and patient advocacy organizations, and any referenced information used as the basis for such determinations or guidelines.

(4) The director ((~~shall~~)) will provide all information gathered under subsections (1), (2), and (3) of this section to the evidence-based technology assessment center and ((~~shall~~)) will post such information, along with the key questions for review, on the ((~~centralized, internet-based communication tool~~)) authority's website.

(5) Upon completion of the health technology assessment by the evidence-based technology assessment center, the director ((~~shall~~)) will publish a copy of the health technology assessment on the ((~~centralized, internet-based communication tool~~)) authority's website and ((~~provide~~)) notify the committee ((~~with~~)) of the:

(a) ((~~A copy of the~~)) Health technology assessment;

(b) ((~~A copy of~~)) Decisions made under the federal medicare program related to the health technology being reviewed and accompanying information describing the basis for the decision; and

(c) Information as to whether expert treatment guidelines exist, including those from specialty physician organizations and patient advocacy organizations, and describing the basis for the guidelines.

WSR 26-17-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Developmental Disabilities Administration)
[Filed August 14, 2026, 9:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-11-030.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing to make changes to WAC 388-823-0055, 388-823-0740, 388-823-0910, 388-823-0920, and 388-823-0930.

Hearing Location(s): On September 22, 2026, at 10:00 a.m., virtually via Teams or call in. See the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not earlier than September 23, 2026.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on August 19, 2026, by 5:00 p.m. on September 22, 2026.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on September 8, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities administration (DDA) is required to change the adaptive assessment administered by DDA staff.

Reasons Supporting Proposal: This is an agency requirement due to a security risk with the current scoring software.

Statutory Authority for Adoption: RCW 71A.12.030.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kat Gehring, P.O. Box 45310, Olympia, WA 98504-5310, 360-890-5140.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: This rule is for internal governmental operations. These amendments do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

August 13, 2026

Katherine I. Vasquez
Rules Coordinator

SHS-5144.1

AMENDATORY SECTION (Amending WSR 24-18-040, filed 8/27/24, effective 10/7/24)

WAC 388-823-0055 Who is responsible for obtaining required documentation? (1) You are responsible for providing the information required to determine DDA eligibility.

(2) If you provide DDA with a signed consent form ((~~and~~)) that lists contacts, DDA will assist in obtaining records.

(3) Evidence required to make an eligibility determination includes, but is not limited to:

(a) Evaluations and reports from a school psychologist, a licensed psychologist, or ((~~both~~)) other qualifying diagnostician;

(b) Evidence of a qualifying condition;

(c) ((~~Clinical and diagnostic tests measuring a person's development and~~)) Developmental, diagnostic, and adaptive ((~~skills~~)) test results ((~~and accompanying reports~~)) that produce standard scores; and

(d) Mental health records.

(4) DDA will not pay for diagnostic, developmental, or adaptive skills assessments.

(5) If you ((~~cannot provide DDA with~~)) have not had an adaptive assessment completed in the last 36 months, but you otherwise meet ((~~DDA~~)) eligibility criteria, DDA will offer to administer ((~~the ICAP~~)) an adaptive assessment for you at no cost to you.

AMENDATORY SECTION (Amending WSR 24-18-040, filed 8/27/24, effective 10/7/24)

WAC 388-823-0740 What evidence do I need of my adaptive skills limitations? (1) For evidence of adaptive skills limitations, DDA accepts a qualifying score from one of the following assessments completed in the past 36 months.

Assessment	Qualifying Score
Vineland adaptive behavior scales (VABS)	An adaptive behavior composite score of 69 or less
Scales of independent behavior - Revised (SIB-R)	A broad independence standard score of 69 or less
Adaptive behavior assessment system (ABAS)	An adaptive behavior composite score of 69 or less
Inventory for client and agency planning (ICAP)	A broad independence standard score of 69 or less

Assessment	Qualifying Score
Diagnostic adaptive behavior scale (DABS)	A broad total adaptive score of 69 or less
Adaptive behavior evaluation scale (ABES)	An adaptive skills quotient of 69 or less

(a) Assessments must be administered and scored by professionals who have a background in individual assessment, human development and behavior, tests and measurements, and knowledge of individuals with disabilities.

(b) DDA will administer ((~~or arrange for the administration of the ICAP~~)) an adaptive assessment only if results from one of the ((~~other~~)) acceptable ((~~tests~~)) assessments are not available from within the past 36 months, and all other eligibility criteria are met.

(c) ((~~Authorized~~)) DDA will determine which adaptive assessment authorized administration staff or contracted designee ((~~must~~)) will administer ((~~the ICAP~~)).

(2) The adaptive test score cannot be a result of:

(a) An unrelated mental illness or other psychiatric condition occurring at any age; or

(b) Another illness or injury occurring after age 18.

(3) If you are dually diagnosed with a qualifying condition and mental illness, other psychiatric condition, or other illness or injury, you must provide acceptable documentation that your adaptive functioning, measured by an adaptive skills test, would meet the requirements for DDA eligibility without the influence of the mental illness, other psychiatric condition, or other illness or injury.

(a) "Acceptable documentation" means written reports or statements that are directly related to adaptive functioning, reasonable considering the evidence, and from a qualified professional. The determination of whether a document is acceptable is made by DDA.

(b) If no documentation is provided or DDA determines that the documentation is not acceptable DDA may deny eligibility. The determination can be challenged through an administrative appeal.

REPEALER

The following sections of the Washington Administrative Code are repealed:

388-823-089999 SUBCAPTION	INVENTORY FOR CLIENT AND AGENCY PLANNING (ICAP)
WAC 388-823-0910	What is the purpose of ICAP?
WAC 388-823-0920	What sections of the ICAP does DDA or a contracted designee complete and score?
WAC 388-823-0930	How does DDA administer the ICAP?

WSR 26-17-073
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF HEALTH
(By the Code Reviser's Office)
[Filed August 17, 2026, 9:45 a.m.]

WAC 246-817-160, proposed by the department of health in WSR 26-03-002, appearing in issue 26-03 of the Washington State Register, which was distributed on February 4, 2026, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the 180-day period allowed by the statute.

Jennifer C. Meas, Editor
Washington State Register

WSR 26-17-085
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Order 25-10—Filed August 18, 2026, 8:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-12-093.

Title of Rule and Other Identifying Information: Chapter 296-127 WAC, Prevailing wage; establishing prevailing wage rates from multiple collective bargaining agreements, including a dispute resolution process.

Hearing Location(s): On September 23, 2026, at 1:30 p.m., at the Department of Labor and Industries (L&I), 12806 Gateway Drive South, Tukwila, WA 98168. The hearing will start at 1:30 p.m. and will continue until all oral comments are received;

On September 24, 2026, at 1:30 p.m., via virtual/telephonic at https://teams.microsoft.com/meet/22174653595461?p=8gBtLts1mI1Gzzw9PN, Meeting ID 221 746 535 954 61, Passcode af9kf3d9; or dial in by phone 833-322-1218, Phone Conference ID 342 918 454#. The hearing will start at 1:30 p.m. and will continue until all oral comments are received; and

On September 30, 2026, at 9:30 a.m., via virtual/telephonic at https://teams.microsoft.com/meet/252685024394889?p=TPaPCIDaikNZxR4oWk, Meeting ID 252 685 024 394 889, Passcode qF9E2oB3; or dial in by phone 833-322-1218, Phone Conference ID 205 254 918#. The hearing will start at 9:30 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: December 1, 2026.

Submit Written Comments to: Ethan Whitener, L&I, Division of Labor Standards, Prevailing Wage Program, P.O. Box 44530, Olympia, WA 98504-4530, email PWRules@Lni.wa.gov, fax 360-902-5300, beginning August 19, 2026, 8:00 a.m., by October 2, 2026, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Ethan Whitener, phone 360-890-6139, fax 360-902-5300, TTY 1-800-833-6388, email PWRules@Lni.wa.gov, by September 18, 2026, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the rule-making proposal is to clarify the semi-annual prevailing wage update and provide a dispute resolution process. The proposed rules create a clear process for establishing the relevant collective bargaining agreements (CBA) for a given occupation, as well as resolving disputes. The proposed rules amend three existing sections in rule and add two new sections under chapter 296-127 WAC, to:

- Define trade and occupation as already used by L&I and the construction industry to clarify the wage update process;
- Clarify the documentation that L&I may require during the semi-annual wage update;
- Require L&I to notify interested parties when it makes certain decisions;
- Specify the criteria used by the prevailing wage program to analyze CBAs and determine whether they should be used to set a wage rate for a specific occupation and county; and
- Formalize the process for disputing a collectively bargained wage rate that L&I publishes for a trade and occupation during the semi-annual wage update.

Reasons Supporting Proposal: This will benefit stakeholders, specifically those within the prevailing wage community, including business, labor and workers, L&I, and the general public, by providing consistency and transparency throughout the wage update process.

Statutory Authority for Adoption: Chapter 39.12 RCW, Prevailing wages on public works.

Statute Being Implemented: Chapter 39.12 RCW, Prevailing wages on public works.

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: Ethan Whitener, Tumwater, Washington, 360-890-6139; Implementation and Enforcement: David Speer, Tumwater, Washington, 360-869-6129.

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. Proposed rules are procedural and interpretive only and do not impose costs on businesses.

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.

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 18, 2026
Joel Sacks
Director

RDS-7317.1

AMENDATORY SECTION (Amending WSR 25-09-126, filed 4/22/25, effective 1/1/26)

WAC 296-127-010 Definitions for chapter 296-127 WAC. (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department or his or her duly authorized deputy or representative.

(3) "Industrial statistician" means the industrial statistician of the department.

(4) "Assistant director" means the assistant director of the ((~~fraud prevention and labor standards (FPLS) division or his or her~~)) division that includes the prevailing wage program or their duly authorized deputy or representative.

(5) "Contractor" means:

(a) The prime contractor, and each and every subcontractor, required to be registered under chapter 18.27 RCW and/or licensed under chapter 19.28 RCW, that performs any work on a public works project

site, and/or is required to pay industrial insurance premiums as a construction company.

(b) Employers engaged in shipbuilding and ship repair, building service maintenance, and any fabricator or manufacturer that produces nonstandard items specifically for a public works project.

(c) Employers that contract with contractors or subcontractors for the purpose of the production and/or delivery of materials pursuant to the terms of WAC 296-127-018.

(d) An entity, however organized, with substantially identical operations, corporate, or management structure to an entity that has been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules. The nonexclusive factors used to determine substantial identity include an assessment of whether there is: Substantial continuity of the same business operation; use of the same machinery, equipment, or both tangible and intangible real or personal property; similarity of jobs and types of working conditions; continuity of supervisors; and similarity of product or services. An entity with operational, corporate, and management structures distinct from an entity that has been found in violation under RCW 39.12.050, 39.12.055, or 39.12.065, or any associated rules, shall not be deemed a substantially identical entity.

(6) The term municipality shall include every city, county, town, district, political subdivision, or other public agency thereof which is authorized by law to require the execution of public work, except drainage districts, diking districts, diking and drainage improvement districts, drainage improvement districts, diking improvement districts, consolidated diking and drainage improvement districts, consolidated drainage improvement districts, consolidated diking improvement districts, irrigation districts, or any such other districts as shall from time to time be authorized by law for the reclamation or development of waste or undeveloped lands.

(7)(a) The term "public work" shall include:

(i) All work, construction, alteration, enlargement, improvement, repair, and/or demolition that is executed by contract, purchase order, or any other legal agreement and that is executed at the cost of the state of Washington or of any municipality. The source of the funding shall not determine the applicability of the statute, and may include, but is not limited to, such sources as those payments made through contracts with insurance companies on behalf of the insured state or municipality;

(ii) All work, construction, alteration, enlargement, improvement, repair, and/or demolition which, by law, constitutes a lien or charge on any property of the state or of a municipality;

(iii) All work, construction, alteration, repair, or improvement, other than ordinary maintenance that the state or a municipality causes to be performed by a private party through a contract to rent, lease, or purchase at least 50 percent of the project by one or more state agencies or municipalities, pursuant to RCW 39.04.260;

(iv) Maintenance, except ordinary maintenance as defined by (b)(ii)(A) and (B) of this subsection, when performed by contract. Maintenance is defined as keeping existing facilities in good usable, operational condition;

(v) Janitorial and building service maintenance as defined by WAC 296-127-023, when performed by contract, on public buildings and/or assets; and

(vi) The fabrication and/or manufacture of nonstandard items produced by contract specifically for a public works project as defined by (a)(i) through (v) of this subsection.

(b) The term "public work" shall not include:

(i) Work, construction, alteration, enlargement, improvement, repair, demolition, and/or maintenance for which no wage or salary compensation is paid, consistent with the requirements of RCW 35.21.278; or

(ii) Ordinary maintenance.

(A) Ordinary maintenance is defined as maintenance work performed by the regular employees of the state or any county, municipality, or political subdivision created by its laws.

(B) For housing authorities when contracting with a property management services company for purposes of operating a housing project, as defined in RCW 35.82.030. Rental and other project revenues collected by a property management services company from the housing project's tenants and used to pay administrative operating and ordinary maintenance costs incurred by the company under the terms of the contract with the authority shall be treated as private funds, and any resulting services as executed at the cost of the property management services company and the housing project's tenants, until the net operating revenues are distributed to the authority for its exclusive use and control. For the purposes of this subsection, "ordinary maintenance" only includes: Routine repairs related to unit turnover work; grounds and parking lot upkeep; and repairs and cleaning work needed to keep a property in a clean, safe, sanitary, and rentable condition that are customarily undertaken or administered by residential property management services companies. "Ordinary maintenance" does not include repairs that would be considered replacement capital repairs or scheduled regular maintenance work on plumbing, electrical, or HVAC/R systems or their components.

(8) "Contract" means a contract, purchase order, or any other legal agreement in writing for public work to be performed for a fixed or determinable amount, which is duly awarded after advertisement and competitive bid. A contract that is awarded from a small works roster, or under the emergency provisions of state law, need not be advertised.

(9) "Residential construction" means construction, alteration, repair, improvement, or maintenance of single family dwellings, duplexes, apartments, condominiums, and other residential structures not to exceed four stories in height, including basement, in the following categories:

(a) Affordable housing, including permanent supportive housing and transitional housing, which may include common spaces, community rooms, recreational spaces, a management office, or offices for the purposes of service delivery;

(b) Weatherization and home rehabilitation programs for low-income households; and

(c) Homeless shelters and domestic violence shelters.

"Residential construction" does not include the utilities construction (such as water and sewer lines), or work on streets, or work on other structures unrelated to the housing.

(10) "Trade," for the purposes of the wage update process, means the section titles for the scope of work descriptions in chapter 296-127 WAC, or as otherwise listed by the department. The term "craft" as commonly used in industry practice has the same meaning as "trade."

(11) "Occupation," for the purposes of the wage update process, means a specific role or set of duties performed within a trade as covered by the scope of work descriptions in chapter 296-127 WAC. The terms "job classification" and "subclassification" as commonly used in industry practice and by the department have the same meaning as "occupation."

AMENDATORY SECTION (Amending WSR 19-15-119, filed 7/23/19, effective 8/23/19)

WAC 296-127-011 Documentation and time for determining prevailing wage. (1) Prevailing wage rates for all public work contracts will be determined by the industrial statistician and published on the first business day of February and the first business day of August of each year. These rates shall become effective ((~~thirty~~)) 30 days after the date of publication. However, the industrial statistician may revise an established prevailing wage rate in response to an administrative or judicial finding overturning the established rate, or at any time necessary to correct an error, with such revision becoming effective ((~~thirty~~)) 30 days after the date of publication. However, in the event of an emergency as determined by the director of the department, such revised rate shall take effect upon publication.

(2) The department shall establish deadlines for the submission of requested information which may include, but is not limited to:

(a) Completed wage surveys, for inclusion of submitted data in the survey computations;

(b) Newly ratified collective bargaining agreements for inclusion in the semiannual prevailing wage publication;

(c) Notice of collectively bargained wage and benefit adjustments, and/or relevant contractual changes, for inclusion in the semiannual prevailing wage publication; ((~~and~~))

(d) Notice of changes in apprenticeship standards and incremental wage rates for inclusion in the semiannual prevailing wage publication;

(e) Written description(s) of the type and nature of the work, work processes, tools, and equipment for any new occupation with a distinct wage rate in the most current collectively bargained agreement;

(f) Examples of work contracts associated with the collective bargaining agreement that correspond to work performed by the trade and occupation under review;

(g) A list of other interested parties that the submitter believes are possibly affected by the rate; and

(h) Any additional documentation requested by the department to establish the prevailing wage rate.

(3) The department will notify interested parties, as defined by RCW 39.12.010(4), when:

(a) Multiple collective bargaining agreements have been submitted for the same trade and occupation;

(b) It receives a request to publish wage rates for an occupation that did not have a published rate in the most recent wage publication; or

(c) It receives a request to eliminate an occupation.

(4) The applicable prevailing wage rates for a given public works contract will be determined as follows:

(a) For all public works contracts, except janitorial or building service maintenance contracts, the applicable prevailing wage rates shall be the rates that are in effect on the date when bids by prime contractors are due for submission to contract awarding agencies. These rates shall remain in effect for the duration of the contract.

(b) If contracts are not awarded within six months of the date bids are due, the applicable prevailing wage rates shall be those that are in effect on the date the contract is awarded. These rates shall remain in effect for the duration of the contract.

(c) For work orders issued under job order contracts pursuant to chapter 39.10 RCW, the appropriate prevailing wage rates shall be the rates that are in effect on the date when the individual work order is issued.

((~~(4)~~)) (5) If a contract for public work is not awarded pursuant to bids, the applicable prevailing wage rates shall be those that are in effect on the date when the contract is executed. These rates shall remain in effect for the duration of the contract.

((~~(5)~~)) (6) A schedule of the applicable prevailing wage rates must be included by:

(a) Contract awarding agencies, in the bid specifications and contract documents for each contract.

(b) Contractors, in the bid and/or contract documents provided to subcontractors.

AMENDATORY SECTION (Amending WSR 19-15-119, filed 7/23/19, effective 8/23/19)

WAC 296-127-019 Survey methodology. (1) The industrial statistician shall establish prevailing wage rates by:

(a) Conducting wage and hour surveys for established trades and occupations;

(b) Adopting the wage and benefit adjustments established in collective bargaining agreements for those trades or occupations where the most recently established prevailing wage rates were derived from a collective bargaining agreement; and/or

(c) In instances when the procedures established in (a) and (b) of this subsection are not feasible, employing other methods deemed appropriate by the industrial statistician as set ((~~out~~)) forth in subsection (8) of this section and in WAC 296-127-075.

(2) The department will determine the identity of employers to be surveyed for a specific trade or occupation by:

(a) Mailing trade and occupation questionnaires to all contractors whose registration under chapter 18.27 RCW or license under chapter 19.28 RCW is active;

(b) Mailing trade and occupation questionnaires to Washington state department of transportation prequalified contractors; and

(c) Compiling and maintaining lists of employers that are not required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, but that employ workers in building service maintenance, in shipbuilding or ship repair, in the fabrication and/or manufacture of nonstandard items produced specifically for a public works project, and/or in the production and delivery of materials as defined in WAC 296-127-018. Trades and occupations utilized by the shipbuilding and ship repair industries shall not have their survey data com-

bined with their construction counterparts, for the purpose of establishing prevailing wage rates for that industry.

(3)(a) Wage survey forms will be mailed to:

(i) Those contractors and employers whose businesses currently are active and were active during the established survey period, and whose response to the trade and occupation questionnaire indicates that they employ one or more of the trades or occupations being surveyed; and

(ii) Labor unions representing workers in the trades or occupations being surveyed.

(b) The department annually shall mail to statewide trade associations and statewide labor organizations a proposed schedule of trades intended to be surveyed during the upcoming fiscal year. In addition, the department shall notify those statewide trade associations and labor organizations, reasonably known to be affected, of the mailing of wage surveys.

(4) Data reported on survey forms may be verified by the department, and will be used only when submitted on behalf of or by:

(a) Individual contractors identified by a contractor registration number that currently is valid, and was valid during the established survey period;

(b) Employers that are not required to be registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW, that directly employ and supervise workers as employees in building service maintenance, in shipbuilding or ship repair, in the manufacture of nonstandard items specifically produced for a public works project, or in the production and delivery of materials, as defined in WAC 296-127-018;

(c) Labor unions submitting wage and hour data on behalf of contractors and/or employers who are signatory to those unions' collective bargaining agreements covering the trade or occupation being surveyed; or

(d) Interested parties providing wage and hour data by trade and occupation from certified payroll records and/or from hours reported by trade and occupation on affidavits of wages paid, according to guidelines established by the department.

(5) The department shall use affidavit forms that include a requirement that contractors report the actual number of hours worked by each trade and occupation utilized on the public works project for which the affidavit is filed.

(6) Valid data reported on wage surveys shall be calculated, as follows:

(a) If the majority of hours reported for a trade or occupation in the largest city in a county is paid at the same wage rate, then that rate shall be established as the prevailing wage rate.

(b) If the same wage rate is not reported to have been paid for the majority of hours reported in the largest city in a county for a trade or occupation, then the average wage rate shall be established as the prevailing wage rate, based on a weighted average of the hours, wages, and benefits reported in the largest city.

(c) If a statistically significant number of hours fails to be reported for the largest city in a county, then the average wage rate for the county is established as the prevailing wage, based on a weighted average.

(7) Survey data will not be accepted if the data report the hours and wages of those who are exempt from the prevailing wage requirements of chapter 39.12 RCW, as defined in WAC 296-127-026.

(8)(a) The industrial statistician may utilize alternative methods to establish prevailing wage rates consistent with the terms of (b) of this subsection. These methods include, but are not limited to:

(i) The use of wage and hour data from the department of employment security;

(ii) The use of wage and hour data from the industrial insurance division of the department of labor and industries;

(iii) The use of data from surveys performed by the United States Department of Labor, wage and hour division; or

(iv) The use of wage and hour data reported to the department on affidavits of wages paid.

(b) These alternative methods will not be used for trades or occupations for which surveys had been completed as of the effective date of this section unless a subsequent survey produces insufficient data. In addition, these alternative methods may be used under circumstances that include, but are not limited to, the following:

(i) To establish prevailing wage rates for a new trade or occupation where a survey is not immediately feasible;

(ii) In response to an administrative or judicial determination of invalid wage rate or scope of work description;

(iii) In response to changes or additions in licensing, safety, or other requirements of other state agencies, departments or divisions; or

(iv) To establish rates for industries and trades and occupations generally not surveyed, in order to meet the requirement of having established wage rates for publication in contract or bid specifications as required by RCW 39.12.030.

(9) Any party that submits false information under this section shall, after a determination to that effect has been issued by the director after a hearing pursuant to chapter 34.05 RCW, forfeit as a civil penalty the sum of ((~~five hundred dollars~~)) $500.

NEW SECTION

WAC 296-127-075 Methods for establishing wage rates from collective bargaining agreements. (1) Prevailing wage rates for all public work contracts will be determined by the industrial statistician as provided in RCW 39.12.015 and 39.12.017.

(2) Except as provided in RCW 39.12.017, and notwithstanding RCW 39.12.010(1), the industrial statistician shall establish the prevailing rate of wage by adopting the hourly wage, usual benefits, and overtime paid for the geographic jurisdiction established in collective bargaining agreements for those trades and occupations that have collective bargaining agreements. Ratified collective bargaining agreements, relevant contractual changes, wage rate schedules, negotiated overtime and special shift provisions, and any other supporting documentation must be provided by the deadlines in WAC 296-127-011 to be considered by the industrial statistician.

(3) For trades and occupations with more than one collective bargaining agreement in the county, the higher rate prevails.

(4) Collective bargaining agreements that established the previous prevailing wage rate at the time of the semi-annual wage setting submission period for each trade and occupation shall serve as the default source of data for updating prevailing wage rates. The department shall use the wage adjustments outlined in these collective bar-

gaining agreements as the baseline when conducting semi-annual wage reviews and adjustments, unless subject to this section.

(5) The industrial statistician may request documentation to verify that a collective bargaining agreement represents the applicable trade and occupation and should be considered during the semi-annual wage update. Criteria to evaluate the collective bargaining agreement may include, but is not limited to, the following:

(a) The occupation aligns with the scope of work in rule for the trade under consideration;

(b) Employers have paid workers for performing the trade and occupation at the rate in the collective bargaining agreement;

(c) Setting the rate does not conflict with other department determinations or scopes of work; and

(d) Any other relevant criteria.

(6) For trades and occupations in which there are no collective bargaining agreements in the county, the industrial statistician shall establish the prevailing rate of wage as defined in RCW 39.12.010 by conducting wage and hour surveys. In instances when there are no applicable collective bargaining agreements and conducting wage and hour surveys is not feasible or insufficient, the industrial statistician may employ other appropriate methods to establish the prevailing rate of wage as set forth in WAC 296-127-019.

NEW SECTION

WAC 296-127-080 Dispute resolution process for the semi-annual wage update. (1) If an affected interested party disputes the department's decision to prevail a collectively bargained rate during the semi-annual wage update, the interested party must:

(a) Write a protest letter to the prevailing wage industrial statistician identifying the disputed wage rate for a specific trade and occupation, and provide any documentation to support the dispute;

(b) Send the letter and supporting documentation electronically or by mail to the prevailing wage program; and

(c) File the dispute within 15 days of the wage publication date.

(2) During the dispute process, the disputed prevailing wage rate that will be in effect will remain in effect until the department has rendered its decision.

(3) The department will review the dispute and any supporting documentation and will either modify, reverse, or affirm the original decision.

(4) Only the affected interested parties may dispute the rate.

WSR 26-17-087
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Order 26-07—Filed August 18, 2026, 8:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-11-050.

Title of Rule and Other Identifying Information: Chapter 296-17 WAC, General reporting rules, audit and recordkeeping, rates and rating system for Washington workers' compensation insurance; and chapter 296-17A WAC, Classifications for Washington workers' compensation insurance.

Hearing Location(s): On September 23, 2026, at 10:00 a.m., via Zoom at https://lni-wa-gov.zoom.us/j/5484210584?omn=82182289410, Meeting ID 548 421 0584; or join by phone (audio only) 253-205-0468 US (Tacoma), Meeting ID 548 421 0584. Find your local number at https://lni-wa-gov.zoom.us/u/k4P4Mu5Ep.

Date of Intended Adoption: November 3, 2026.

Submit Written Comments to: Jo Anne Attwood, Department of Labor and Industries (L&I), Insurance Services, Employer Services, P.O. Box 44148, Olympia, WA 98504-4148, email JoAnne.Attwood@Lni.wa.gov, fax 360-902-4988, beginning August 19, 2026, at 8:00 a.m., by September 23, 2026, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jo Anne Attwood, phone 360-902-4777, fax 360-902-4988, TTY 360-902-5797, email JoAnne.Attwood@Lni.wa.gov, by September 22, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Classification development's goal is to implement clear rule writing to ensure staff and customers can easily understand and apply the workers' compensation insurance classification and reporting rules. Classification development reviewed classifications and reporting rules for improvement and clarification.

The purpose of this rule making is not to make substantive changes to how employers are classified and amendments will not increase employer rates.

As part of this rule making, L&I reviewed chapters 296-17 and 296-17A WAC for need, clarity, and consistency to make changes where possible to reduce the regulatory burden on employers insured with the state fund.

Proposed amendments include:

WAC Number	WAC Description	What's Changed	Reason for Change
296-17-870	Evaluation of actual losses	Correct RCW reference in subsection (12) from RCW 51.16.130(3) to RCW 51.16.220(2).	To make RCW reference accurate.
296-17A-3905	Restaurants	Rewrite and amend to remove reference to Classification 6620. Reformat to comply with current standardized format.	Propose repealing Classification 6620 as the class is obsolete and no longer used. This change is being proposed in response to a classification review recommendation. Activities in 6620 will be merged into classification 6605 Actors and performers.
4504	Theaters	Rewrite and amend to remove reference to Classification 6620. Reformat to comply with current standardized format.	The change is part of maintaining the classification plan. No employer rates or accounts will be impacted by this change.
6605	Actors and performers, N.O.C.	Rewrite and amend Classification 6605 to include activities formerly described in classification 6620.	

WAC Number	WAC Description	What's Changed	Reason for Change
6620	Entertainers, N.O.C.	Repeal classification as obsolete and no longer used. Activities described in 6620 are being included in classification 6605.	
296-17A 0201	Bridge, trestle, overhead crossing and viaduct: Construction, maintenance and repair	Reformat to comply with current standardized format.	Reformatting classifications to reflect standardized format established in 2019 for easier readability. In addition, some of our classifications were formatted so that they were only identified by title rather than having narrative. This has caused some confusion for L&I staff and they have requested we update the classifications so that every subclassification provides all the information, rather than title only.
0308	Chemical spraying and fumigating		
0403	Sign: Erection, repair, and/or removal, including related painting and maintenance		
0803	Cities and towns - All other employees		
1002	Sawmills: Operation and maintenance		
1301	Electric light and power plants operated by cities, towns, or counties		
2105	Beer, ale, wine and soft drink importers, exporters and distributors—Wholesale or combined wholesale and retail		
2908	Factory built housing: Manufacturing or assembly		
3104	Plaster, whiting, talc, emery powder: Manufacturing		
3411	Automobile: Dealers, rental or leasing agencies, including service repair garages; Recreational vehicle: Dealers, rental/leasing agencies, or service/repair garages		
4109	Sign painting or lettering inside buildings		
4901	Consulting engineering Architectural services, N.O.C.		
4902	State government clerical and administrative office personnel		
4910	Property management services		
5001	Logging, N.O.C.		
5208	Iron or steel works: Fabrication or assembly—Structural iron or steel		
5305	Clerical office, administrative employees, and elected officials of cities and towns		
5306	Clerical office, administrative employees, and elected officials of counties, public utility districts and taxing districts, N.O.C.		
6105	Hospitals: N.O.C. (to be assigned only by the hospital underwriter)		
6120	Acute care hospitals - With a fully implemented safe patient handling program (to be assigned only by the hospital underwriter)		
6121	Acute care hospitals - Without a fully implemented safe patient handling program (to be assigned only by the hospital underwriter)		
6909	Laboratories - Analytical, testing, or quality control for others		
7200	State government - Mental health or acute care hospitals with a fully implemented safe patient handling program, patient or health care personnel (to be assigned only by the hospital underwriter)		
7201	State government - Patient, resident, or health care personnel, N.O.C. (to be assigned only by the hospital underwriter)		
7202	Real estate agencies		
7203	Offenders: Community service work		
7400	State government - Mental health or acute care hospitals without a fully implemented safe patient handling program - Patient or health care personnel (to be assigned only by the hospital underwriter)		

Reasons Supporting Proposal: L&I is required by law to establish and maintain a workers' compensation classification plan that classi-

fies all occupations or industries in accordance with their degree of hazard and in a manner consistent with recognized insurance principles (RCW 51.16.035). The proposed rule making will amend some classifications to increase ease of reporting and ensure consistent and equitable treatment to businesses.

This rule making will potentially benefit all state fund employers by making it easier to do business with L&I. This rule making will also allow L&I staff to provide more consistent service to our customers.

Statutory Authority for Adoption: RCW 51.16.035.

Statute Being Implemented: RCW 51.16.035.

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: Jo Anne Attwood, Tumwater, Washington, 360-902-4777; Implementation: Michelle O'Brien, Tumwater, Washington, 360-902-4826; and Enforcement: Kirsta Glenn, Tumwater, Washington, 360-701-2114.

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)(b)(vi), as the proposed rules adjust rates pursuant to legislative standards in RCW 51.16.035. This rule amends the risk classifications under chapter 296-17A WAC. Each risk classification has an assigned rate that is used to calculate an employer's workers' compensation premium.

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.

Explanation of exemptions: The rule is fully exempt from a small business economic impact statement under RCW 34.05.310 (4)(f), as the proposed rules adjust rates as required by RCW 51.16.035. This rule amends the risk classifications under chapter 296-17A WAC. Each risk classification has an assigned rate that is used to calculate an employer's workers' compensation premium.

Scope of exemption for rule proposal:

Is fully exempt.

August 18, 2026
Joel Sacks
Director

RDS-7253.1

AMENDATORY SECTION (Amending WSR 21-24-066, filed 11/30/21, effective 1/1/22)

WAC 296-17-870 Evaluation of actual losses. (1) Except as provided in subsections (3) through (13) of this section, the actual losses for claims with a date of injury during the experience period will

be evaluated on the "valuation date." Losses on claims occurring outside the experience period will not be included. The actual losses for closed claims must include:

(a) Accident and medical aid payments; and

(b) Pension reserve amounts paid by the accident fund; and

(c) Accident and medical aid benefits or payments that are scheduled to be paid; and

(d) Reserve for other accident and medical aid benefits accessible by the worker while the claim is closed.

The actual losses for claims that are open may, in addition, also include a reserve for future payments. Actual losses do not include wage subsidies or reimbursements paid by the stay-at-work program.

(2) **Valuation date.** The valuation date shall be June 1, seven months immediately preceding the effective date of premium rates.

(3) **Retroactive adjustments - Revision of losses between valuation dates.** No claim value shall be revised between valuation dates and no retroactive adjustment of an experience modification shall be made because of disputation concerning the judgment of the claims examiner or because of subsequent developments except as specifically provided in the following cases:

(a) In cases where loss values are included or excluded through mistake other than error of judgment.

(b) In cases where a third party recovery is made, subject to subsection (5)(a) of this section.

(c) In cases where the claim qualifies as a second injury claim under the provisions of RCW 51.16.120.

(d) In cases where a claim, which was previously evaluated as a compensable claim, is closed and is determined to be noncompensable (ineligible for benefits other than medical treatment).

(e) In cases where a claim is closed and is determined to be ineligible for any benefits.

In the above specified cases retroactive adjustment of the experience modification shall be made for each rating in which the claim was included. Retroactive adjustments will not be made for rating periods more than ((~~ten~~)) 10 years prior to the date on which the claim status was changed.

(4) **Average death value.** Each fatality occurring to a worker included within the mandatory or elective coverage of Title 51 RCW shall be assigned the "average death value." The "average death value" shall be the average incurred cost for all such fatalities occurring during the experience period. The average death value is set forth in WAC 296-17-880 (Table II).

(5) **Third-party recovery - Effect on experience modification.**

(a) For claims with injury dates prior to July 1, 1994, a potential claim cost recovery from action against a third party, either by the injured worker or by the department, shall not be considered in the evaluation of actual losses until such time as the third-party action has been completed. If a third-party recovery is made after a claim had previously been used in an experience modification calculation, the experience modification shall be retroactively adjusted. The department shall compute a percentage recovery by dividing the current valuation of the claim into the amount recovered or recoverable as of the recovery date, and shall reduce both primary and excess losses previously used in the experience modification calculation by that percentage.

(b) For claims with injury dates on or after July 1, 1994, if the department determines that there is a reasonable potential of recovery

from an action against a third party, both primary and excess values of the claim shall be reduced by ((~~fifty~~)) 50 percent for purposes of experience modification calculation, until such time as the third-party action has been completed. This calculation shall not be retroactively adjusted, regardless of the final outcome of the third-party action. After a third-party recovery is made, the actual percentage recovery shall be applied to future experience modification calculations.

(c) For third-party actions completed before July 1, 1996, the claim shall be credited with the department's net share of the recovery, after deducting attorney fees and costs. For third-party actions completed on or after July 1, 1996, the claim shall be credited with the department's gross share of the recovery, before deducting attorney fees and costs.

(d) Definitions:

(i) As used in this section, "recovery date" means the date the money is received at the department or the date the order confirming the distribution of the recovery becomes final, whichever comes first.

(ii) As used in this section, "recoverable" means any amount due as of the recovery date and/or any amount available to offset case reserved future benefits.

(6) **Second injury claims.** The primary and excess values of any claim which becomes eligible for second injury relief under the provisions of RCW 51.16.120, as now or hereafter amended, shall be reduced by the percentage of relief granted.

(7) **Occupational disease claims.** When a claim results from an employee's exposure to an occupational disease hazard, the "date of injury," solely for the purpose of experience rating, will be the date the claim for benefits was received by the department. The cost of any occupational disease claim, paid from the accident fund and medical aid fund and arising from exposure to the disease hazard under two or more employers, shall be prorated to each period of employment involving exposure to the hazard. Each insured employer who had employed the claimant during the experience period, and for at least ((~~ten~~)) 10 percent of the claimant's exposure to the hazard, shall be charged for his/her share of the claim based upon the prorated costs.

(8) **Maximum claim value.** No claim shall enter an employer's experience record at a value greater than the "maximum claim value." The maximum claim value is set forth in WAC 296-17-880 (Table II).

(9) **Catastrophic losses.** Whenever a single accident results in the deaths or total permanent disability of three or more workers employed by the same employer, costs charged to the employer's experience shall be limited as required by RCW 51.16.130.

(10) **Acts of terrorism.** Whenever any worker insured with the state fund sustains an injury or occupational disease as a result of an incident certified to be an act of terrorism under the U.S. Terrorism Risk Insurance Act of 2002, the costs of the resulting claim shall be excluded from the experience rating computation of the worker's employer.

(11) **Claims filed by preferred workers.** The costs of subsequent claims filed by certified preferred workers will not be included in experience calculations, as provided in WAC 296-16-150.

(12) **Life and rescue phase of emergencies:** This provision applies to "emergency workers" of nongovernmental employers assigned to report in classification 7205 (WAC 296-17A-7205) who assist in a life and rescue phase of a state or local emergency (disaster). The life and rescue phase of an emergency is defined in RCW ((~~51.16.130(3)~~))

51.16.220(2) as being the first ((~~seventy-two~~)) 72 hours after a natural or man-made disaster has occurred. For an employer to qualify for this special experience rating relief, a state or local official such as, but not limited to, the governor; a county executive; a mayor; a fire marshal; a sheriff or police chief must declare an emergency and must request help from private sector employers to assist in locating and rescuing survivors. This special relief is only applicable to nongovernmental employers during this initial ((~~seventy-two~~)) 72 hour phase of the declared emergency unless the emergency has been extended by the official who declared the emergency. The cost of injuries or occupational disease claims filed by employees of nongovernmental employers assisting in the life and rescue phase of a declared emergency will not be charged to the experience record of the nongovernmental state fund employer.

(13) **Public health emergency claims:** All accepted claim losses resulting from a public health emergency will not be included in the determination of an employer's experience modification factor. An employer will not lose their claim free discount as a result of an allowed claim caused by a public health emergency during a declared public health emergency.

RDS-7188.3

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0201 Classification 0201.

0201-01 Bridge, trestle, overhead crossing and viaduct: Construction, maintenance and repair

((~~Applies to contractors engaged in the construction, maintenance or repair of bridges, trestles, overhead crossings and viaducts including the foundations and approaches. These types of structures provide a series of spans or arches, or a type of vertical and horizontal framework for a road or railroad passage over an obstacle such as a waterway, wide valley, other roads, or railroads. Work contemplated by this classification includes the construction of approaches, abutments, foundation supports, framework, and includes all concrete, iron or steel, timber, or carpentry work to completion of the project. The approach is the area of ground or roadway built up just before entering onto a structure such as a bridge or trestle. The abutments are the reinforced foundation supports at the end of the approach which will bear much of the weight for the structure. The erection of the structure usually begins at both ends of the approaches and abutments and gradually continues toward the center of the structure. This classification includes activities such as, but not limited to, the placement and securing of piles, beams and members by way of boom or crane, forming columns, piers and supports, tying reinforcing steel, set-up and tear down of forms, pouring and finishing of concrete, installing precast deck supports, decking slabs and nonstructural members, constructing the retaining walls, erecting iron railings, and the installation of suspension cables and cable clamps. This classification also includes shaft sinking, pile driving, caisson and cofferdam work as it~~

~~is considered an integral part of the structure's foundation and support.~~

~~This classification excludes asphalt surfacing/resurfacing on roadways which is to be reported separately in classification 0210 and concrete paving which is to be reported separately in classification 0214.~~

~~***Special note*:** Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classifications 0104 or 0202.~~

~~0201-04 Breakwater, jetty, levee: Construction, maintenance and repair~~

~~Applies to contractors engaged in the construction, maintenance or repair of a jetty, levee or breakwater. These types of barriers or embankments are very similar to a dike, but involve substantially more construction in that they usually begin away from the water and extend into a body of water and are sometimes used as protection for a harbor to prevent adverse currents from interfering with shipping. Work contemplated by this classification involves building, protecting and/or filling in an embankment or barrier of a river, harbor or other body of water. The predominant activity involves earth moving or placing of fill or other material. This classification includes, but is not limited to, clearing of land, excavation, filling, and grading and involves earth moving equipment such as, but not limited to, drag lines, graders, scrapers, bulldozers, and dump trucks. Materials include, but are not limited to, dirt, sand, stones or boulders, concrete piles, timber or heavy timber cribbing filled with stones or boulders. Often, the barrier or embankment being built is seeded or paved in part with asphalt, concrete, soil, or cement to assist in strengthening the structure.~~

~~This classification excludes pile driving operations in connection with jetty, levee and breakwater operations which are to be reported separately in classification 0202, and asphalt surfacing/resurfacing which is to be reported separately in the classification applicable to the work being performed.~~

~~***Special note*:** Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classifications 0104 or 0202.~~

~~0201-05 Bulkhead retaining walls: Construction, maintenance and repair, riprapping - All water hazard~~

~~Applies to contractors engaged in the construction, maintenance or repair of a bulkhead. A bulkhead is a wall or embankment constructed to protect against potential problems such as earth slides, erosion of banks alongside water, or excessive increases in the water level. Work contemplated by this classification involves building, protecting and/or filling in a wall or embankment of a river, harbor or other body of water, or other areas of land. The predominant activity involves earth moving or placing of fill or other material. This classification includes, but is not limited to, clearing of land, excavation, filling, and grading. Equipment used by contractors subject to this classification includes, but is not limited to, drag lines, graders, scrapers, bulldozers, and dump trucks. Materials include, but are not limited to, dirt, sand, stones, boulders, concrete piles, timber or heavy timber cribbing filled with stones or boulders. Often,~~

~~the wall or embankment being built, or if it already exists, is seeded or paved in part with asphalt, concrete, cement, or soil to assist in strengthening the structure. This classification includes riprap work which is a loose assemblage of broken stones erected in water or on soft ground. Such stone serves as a fill-in material to assist with the building of a dike, levee, or bulkhead.~~

~~This classification excludes pile driving operations in connection with bulkhead construction operations which is to be reported separately in classification 0202, and asphalt surfacing/resurfacing which is to be reported separately in the classification applicable to the work being performed.~~

~~***Special note*:** Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classifications 0104 or 0202.~~

~~0201-06 Concrete culverts; aluminum, steel, or other types of culverts over 12 feet~~

~~Applies to contractors engaged in the construction or placement of concrete culverts or other types of culverts greater than twelve feet in diameter. A culvert is a sewer or drain running under a road, embankment, or structure such as a bridge. Culverts can be made of material such as, but not limited to, concrete, aluminum, and galvanized steel. Their primary purpose is to channel excess water away from the road, embankment, or structure to assist in preventing water damage or flooding. Work contemplated by this classification includes excavation, laying of sand or gravel, placement of culverts, and filling in the site.~~

~~0201-08 Tunnels and approaches~~

~~Applies to contractors engaged in the construction of tunnels and approaches including the lining, cofferdam work, shaft sinking, and well digging with caissons. A tunnel is a passage through or under a barrier to be used as a roadway, railway or pedestrian walkway. The approach is the area of ground built up before the entrance of a tunnel or similar type of structure. Work contemplated by this classification includes, but is not limited to, the construction of approaches, shaft sinking, caisson and cofferdam work, boring, the framework or lining, and all concrete, iron or steel, timber, and carpentry work to completion of the project. In some instances, the initial phase of a tunnel project may require that the approaches and abutments be put in place. This may involve extensive excavation and fill work depending on how uneven the terrain is with the proposed tunnel entrances. The abutments are the reinforced foundation supports at the end of the approach and will bear much of the weight at the tunnel entrances. Most often, the abutments will consist of metal beams or concrete with reinforced steel, that are placed vertically, horizontally or at an angle into the ground. The boring of the tunnel may include the removal of earth, rock and water with mechanical equipment, drilling and boring machines, rock drills and chippers, explosives, well drilling with caissons, and the need for pumps and drains piped to the outside of the bore. Occasionally, a cofferdam is erected which is a temporary structure from which water can be pumped or sucked to provide a dry work area during construction of the structure. Once the structural support is complete, the cofferdam is taken apart and removed. As the bore progresses steel I-beams are placed and horizontal beams or solid bar stock are bolted or welded for support.~~

~~Shielding the bore between the I-beams requires bolting or welding steel plates to the beams. This is followed by filling the gaps between the face of the bore and the shielding with sand or concrete grout. Some tunnels will then be lined with concrete, steel or tile, and lighting, ventilation and drains may be installed.~~

~~This classification excludes underground mining operations which are to be reported separately in classification 1702, and asphalt surfacing/resurfacing or concrete paving which is to be reported separately in the classification applicable to the work being performed.~~

~~0201-09 Diking, N.O.C.~~

~~Applies to contractors engaged in the construction of dikes not covered by another classification (N.O.C.). A dike is a type of protective barrier or embankment which keeps a body of water such as a river in its proper channel and prevents the erosion of banks. Work contemplated by this classification involves building up and/or protecting the embankment. This classification includes, but is not limited to, earth moving work, assemblage of loose stone or rock, placement of sandbags or concrete piles, fill dirt or broken pieces of concrete, or building of crib work which may be filled in with stone or other types of fill. This classification also applies to diking or ditching work in connection with oil spill clean-up such as alongside a river bank or other shoreline.~~

~~This classification excludes pile driving operations which are to be reported separately in classification 0202.~~

~~***Special note*:** Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classifications 0104 or 0202.~~))

Applies to:

Construction, maintenance or repair of bridges, trestles, overhead crossings, and viaducts including the foundations and approaches.

The structures in this classification provide a series of spans or arches or a type of framework for a road or railroad passage over an obstacle, such as a waterway, wide valley, other roads, or railroads.

The approach is the area of ground or roadway built up just before entering onto a structure such as a bridge or trestle.

The abutments are the reinforced foundation supports at the end of the approach, which will bear much of the weight for the structure.

The erection of the structure usually begins at both ends of the approaches and abutments and gradually continues toward the center of the structure.

Work activities include, but are not limited to:

• Constructing approaches, abutments, foundation supports, and framework;

• All concrete, iron, steel, timber, or carpentry work needed to complete the project;

• Placing and securing piles, beams and members by way of boom or crane;

• Forming columns, piers, and supports;

• Tying reinforcing steel;

• Setting-up and tearing down of forms;

• Pouring and finishing of concrete;

• Installing precast deck supports, decking slabs, and nonstructural members;
• Constructing retaining walls;
• Erecting iron railings;
• Installing suspension cables and cable clamps;
• Shaft sinking, pile driving, caisson, and cofferdam work as it is considered an integral part of the structure's foundation and support.

Exclusions:
• Asphalt surfacing/resurfacing on roadways is classified in 0210;
• Concrete paving, except as described above, is classified in 0214.
***Special note*:** Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classification 0104 or 0202.

0201-04 Breakwater, jetty, levee: Construction, maintenance and repair

Applies to:
Construction, maintenance or repair of a jetty, levee, or breakwater.
Work in this classification involves building, protecting and/or filling in an embankment or barrier of a river, harbor or other body of water. The barriers or embankments are very similar to a dike, but involve substantially more construction in that they usually begin away from the water and extend into a body of water and are sometimes used as protection for a harbor to prevent adverse currents from interfering with shipping. The predominant activity involves earth moving or placing of fill or other material.

Work activities include, but are not limited to:
• Land clearing;
• Excavating;
• Filling;
• Grading;
• Seeding or paving parts of the barrier or embankment with asphalt, concrete, soil, or cement to assist in strengthening the structure.

Equipment used includes, but is not limited to:
• Bulldozers;
• Drag lines;
• Dump trucks;
• Graders;
• Scrapers.

Materials used include, but are not limited to:
• Concrete piles;
• Dirt;
• Sand;
• Stones or boulders;
• Timber or heavy timber cribbing filled with stones or boulders.

Exclusions:
• Pile driving operations in connection with jetty, levee, and breakwater operations are classified in 0202;

• Asphalt surfacing/resurfacing, except as described above, is classified in the classification applicable to the work being performed.

Special note: Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classification 0104 or 0202.

0201-05 Bulkhead retaining walls: Construction, maintenance and repair, riprapping - All water hazard

Applies to:

Construction, maintenance, or repair of a bulkhead.

A bulkhead is a wall or embankment constructed to protect against potential problems such as earth slides, erosion of banks alongside water, or excessive increases in the water level. Work contemplated by this classification involves building, protecting and/or filling in a wall or embankment of a river, harbor or other body of water, or other areas of land. The predominant activity involves earth moving or placing of fill or other material.

Work activities include, but are not limited to:

• Land clearing;
• Excavating;
• Filling;
• Grading;
• Seeding or paving parts of the wall or embankment with asphalt, concrete, cement, or soil to assist in strengthening the structure;
• Riprapping work - A loose gathering of broken stones erected in water or on soft ground.

Equipment used includes, but is not limited to:

• Bulldozers;
• Drag lines;
• Dump trucks;
• Graders;
• Scrapers.

Materials used include, but are not limited to:

• Concrete piles;
• Dirt;
• Sand;
• Stones or boulders;
• Timber or heavy timber cribbing filled with stones or boulders.

Exclusions:

• Pile driving operations in connection with bulkhead construction operations are classified in 0202;
• Asphalt surfacing/resurfacing, except as described above, is classified in the classification applicable to the work being performed.

Special note: Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classification 0104 or 0202.

0201-06 Concrete culverts; aluminum, steel, or other types of culverts over 12 feet

Applies to:

Construction or placement of concrete culverts or other types of culverts greater than 12 feet in diameter.

A culvert is a sewer or drain running under a road, embankment, or structure such as a bridge. Their primary purpose is to channel excess water away from the road, embankment, or structure to assist in preventing water damage or flooding.

Culverts can be made of material such as, but not limited to:

- Aluminum;
- Concrete;
- Galvanized steel.

Work activities include, but are not limited to:

- Excavating;
- Laying of sand or gravel;
- Placing of culverts;
- Filling in the site.

0201-08 Tunnels and approaches

Applies to:

Construction of tunnels and approaches including the lining, cofferdam work, shaft sinking, and well digging with caissons.

A tunnel is a passage through or under a barrier used as a roadway, railway, or pedestrian walkway. The approach is the area of ground built up before the entrance of a tunnel or similar type of structure. The abutments are the reinforced foundation supports at the end of the approach and will bear much of the weight at the tunnel entrances.

Work activities include, but are not limited to:

- Constructing approaches;
- Shaft sinking;
- Caisson and cofferdam work;
- Boring;
- Constructing the framework or lining;
- All concrete, iron or steel, timber, and carpentry work to completion of the project.

Work processes may include, but are not limited to:

- The initial phase of a tunnel project may require that the approaches and abutments be put in place. This may involve extensive excavation and fill work depending on how uneven the terrain is with the proposed tunnel entrances;
- Abutments often consist of metal beams or concrete with reinforced steel, that are placed vertically, horizontally, or at an angle into the ground;
- Boring of the tunnel may include the removal of earth, rock, and water with mechanical equipment, drilling and boring machines, rock drills and chippers, explosives, well drilling with caissons, and the need for pumps and drains piped to the outside of the bore;
- Occasionally, a cofferdam is erected which is a temporary structure from which water can be pumped or sucked to provide a dry work area during construction of the structure. Once the structural support is complete, the cofferdam is taken apart and removed;
- Steel I-beams are placed and horizontal beams or solid bar stock are bolted or welded for support as the bore progresses;

• Shielding the bore between the I-beams requires bolting or welding steel plates to the beams;

• Filling the gaps between the face of the bore and the shielding with sand or concrete grout;

• Tunnels may be lined with concrete, steel, or tile;

• Lighting, ventilation, and drains may be installed.

Exclusions:

• Underground mining operations are classified in 1702.

• Asphalt surfacing/resurfacing or concrete paving, except as described above, are classified in the classification applicable to the work being performed.

0201-09 Diking, N.O.C.

Applies to:

• Construction of dikes not covered by another classification (N.O.C.).

• Diking or ditching work in connection with oil spill clean-up such as alongside a river bank or other shoreline.

A dike is a type of protective barrier or embankment which keeps a body of water, such as a river, in its proper channel and prevents the erosion of banks.

Work activities include, but are not limited to:

• Building up or protecting the embankment;

• Earth moving;

• Gathering together loose stone or rock;

• Placing sandbags or concrete piles, fill dirt, or broken pieces of concrete;

• Building crib work, which may be filled in with stone or other types of fill.

Exclusion:

• Pile driving operations are classified in 0202.

Special note: Care should be exercised prior to assignment of this classification as the workers could be subject to federal laws covered by the Jones Act or by the U.S. Longshore and Harbor Workers Act. A detailed description of these acts can be found in classification 0104 or 0202.

AMENDATORY SECTION (Amending WSR 14-24-049, filed 11/25/14, effective 1/1/15)

WAC 296-17A-0308 Classification 0308.

0308-00 Chemical spraying and fumigating

((~~Applies to establishments engaged in providing chemical spraying and fumigating services only to established residential landscaping and commercial properties. Work contemplated by this classification includes, but is not limited to, the application of various liquid and granular chemicals (fertilizers, herbicides, pesticides, insecticides, iron, nitrogen, slow release food stakes) for use on grass, plants, shrubs, flowers, trees, moss, ivy or weeds. Employees of establishments subject to this classification arrive at the location site in a tank truck equipped with a premixed solution that is dispensed with a spray hose, or by fertilizer spreaders, injection guns, and back pack dispensers.~~

~~This classification excludes chemical spraying of roadway median strips by nonmunicipal employees adjacent to state, city or town roadways which is to be reported separately in classification 0101; chemical spraying done in connection with forest roads or reforestation projects which is to be reported in the applicable forestry classification; pest and termite control which is to be reported separately in classification 6602; chemical spraying and fumigating by employees of cities, counties, state agencies, or other municipalities which is to be reported in the classification applicable to the type of municipality performing the work; chemical spraying of agricultural farms or orchards which *may* be reported separately in classification 4808 or in the agricultural classification applicable to the employer's operation; and crop dusting by aircraft which is to be reported separately in classification 6903.~~

~~0308-01 Lawn care maintenance~~

~~Applies to contractors engaged in maintenance of established lawns and gardens. Work contemplated by this classification includes, but is not limited to, mowing and thatching lawns, edging, weeding flower beds, raking, rototilling gardens, application of fertilizers, and spraying and trimming of shrubs. Also included is minor landscape renovation and/or restoration activities incidental to, and performed as part of, the lawn care maintenance contract for an existing lawn or landscape such as the removal and replacement of plants, turf repair or reseeding of grass, and the spreading of decorative rock, topsoil, or bark. This classification includes replacement of sprinkler heads and cleaning of lawn type sprinkler systems only when performed in connection with and incidental to the lawn care maintenance contract. Contractors who provide snow blowing and snow removal services using hand-held or push-propelled equipment are included in this classification. Equipment used by contractors subject to this classification includes, but is not limited to, riding or power lawn mowers, power sweepers, edgers, thatchers, weed eaters, grass blowers, fertilizer spreaders, sprayers, gas or electric power tools, and hand tools.~~

~~This classification excludes new landscape construction which is to be reported separately in classification 0301; tree care and pruning services which are to be reported separately in classification 0106; grading, clearing, or contouring of land which is to be reported separately in classification 0101; installation, service or repair of lawn type sprinkler systems which is to be reported separately in classification 0301; the installation, service or repair of above or below ground agricultural irrigation systems which is to be reported separately in classification 0301; the installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, garden roofing, green/environmentally beneficial roofing, brown/biodiverse roofing, or vegetative roofing, which is to be reported in classification 0507; any installation or maintenance of a landscape roofing irrigation system, which is reported in classification 0507.~~

~~***Special notes***: Classifications 0308 and 0301 may be assigned to the same business provided that the conditions of the general reporting rule covering the operation of a secondary business have been met.~~

~~Care should be exercised in the assignment of this classification when tree services are included. Tree care service contracts generally call for the radical topping, pruning or cutting of tree limbs to remove or eliminate a hazard to buildings, property, or power lines. Tree trimming as part of this classification is only for the purpose~~

~~of shaping and maintaining healthy trees and to control size for the visual relationship to other landscape material.~~))

Applies to:

Businesses providing chemical spraying and fumigating services only to established residential landscaping and commercial properties.

Work activities include, but are not limited to:

• Arriving at the location site in a tank truck equipped with a premixed solution that is dispensed with a spray hose, or by fertilizer spreaders, injection guns, and back pack dispensers.

• Applying various liquid and granular chemicals (fertilizers, herbicides, pesticides, insecticides, iron, nitrogen, slow release food stakes) on grass, plants, shrubs, flowers, trees, moss, ivy or weeds.

Exclusions:

• Chemical spraying of roadway median strips by nonmunicipal employees adjacent to state, city, or town roadways is classified in 0101.

• Chemical spraying done in connection with forest roads or reforestation projects is classified in the applicable forestry classification.

• Chemical spraying and fumigating by employees of cities, counties, state agencies, or other municipalities is classified in the classification applicable to the type of municipality performing the work.

• Chemical spraying of agricultural farms or orchards may be reported in classification 4808 or in the agricultural classification applicable to the employer's operation.

• Pest and termite control is classified in 6602.

• Crop dusting by aircraft is classified in 6903.

0308-01 Lawn care maintenance

Applies to:

• Businesses engaged in maintenance of established lawns and gardens.

• Businesses providing snow blowing and snow removal services using hand-held or push-propelled equipment.

Work activities include, but are not limited to:

• Applying fertilizers;

• Edging;

• Minor landscape renovation and/or restoration activities incidental to, and performed as part of, the lawn care maintenance contract for an existing lawn or landscape, such as the removal and replacement of plants, turf repair or reseeding of grass, and the spreading of decorative rock, topsoil, or bark;

• Mowing and thatching lawns;

• Raking;

• Replacing sprinkler heads and cleaning of lawn type sprinkler systems only when performed in connection with and incidental to the lawn care maintenance contract;

• Rototilling gardens;

• Spraying and trimming of shrubs;

• Weeding.

Equipment used include, but are not limited to:

• Edgers;

• Fertilizer spreaders;
• Gas or electric power tools;
• Grass blowers;
• Hand tools;
• Power sweepers;
• Riding or power lawn mowers;
• Sprayers;
• Thatchers;
• Weed eaters.

Exclusions:

• New landscape construction is classified in 0301.
• Tree care and pruning services is classified in 0106.
• Grading, clearing, or contouring of land is classified in 0101.
• Installation, service, or repair of lawn type sprinkler systems is classified in 0301.
• Installation, service, or repair of above or below ground agricultural irrigation systems is classified in 0301.
• Installation or on-site maintenance of roofing materials composed of impermeable barriers, sod, soil, and plants, sometimes termed landscape roofing, living roofing, garden roofing, green/environmentally beneficial roofing, brown/biodiverse roofing, or vegetative roofing, is classified in 0507.
• Installation or maintenance of a landscape roofing irrigation system is classified in 0507.

Special notes: Classifications 0308 and 0301 may be assigned to the same business provided that the conditions of the general reporting rule covering the operation of a secondary business have been met.

Care should be exercised in the assignment of this classification when tree services are included. Tree care service contracts generally call for the radical topping, pruning, or cutting of tree limbs to remove or eliminate a hazard to buildings, property, or power lines. Tree trimming as part of this classification is only for the purpose of shaping and maintaining healthy trees and to control size for the visual relationship to other landscape material.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-0403 Classification 0403.

0403-00 Sign: Erection, repair, and/or removal, including related painting and maintenance

((~~Applies to contractors engaged in the erection, repair, and/or removal of signs, including related painting and maintenance. Signs include, but are not limited to, commercial business or personal property signs, advertisement billboards, poster panels erected at commercial or residential properties, private properties, buildings or structures, or open spaces. Signs may be made of wood, metal, plastic, glass, or neon tube. Free standing sign erection process begins with digging or drilling holes in which to stand or set poles or posts. The sign is attached to the pole or post prior to standing or is lifted with a boom or crane to be mounted and secured. Other signs are mounted and secured directly to buildings or structures. This classification includes the related electrical hook-up work to install neon and~~

~~digital signs such as those located at banks and stores including the maintenance, repair, and painting of signs at the customer's location or at the contractor's shop.~~

~~This classification excludes the installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) which are mounted on overpasses or erected alongside the roadway which are to be reported separately in classification 0219; the placement of temporary signs which is to be reported separately in classification 4910; or the manufacturing of signs which is to be reported separately in the applicable classification.~~

~~0403-10 Sign painting or lettering outside buildings or structures, N.O.C.~~

~~Applies to contractors engaged in sign painting or lettering outside buildings or structures not covered by another classification (N.O.C.), and includes all contractor's shop operations. Generally, this classification involves specialty lettering or painting such as, but not limited to, business logos, addresses, business hours or phone numbers, murals or other artwork.~~

~~This classification excludes contractors engaged in the installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) which are mounted on overpasses or erected alongside the roadway which are to be reported separately in classification 0219; striping parking lots and painting curbs (and numbering on curbs) which is to be reported separately in classification 0219; sign painting or lettering inside of buildings, including inside murals or other artwork, which is to be reported separately in classification 4109; exterior painting of buildings or structures which are to be reported separately in classification 0504; painting or lettering in connection with an automotive body shop which is to be reported separately in classification 3412; and the erection, repair or removal of outdoor signs which is to be reported separately in classification 0403-00.~~))

Applies to:

Businesses engaged in the erection, repair, or removal of signs, including related painting and maintenance.

Signs may be made of wood, metal, plastic, glass, or neon tube.

Types of signs include, but are not limited to:

• Advertisement billboards;

• Commercial business or personal property signs;

• Poster panels erected at commercial or residential properties, private properties, buildings or structures, or open spaces.

Work activities include, but are not limited to:

• Digging or drilling holes to stand or set poles or posts;

• Attaching sign to the pole or post prior to standing or lifting it with a boom or crane to be mounted and secured;

• Mounting or securing signs directly to buildings or structures;

• Electrical hook-up work installing neon and digital signs such as those located at banks and stores;

• Maintenance, repair, and painting of signs at customer's location or at the contractor's shop.

Exclusions:

• Installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) which are mounted on overpasses or erected alongside the roadway is classified in 0219.

• Placement of temporary signs is classified in 4910.

• Manufacturing of signs is classified in the applicable classification.

0403-10 Sign painting or lettering outside buildings or structures, N.O.C.

Applies to:

Businesses engaged in sign painting or lettering outside buildings or structures not covered by another classification (N.O.C.), and includes all shop operations.

This classification involves specialty lettering or painting such as, but not limited to, business logos, addresses, business hours or phone numbers, or murals or other artwork.

Exclusions:

• Installation or removal of highway, street, or roadway signs that specify roadway information (such as speed limits, road conditions, city and town mile destinations) is classified in 0219.

• Striping parking lots and painting curbs (and numbering on curbs) is classified in 0219.

• Sign painting or lettering inside of buildings, including inside murals or other artwork, is classified in 4109.

• Exterior painting of buildings or structures is classified in 0504.

• Painting or lettering in connection with an automotive body shop is classified in 3412.

• Erection, repair, or removal of outdoor signs is classified in 0403-00.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-0803 Classification 0803.

0803-00 Cities and towns - All other employees

((~~Applies to employees of cities or towns who:~~

~~• Perform manual labor;~~

~~• Supervise a work crew performing manual labor such as custodial or maintenance; and~~

~~• Operate machinery or equipment, including buses. This classification includes:~~

~~• Administrative personnel with field exposure, such as engineers, safety inspectors, and biologists. For purposes of this classification, field exposure is defined as any exposure other than the normal travel to a work assignment, such as an auditor or social worker would encounter.~~

~~This classification excludes:~~

~~• Municipal power districts which are to be reported separately in classification 1301;~~

~~• Privately owned and operated bus or transit systems which are to be reported separately in classification 1407;~~

~~• Public utility water districts, co-ops, or privately operated water distribution systems, which are to be reported separately in classification 1507;~~

~~• Law enforcement officers who are to be reported separately in classifications 6905 and 6906, as appropriate;~~

~~• Firefighters who are to be reported separately in classification 6904;~~

~~• Volunteers who are to be reported separately in classification 6901; and~~

~~• Clerical office and administrative employees who are to be reported separately in classification 5305.~~))

Applies to:

Employees of cities or towns who have field exposure; perform or supervise manual labor; or operate machinery or equipment, including buses.

For purposes of this classification, field exposure is defined as any exposure other than the normal travel to a work assignment, such as an auditor or social worker would encounter.

Occupations include, but are not limited to:

• Biologists;
• Bus drivers;
• Engineers;
• Safety inspectors;
• Supervisors of work crews performing manual labor, such as custodial or maintenance crews;
• Other administrative personnel with field exposure.

Exclusions:

• Clerical office and administrative employees of cities or towns are classified in 5305.
• Municipal power districts are classified in 1301.
• Privately owned and operated bus or transit systems are classified in 1407.
• Public utility water districts, co-ops, or privately operated water distribution systems are classified in 1507.
• Law enforcement officers are classified in 6905 or 6906.
• Firefighters are classified in 6904.
• Volunteers are classified in 6901.

AMENDATORY SECTION (Amending WSR 20-20-108, filed 10/6/20, effective 1/1/21)

WAC 296-17A-1002 Classification 1002.

1002-00 Sawmills: Operation and maintenance

((~~Applies to establishments engaged in the operation and maintenance of a sawmill. Sawmills receive raw logs which they usually store temporarily in their yard before cutting them into rough and finished lumber. This classification includes operations such as, but not limited to, loading raw logs onto the conveyor or log slip; sawing logs with a variety of head, cut-off, circular or band saws; grading and sorting lumber; drying green (wet) lumber; and the stacking and storing of lumber. The raw logs are cut into rough lumber, such as cants and blocks, or into finished lumber, such as posts, planks or boards.~~

~~This classification excludes all operations conducted in the woods, such as logging or use of a portable sawmill, which is to be reported separately in classification 5001, and establishments engaged *only* in the manufacturing of wood, veneer, veneer products, or lumber remanufacturing which is to be reported separately in the classification applicable to the manufacturing being performed.~~

~~1002-08 Shake and shingle mills - Automated process (*to be assigned by classifications underwriter*)~~

~~Applies to establishments operating an automated shake and shingle mill which manufacture shakes, shingles and/or ridge caps using automated processes. For purposes of this classification, automated processes refers to shake and shingle mills equipped with automatic feeders on all saws, adjustable packing and cutting stations, and fully automatic systems for conveying material to work stations. All equipment must be equipped with automatic shut off switches. Within a shingle mill the operation of a trim saw must be performed by an individual as a separate function from that of the shingle saw operator (shingle sawyer is not to perform both functions). Shake splitters must be equipped with a gauge control mechanism which permits the operator to automatically set the thickness of the cut. Conveyor systems must have dual controls to allow the deck man and sawyer the ability to control incoming material to the work station.~~

~~Block mills must be equipped with an automated pallet dump to eliminate the handling of material to the sawyer work station or an adjustable scissor lift adjacent to the shingle saw or shake splitter. Blocked wood purchased by mills must be contained in pallets prior to entering the mill yard or premises. Log mills must be equipped with a fully mechanized log slip (used to move logs into the deck area), log levelers, stabilizers, and lifters must be present in the deck area, automatic deck cut-off saw, live deck for moving material from the deck to the splitting area and overhead mounted splitters. Trim saws, also referred to as clipper saws, must be equipped with a laser guide or quartz light. This lighting reveals to the operator where its saw blade is in relationship to the material being processed.~~

~~For purposes of this classification, the following terms or words shall be given the meanings below:~~

~~*Automatic deck or cut-off saw*: A large saw, usually circular, used to trim logs to a specified length (rounds) before they enter a manufacturing plant.~~

~~*Clipper saw*: A machine used to make shingle edges parallel.~~

~~*Shingle*: Roofing or siding material having sawn faces and backs, are of a standard thickness at the butt end and tapered finish at the other end.~~

~~*Shake*: Roofing or siding material having at least one surface with a natural grain textured split surface.~~

~~*Live deck*: A chain driven platform located in the same proximity as the deck saw and is used to convey cut rounds from the cutting area to the splitting area.~~

~~*Log stabilizer*: A levered device adjacent to the deck saw used to hold the log steady while it is being cut.~~

~~*Log slip*: A chain driven conveyor used to move logs into the deck area.~~

~~*Laser or quartz guide light*: An overhead mounted light above a saw that illuminates that portion of a work surface where the saw blade will pass or make a cut.~~

~~*Log leveler*: A levered device adjacent to the deck saw used to level a log automatically.~~

~~*Overhead splitter*: A ceiling mounted hydraulic, air, or electrically operated apparatus with wedge shaped end that is used to split log rounds into block wood when activated by the splitterman.~~

~~*Shingle saw*: A machine used to make shingles.~~

~~*Shake splitter*: A machine used to split blocks into shake blanks.~~

~~*Shake saw*: A machine used to saw shake blanks into a finished wedged shaped product.~~

~~This classification excludes all operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, which are to be reported separately in classification 5001.~~

~~***Special notes***: Shake and shingle mills not meeting all the conditions as set forth above shall be reported separately in classification 1005 "shake and/or shingle mills."~~))

Applies to:

Businesses engaged in the operation and maintenance of a sawmill.

Work activities include, but are not limited to:

• Receiving raw logs which are usually stored temporarily in their yard before cutting them into rough and finished lumber;

• Loading raw logs onto the conveyor or log slip;

• Sawing logs with a variety of head, cut-off, circular or band saws;

• Grading and sorting lumber;

• Drying green (wet) lumber;

• Stacking and storing of lumber;

• Cutting raw logs into rough lumber, such as cants and blocks, or into finished lumber, such as posts, planks, or boards.

Exclusions:

• All operations conducted in the woods, such as logging or use of a portable sawmill, are classified in 5001.

• Businesses engaged only in manufacturing of wood, veneer, veneer products, or lumber remanufacturing are classified in the classification applicable to the manufacturing being performed.

1002-08 Shake and shingle mills - Automated process
(*to be assigned by classifications underwriter*)

Applies to:

Businesses operating an automated shake and shingle mill which manufacture shakes, shingles, or ridge caps using automated processes.

Safeguards that MUST be in place include, but are not limited to:

• Shake and shingle mills equipped with automatic feeders on all saws;

• Adjustable packing and cutting stations;

• Fully automatic systems for conveying material to work stations;

• All equipment must be equipped with automatic shut off switches;

• Within a shingle mill the operation of a trim saw must be performed by an individual as a separate function from that of the shingle saw operator (shingle sawyer is not to perform both functions);

• Shake splitters must be equipped with a gauge control mechanism which permits the operator to automatically set the thickness of the cut;

• Conveyor systems must have dual controls to allow the deck man and sawyer the ability to control incoming material to the work station;

• Block mills must be equipped with an automated pallet dump to eliminate the handling of material to the sawyer work station or an adjustable scissor lift adjacent to the shingle saw or shake splitter;

• Blocked wood purchased by mills must be contained in pallets prior to entering the mill yard or premises;

• Log mills must be equipped with a fully mechanized log slip (used to move logs into the deck area);

• Log levelers, stabilizers, and lifters must be present in the deck area;

• Automatic deck cut-off saw;

• Live deck for moving material from the deck to the splitting area;

• Overhead mounted splitters;

• Trim saws, also referred to as clipper saws, must be equipped with a laser guide or quartz light. This lighting reveals to the operator where its saw blade is in relationship to the material being processed.

For purposes of this classification, the following terms or words have the meanings below:

Automatic deck or *cut-off saw*: A large saw, usually circular, used to trim logs to a specified length (rounds) before they enter a manufacturing plant.

Clipper saw: A machine used to make shingle edges parallel.

Shingle: Roofing or siding material having sawn faces and backs; are of a standard thickness at the butt end and tapered finish at the other end.

Shake: Roofing or siding material having at least one surface with a natural grain textured split surface.

Live deck: A chain driven platform located in the same proximity as the deck saw and is used to convey cut rounds from the cutting area to the splitting area.

Log stabilizer: A levered device adjacent to the deck saw used to hold the log steady while it is being cut.

Log slip: A chain driven conveyor used to move logs into the deck area.

Laser or *quartz guide light*: An overhead mounted light above a saw that illuminates that portion of a work surface where the saw blade will pass or make a cut.

Log leveler: A levered device adjacent to the deck saw used to level a log automatically.

Overhead splitter: A ceiling mounted hydraulic, air, or electrically operated apparatus with wedge shaped end that is used to split log rounds into block wood when activated by the splitterman.

Shingle saw: A machine used to make shingles.

Shake splitter: A machine used to split blocks into shake blanks.

Shake saw: A machine used to saw shake blanks into a finished wedged shaped product.

Exclusions:

• All operations conducted in the woods, such as logging or the cutting and splitting of shake or shingle bolts, are classified in classification 5001.

• Shake and shingle mills not meeting all of the conditions set forth above are classified in classification 1005.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-1301 Classification 1301.

1301-00 Electric light and power plants operated by cities, towns, or counties

((~~Applies to establishments, operated by a city, town, or county, engaged in generating and distributing electricity to their residents. These may be hydroelectric, fossil fuel steam or turbo-generator plants. This classification includes the regular installation, maintenance and repair of power plant machinery and equipment, the extension and maintenance of lines (including poles, towers and underground lines), the installation and maintenance of circuit breakers and transformers on poles, pole-to-house hook-ups (service connections), meter installation and meter readers when done by employees of an employer having operations subject to this classification. Machinery and equipment may include, but not be limited to, boilers, turbines, generators, cables, transformers, switchgears, circuit breakers, control panels, substations, poles, lines, relays, computers, cranes, forklifts, vehicles and garages, warehouse equipment, meters and hand tools. Clerical office and administrative personnel are to be reported separately in classification 5305 for a city or town, or 5306 for a county.~~

~~This classification excludes contractors engaged in underground line construction maintenance or repair who are to be reported separately in classification 0107; contractors engaged in overhead line, pole and tower construction, maintenance or repair, who are to be reported separately in classification 0509; contractors engaged in wiring within buildings who are to be reported separately in classification 0601; contractors engaged in the installation of machinery or equipment who are to be reported separately in classification 0601 or 0603 as applicable; and the construction of any buildings which is to be reported separately in the applicable construction classification.~~

~~1301-01 Electric light and power cooperatives~~

~~Applies to establishments, in the form of cooperatives, engaged in generating and distributing electricity to their customers. A cooperative is formed by, and owned jointly by, those who make use of the service being provided. The power may be generated by a hydroelectric, fossil fuel steam or turbo-generator plant. This classification is appropriate whether a cooperative owns a power plant or is distributing power purchased from another utility company. Work contemplated by this classification includes the regular installation, maintenance and repair of power plant machinery and equipment, the extension and maintenance of lines (including poles, towers and underground lines), the installation and maintenance of circuit breakers and transformers on poles, pole-to-house hook-ups (service connections), meter installation and meter readers when done by employees of an employer having operations subject to this classification. Machinery and equipment may include, but not be limited to, boilers, turbines, generators, cables, transformers, switchgears, circuit breakers, control panels, substations, poles, lines, relays, computers, cranes, forklifts, vehicles and garages, warehouse equipment, meters and hand tools. Clerical office and administrative personnel are to be reported separately as appropriate for the ownership of the cooperative; 5305 for cities and towns; 5306 for counties; or 4904 and 6303 for nonmunicipal.~~

~~This classification excludes contractors engaged in underground line construction maintenance or repair who are to be reported separately in classification 0107; contractors engaged in overhead line, pole and tower construction, maintenance or repair, who are to be reported separately in classification 0509; contractors engaged in wiring within buildings who are to be reported separately in classification 0601; contractors engaged in the installation of machinery or equipment who are to be reported separately in classification 0601 or 0603 as applicable; and the construction of any buildings which is to be reported separately in the applicable construction classification.~~

~~1301-02 Electric light and power plants operated by public utility districts~~

~~Applies to establishments, in the form of a public utility district (P.U.D.), engaged in generating and distributing electric power to a part of a county. This classification applies whether a P.U.D. owns a power plant or is distributing power purchased from another utility. Work contemplated by this classification includes the regular installation, maintenance and repair of power plant machinery and equipment, the extension and maintenance of lines (including poles, towers and underground lines), the installation and maintenance of circuit breakers and transformers on poles, pole-to-house hook-ups (service connections), meter installation and meter readers when done by employees of an employer having operations subject to this classification. Machinery and equipment may include, but not be limited to, boilers, turbines, generators, cables, transformers, switchgears, circuit breakers, control panels, substations, poles, lines, relays, computers, cranes, forklifts, vehicles and garages, warehouse equipment, meters and hand tools. Clerical office and administrative personnel are to be reported separately in 5306.~~

~~This classification excludes contractors engaged in underground line construction maintenance or repair who are to be reported separately in classification 0107; contractors engaged in overhead line, pole and tower construction, maintenance or repair, who are to be reported separately in classification 0509; contractors engaged in wiring within buildings who are to be reported separately in classification 0601; contractors engaged in the installation of machinery or equipment who are to be reported separately in classification 0601 or 0603 as applicable; and the construction of any buildings which is to be reported separately in the applicable construction classification.~~

~~1301-05 Steam heat power plants~~

~~Applies to establishments engaged in the operation of a steam heat power plant. These businesses use coal, oil, natural gases or electric power to produce steam which is distributed through a network of under or overground pipes to customers (the plant must be very near the purchaser). The initial process of producing the steam is the same as the process used in a steam powered electric generating plant, but the steam is channeled out to the purchaser instead of being used to turn turbines. The purchasers use the steam for heating buildings, operating saunas, as a heat source for cooking or processing in food processing plants, breweries or restaurants, producing the heat needed for wood drying kilns, or to convert back to hot water. Work contemplated by this classification includes, but is not limited to, the regular installation, maintenance or repair of plant machinery and equipment, the extension and maintenance of over or underground pipes, main-to-user hook-ups, meter installation and meter readers. Clerical office and administrative personnel are to be reported separately as~~

~~appropriate for the ownership of the steam plant; 5305 for cities and towns; 5306 for counties; or 4904 and 6303 for nonmunicipal.~~

~~This classification excludes contractors engaged in over or underground pipeline construction, maintenance or repair, main-to-house line extensions and hook-ups, who are to be reported separately in classification 0107; contractors engaged in the installation or contract maintenance of machinery or equipment who are to be reported separately in classification 0603; and the construction of any buildings which is to be reported separately in the applicable construction classification.~~))

Applies to:

Businesses, operated by a city, town, or county, generating and distributing electricity to their residents. These may be hydroelectric, fossil fuel steam, or turbo-generator plants.

Work activities include, but are not limited to:

• Regular installation, maintenance, and repair of power plant machinery and equipment;

• Extension and maintenance of lines including poles, towers, and underground lines;

• Installation and maintenance of circuit breakers and transformers on poles;

• Pole-to-house hook-ups (service connections);

• Meter installation and meter reading when done by employees of an employer having operations subject to this classification.

Equipment and machinery used include, but are not limited to:

• Boilers;
• Cables;
• Circuit breakers;
• Computers;
• Control panels;
• Cranes;
• Forklifts;
• Generators;
• Hand tools;
• Lines;
• Meters;
• Poles;
• Relays;
• Substations;
• Switchgears;
• Transformers;
• Turbines;
• Vehicles and garages;
• Warehouse equipment.

Exclusions:

• Clerical office and administrative personnel are reported separately in 5305 for a city or town, or 5306 for a county.

• Underground line construction, maintenance, or repair are classified in 0107.

• Overhead line, pole, and tower construction, maintenance, or repair, are classified in 0509.

• Wiring within buildings is classified in 0601.

• Installation of machinery or equipment is classified in 0601 or 0603, as applicable.

• Construction of any buildings is classified in the applicable construction classification.

1301-01 Electric light and power cooperatives

Applies to:

Cooperatives generating and distributing electricity to their customers.

A cooperative is formed by, and owned jointly by, those who make use of the service being provided. The power may be generated by a hydroelectric, fossil fuel steam, or turbo-generator plant. This classification is appropriate whether a cooperative owns a power plant or is distributing power purchased from another utility company.

Work activities include, but are not limited to:

• Regular installation, maintenance, and repair of power plant machinery and equipment;

• Extension and maintenance of lines including poles, towers, and underground lines;

• Installation and maintenance of circuit breakers and transformers on poles;

• Pole-to-house hook-ups (service connections);

• Meter installation and meter reading when done by employees of an employer having operations subject to this classification.

Equipment and machinery used include, but are not limited to:

• Boilers;
• Cables;
• Circuit breakers;
• Computers;
• Control panels;
• Cranes;
• Forklifts;
• Generators;
• Hand tools;
• Lines;
• Meters;
• Poles;
• Relays;
• Substations;
• Switchgears;
• Transformers;
• Turbines;
• Vehicles and garages;
• Warehouse equipment.

Exclusions:

• Clerical office and administrative personnel are reported separately in the classification appropriate for the ownership of the cooperative; 5305 for cities and towns; 5306 for counties; or 4904 and 6303 for nonmunicipal.

• Underground line construction, maintenance, or repair are classified in 0107.

• Overhead line, pole, and tower construction, maintenance, or repair, are classified in 0509.

• Wiring within buildings is classified in 0601.

• Installation of machinery or equipment is classified in 0601 or 0603, as applicable.

• Construction of any buildings is classified in the applicable construction classification.

1301-02 Electric light and power plants operated by public utility districts

Applies to:

Public utility districts (PUDs) generating and distributing electric power to a part of a county. This classification applies whether the public utility district owns a power plant or is distributing power purchased from another utility.

Work activities include, but are not limited to:

• Regular installation, maintenance, and repair of power plant machinery and equipment;
• Extension and maintenance of lines including poles, towers, and underground lines;
• Installation and maintenance of circuit breakers and transformers on poles;
• Pole-to-house hook-ups (service connections);
• Meter installation and meter reading when done by employees of an employer having operations subject to this classification.

Equipment and machinery used include, but are not limited to:

• Boilers;
• Cables;
• Circuit breakers;
• Computers;
• Control panels;
• Cranes;
• Forklifts;
• Generators;
• Hand tools;
• Lines;
• Meters;
• Poles;
• Relays;
• Substations;
• Switchgears;
• Transformers;
• Turbines;
• Vehicles and garages;
• Warehouse equipment.

Exclusions:

• Clerical office and administrative personnel are reported separately in 5306.
• Underground line construction, maintenance, or repair are classified in 0107.
• Overhead line, pole, and tower construction, maintenance, or repair, are classified in 0509.
• Wiring within buildings is classified in 0601.
• Installation of machinery or equipment is classified in 0601 or 0603, as applicable.
• Construction of any buildings is classified in the applicable construction classification.

1301-05 Steam heat power plants

Applies to:

Businesses operating a steam heat power plant. These businesses use coal, oil, natural gases, or electric power to produce steam which is distributed through a network of under or overground pipes to customers (the plant must be very near the purchaser). The initial process of producing the steam is the same as the process used in a steam powered electric generating plant, but the steam is channeled out to the purchaser instead of being used to turn turbines. The purchasers use the steam for heating buildings, operating saunas, as a heat source for cooking or processing in food processing plants, breweries or restaurants, producing the heat needed for wood drying kilns, or to convert back to hot water.

Work activities include, but are not limited to:

• Regular installation, maintenance, and repair of plant machinery and equipment;
• Extension and maintenance of over or underground pipes;
• Main-to-user hook-ups;
• Meter installation and meter reading when done by employees of an employer having operations subject to this classification.

Equipment and machinery used include, but are not limited to:

• Boilers;
• Cables;
• Circuit breakers;
• Computers;
• Control panels;
• Cranes;
• Forklifts;
• Generators;
• Hand tools;
• Lines;
• Meters;
• Poles;
• Relays;
• Substations;
• Switchgears;
• Transformers;
• Turbines;
• Vehicles and garages;
• Warehouse equipment.

Exclusions:

• Clerical office and administrative personnel are reported separately in the classification appropriate for the ownership of the steam plant; 5305 for cities and towns; 5306 for counties; or 4904 and 6303 for nonmunicipal.
• Over or underground pipeline construction, maintenance, or repair are classified in 0107.
• Main-to-house line extensions and hook-ups are classified in 0107.
• Installation or contract maintenance of machinery or equipment are classified in 0603.
• Construction of any buildings is classified in the applicable construction classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-2105 Classification 2105.

2105-00 Beer, ale, wine and soft drink importers, exporters and distributors - Wholesale or combined wholesale and retail

((~~Applies to establishments engaged in wholesale, or combined wholesale and retail, distribution of beer, ale, wine and soft drinks. These establishments carry a wide selection of soft drinks, domestic and import beers, ales, and wine, as well as beer pumps and ice. Product stock is received directly from the breweries, wineries, manufacturers or larger distributors, and stored in warehouses or refrigerated storerooms on pallets, in crates, boxes, cases, cartons, kegs or canisters. Stock is then distributed to customers such as, but not limited to, restaurants, lounges and bars, hotels, grocery stores, or other commercial businesses. This classification includes route drivers and driver's assistants.~~

~~This classification excludes establishments engaged in the installation, service and repair of vending machines which are to be reported separately in classification 0606, and breweries, wineries, and beverage bottlers, N.O.C. which are to be reported separately in classification 3702.~~

~~***Special notes***: Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.~~

~~2105-01 Beer, ale and wine importers, exporters and distributors - Wholesale or combined wholesale and retail~~

~~Applies to establishments engaged in wholesale, or combined wholesale and retail, distribution of beer, ale and wine, but not in soft drink beverages. These establishments carry a wide selection of domestic and import beers, ales or wines, as well as beer pumps and ice. Product stock is received directly from the breweries, wineries, manufacturers, or larger distributors and stored in warehouses or refrigerated storerooms on pallets, in crates, boxes, cases, cartons, kegs or canisters. Stock is then distributed to customers such as, but not limited to, restaurants, lounges and bars, hotels, grocery stores, or other commercial businesses. This classification includes route drivers and driver's assistants.~~

~~This classification excludes establishments engaged in the installation, service and repair of vending machines which are to be reported separately in classification 0606, and breweries, wineries and beverage bottlers, N.O.C. which are to be reported separately in classification 3702.~~

~~***Special notes***: Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.~~

~~2105-02 Soft drink importers, exporters and distributors - Wholesale or combined wholesale and retail~~

~~Applies to establishments engaged in wholesale, or combined wholesale and retail, distribution of soft drink beverages but not alcoholic beverages. Product stock is received directly from the manu-~~

~~facturers or larger distributors and stored in warehouses or refrigerated storerooms on pallets, in crates, boxes, cases, cartons, or canisters. Stock is then distributed to customers such as, but not limited to, restaurants, lounges and bars, hotels, grocery stores, or other commercial beverages. This classification includes route drivers and driver's assistants.~~

~~This classification excludes establishments engaged in the installation, service and repair of vending machines which are to be reported separately in classification 0606, and establishments that bottle beverages which are to be reported separately in classification 3702.~~

~~***Special note*:** Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.~~))

Applies to:

Businesses engaged in wholesale, or combined wholesale and retail, distribution of beer, ale, wine, and soft drinks.

Products include, but are not limited to, a wide selection of:

- Ales;
- Domestic and import beers;
- Soft drinks;
- Wines;
- Beer pumps and ice.

Work activities include, but are not limited to:

- Receiving product stock;
- Storing in warehouses or refrigerated storerooms;
- Distributing stock to customers;
- Driving routes and assisting drivers.

Product is stored on pallets; in crates, boxes, cases, cartons, kegs, or canisters.

Product is received directly from the breweries, wineries, manufacturers, or larger distributors.

Customers include, but are not limited to:

- Bars and lounges;
- Grocery stores;
- Hotels;
- Restaurants;
- Other commercial businesses.

Exclusions:

- Installation, service, and repair of vending machines are classified in 0606;
- Breweries, wineries, or beverage bottlers, N.O.C. are classified in 3702.

***Special notes*:** Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.

2105-01 Beer, ale and wine importers, exporters and distributors - Wholesale or combined wholesale and retail

Applies to:

Businesses engaged in wholesale, or combined wholesale and retail, distribution of beer, ale, and wine, but **not soft drink beverages.**

Products include, but are not limited to, a wide selection of:

- Ales;
- Domestic and import beers;
- Wines;
- As well as beer pumps and ice.

Work activities include, but are not limited to:

- Receiving product stock;
- Storing in warehouses or refrigerated storerooms;
- Distributing stock to customers;
- Driving routes and assisting drivers.

Product is stored on pallets; in crates, boxes, cases, cartons, kegs, or canisters.

Product is received directly from the breweries, wineries, manufacturers, or larger distributors.

Customers include, but are not limited to:

- Bars and lounges;
- Grocery stores;
- Hotels;
- Restaurants;
- Other commercial businesses.

Exclusions:

- Installation, service, and repair of vending machines are classified in 0606;
- Breweries, wineries, and beverage bottlers, N.O.C. are classified in 3702.

Special notes: Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.

2105-02 Soft drink importers, exporters, and distributors - Wholesale or combined wholesale and retail

Applies to:

Businesses engaged in wholesale, or combined wholesale and retail, distribution of **nonalcoholic beverages** including soft drink beverages.

Products include, but are not limited to:

- Soft drinks;
- Other nonalcoholic beverages;
- As well as beer pumps and ice.

Work activities include, but are not limited to:

- Receiving product stock;
- Storing in warehouses or refrigerated storerooms;
- Distributing stock to customers;
- Driving routes and assisting drivers.

Product is stored on pallets; in crates, boxes, cases, cartons, or canisters.

Product is received directly from the manufacturers or larger distributors.

Customers include, but are not limited to:

- Bars and lounges;
- Grocery stores;
- Hotels;
- Restaurants;
- Other commercial businesses.

Exclusions:

- Installation, service, and repair of vending machines are classified in 0606;
- Beverage bottling businesses are classified in 3702.

Special notes: Classifications 2105 and 3702 shall not be assigned to the same account unless each operation is conducted as a separate and distinct business and the conditions set forth in the general reporting rule covering the operation of a secondary business have been met.

AMENDATORY SECTION (Amending WSR 07-12-047, filed 5/31/07, effective 7/1/07)

WAC 296-17A-2908 Classification 2908.

2908-00 Factory-built housing: Manufacturing or assembly

((~~Applies to establishments engaged in the assembly line production of factory built (manufactured) housing such as wood prefab and modular homes, mobile homes and prefab cedar homes when manufactured at a shop or adjacent yard. Sections vary in size up to 80 feet long and 28 or more feet wide. Manufactured homes are built on an assembly line with materials such as plywood, rolls of aluminum, steel I beams, insulation, electric wire, particleboard, lumber, pipes, plumbing fixtures, electrical fixtures, appliances, carpeting, paint and hardware. Assembly may be single line or on a side by side line. After the chassis is built, it is placed on a conveyor where workers lay joists and heating and plumbing lines. Floors are then installed, interior walls are raised and cabinets are installed. Preassembled exterior walls are fastened, the roof is placed, covered, and tie down straps are attached. These homes may be sided with aluminum, vinyl, hardwood fiberboard or natural wood. While the chassis and some other steel parts are welded, the majority of the work is performed with stamping and forming equipment, hand and air tools, joiners, jig clamps, planers, hoists, forklifts and rail conveyors. Other parts may be nailed, riveted, stapled or glued. Furniture and blinds or curtains may then be installed and specialty items such as fireplaces may be added. Units are inspected, then moved to the yard until sold or delivered. Individual work stations may include a mill room, cabinet mill room, sheet metal department or paint and finish departments. Some plants may also have sewing departments where they make curtains, blinds and drapes. This classification includes transporting of the factory built home to the customer's site or a dealer's sales lot when performed by employees of an employer subject to this classification, but excludes set up which is to be reported separately in classification 0517.~~

~~This classification excludes establishments engaged in the manufacture of campers and travel trailers which are to be reported separately in classification 2908-02; establishments engaged exclusively in the manufacture of truck canopies which are to be reported sepa-~~

~~rately in classification 2908-03; establishments engaged in the manufacture of fiberglass canopies which are to be reported separately in classification 3511; and delivery and set up performed by an independent contractor which is to be reported separately in classification 0517.~~

~~2908-02 Campers and travel trailers: Manufacturing~~

~~Applies to establishments engaged in the manufacture of factory built campers or travel trailers which are generally not more than 35 feet long and 8 feet wide. This process includes cutting steel I-beams, placing them on a jig and welding the pieces together. Hitches, running gear, and side frames are installed. Subflooring is assembled on a jig and fastened with lag bolts to the frame. Shears, stamping equipment, drill presses and jig clamps are used to perform the work as the pieces are moved by conveyor. Interior and exterior metal panels and trim are spray painted in spray booths or dipped in tanks, using enamel and then hardened by using drying ovens or heat lamps. All electrical wiring, flooring, carpets, heating units, and plumbing fixtures are installed with the use of electrical hand tools, pneumatic wrenches, staplers, and air compressors. Partition walls are then nailed in place with nail guns. Side walls are framed up on a jig and placed on the trailer. Afterwards, the ceiling is nailed in place and the insulation and cabinets are put in place. Sheet metal sides are stapled on and the top is installed. All systems are checked and the trailer or camper is delivered to the distributor's lot. The process of manufacturing a camper is similar except there are no frame rails, axles or hitch involved as a camper has no chassis. Campers are mounted on pickup trucks; travel trailers are fitted with a hitch for towing behind a motor vehicle.~~

~~This classification excludes establishments engaged in the manufacture of factory built housing which are to be reported separately in classification 2908-00; establishments engaged in the manufacture of truck canopies which are to be reported separately in classification 2908-03; establishments engaged in fiberglass canopy manufacturing which are to be reported separately in classification 3511; and camper and travel trailer rental/sales agencies which are to be reported separately in classification 3411.~~

~~2908-03 Wood or metal truck canopy: Manufacturing~~

~~Applies to establishments engaged in the manufacture of wood or metal truck canopies. After the framework is assembled, insulation is cut to size and inserted, electrical wiring is strung, exterior aluminum sheeting or "skin" is cut to size and attached, interior paneling and decorative trim is fitted, doors and windows are installed and electrical clearance lights are attached. Machinery includes, but is not limited to, saws, electrical hand tools, metal cutting and welding equipment, shears, stamping equipment, drill presses, jig clamps, spray booths, pneumatic wrenches, staple and nail guns, air compressors and miscellaneous hand tools. Direct sales to retail consumers or to wholesale dealers by a canopy manufacturer are included in this classification.~~

~~This classification excludes dealers who sell and/or install canopies who are reported separately in classification 1106; establishments engaged in the manufacture of campers and travel trailers which are to be reported separately in classification 2908-02; establishments engaged in the manufacture of factory built housing which are to be reported in classification 2908-00; and establishments engaged in~~

~~the manufacture of fiberglass canopies which are to be reported separately in classification 3511.~~))

Applies to:

Businesses engaged in the assembly line production of factory-built (manufactured) housing.

Factory-built (manufactured) housing includes, but is not limited to:

- Wood prefab and modular homes;
- Mobile homes;
- Prefab cedar homes when manufactured at a shop or adjacent yard.

Factory-built housing sections vary in size up to 80 feet long and 28 or more feet wide.

Materials used include, but are not limited to:

- Appliances;
- Carpeting;
- Electric wire;
- Electrical fixtures;
- Hardware;
- Insulation;
- Lumber;
- Paint;
- Particleboard;
- Pipes;
- Plumbing fixtures;
- Plywood;
- Rolls of aluminum;
- Steel I-beams.

Equipment used includes, but is not limited to:

- Air tools;
- Forklifts;
- Glue;
- Hand tools;
- Hoists;
- Jig clamps;
- Joiners;
- Planers;
- Rail conveyors;
- Stamping and forming equipment;
- Welding equipment.

Work activities and processes include, but are not limited to:

- Building on an assembly line, either a single line or on a side-by-side line;
- Building the chassis;
- Placing the chassis on a conveyor where workers lay joists and heating and plumbing lines;
- Installing floors;
- Raising interior walls;
- Installing cabinets;
- Fastening preassembled exterior walls;
- Placing the roof;
- Covering and attaching tie down straps;
- Siding with aluminum, vinyl, hardwood fiberboard, or natural wood;
- Installing furniture and blinds or curtains;

• Installing specialty items such as fireplaces;
• Inspecting units;
• Moving units to the yard until sold or delivered.

This classification includes transporting of the factory-built home to the customer's site or a dealer's sales lot when performed by employees of an employer subject to this classification.

Exclusions:

• Businesses engaged exclusively in the manufacture of truck canopies are classified in 2908-03;
• Manufacture of campers and travel trailers is classified in 2908-02;
• Manufacture of fiberglass canopies is classified in 3511;
• Worker hours engaged in the set up of factory-built houses are reported separately in classification 0517;
• Delivery and set up performed by an independent contractor is classified in 0517.

2908-02 Campers and travel trailers: Manufacturing

Applies to:

Manufacturing of factory-built campers or travel trailers.

Campers or travel trailers are generally not more than 35 feet long and 8 feet wide. Campers are mounted on pickup trucks and travel trailers are fitted with a hitch for towing behind a motor vehicle.

Equipment used includes, but is not limited to:

• Air compressors;
• Conveyors;
• Drill presses;
• Electrical hand tools;
• Jig clamps;
• Nail guns;
• Pneumatic wrenches;
• Shears;
• Stamping equipment;
• Staplers.

Work activities and processes include, but are not limited to:

• Cutting steel I-beams, placing them on a jig and welding the pieces together;
• Installing hitches, running gear, and side frames;
• Assembling the subflooring on a jig and fastening with lag bolts to the frame;
• Painting metal panels and trim with enamel in spray booths or by dipping in tanks;
• Hardening the enamel paint using drying ovens or heat lamps;
• Installing all electrical wiring, flooring, carpets, heating units, and plumbing fixtures;
• Nailing partition walls in place;
• Framing up side walls on a jig and placing them on the trailer;
• Nailing the ceiling in place;
• Installing the insulation and cabinets;
• Stapling on the sheet metal sides;
• Installing the top;
• Checking all systems;
• Delivering the trailer or camper to the distributor's lot;
• In the manufacturing of a camper there are no frame rails, axles or hitch involved as a camper has no chassis.

Exclusions:

• Manufacture of factory-built housing is classified in 2908-00;
• Manufacture of truck canopies is classified in 2908-03;
• Manufacture of fiberglass canopies is classified in 3511;
• Camper and travel trailer rental/sales agencies are classified in 3411.

2908-03 Wood or metal truck canopy: Manufacturing

Applies to:

Manufacturing of wood or metal truck canopies.

Equipment used includes, but is not limited to:

• Air compressors;
• Drill presses;
• Electrical hand tools;
• Hand tools;
• Jig clamps;
• Metal cutting equipment;
• Pneumatic wrenches;
• Saws;
• Shears;
• Spray booths;
• Stamping equipment;
• Staple and nail guns;
• Welding equipment.

Work activities and processes include, but are not limited to:

• Assembling the framework;
• Cutting insulation to size and then installing it;
• Stringing electrical wiring;
• Cutting and attaching exterior aluminum sheeting or "skin";
• Fitting interior paneling and decorative trim;
• Installing doors and windows;
• Attaching electrical clearance lights;
• Selling direct to retail consumers or to wholesale dealers by a canopy manufacturer is included in this classification.

Exclusions:

• Dealers who sell or install canopies are classified in 1106;
• Manufacture of campers and travel trailers is classified in 2908-02;
• Manufacture of factory-built housing is classified in 2908-00;
• Manufacture of fiberglass canopies is classified in 3511.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

WAC 296-17A-3104 Classification 3104.

3104-08 Plaster, whiting, talc, emery powder: Manufacturing

((~~Applies to establishments engaged in the manufacture of plaster, whiting, talc or emery powder. Plaster is a mixture of lime, sand, water, and may include hair or other fibers, that hardens to a smooth solid and is used for coating walls and ceilings. Plaster can also be manufactured in dry form and sold in bags. Whiting is a pure white grade of chalk that has been ground and washed for use in~~

paints, ink, and as an extender in pigments, putty or whitewash. Talc is a fine-grained white, greenish, or gray mineral with a soft soapy texture, which is used in the manufacture of talcum and face powder, as a paper coating, and as a filler for paint and plastics. Emery is a fine-grained mineral used for grinding and polishing. This classification is for the production of the powders only. Machinery includes, but is not limited to:

- Conveyors;
- Forklifts;
- Machinery for crushing, mixing, grinding, milling, washing, or cooking.

This classification excludes:

- Establishments engaged in the manufacture of plaster statuary or ornaments which are to be reported separately in classification 3509;
- Establishments engaged in the manufacture of plasterboard or plaster block which are to be reported separately in classification 3104-55;
- Interior and exterior plastering and stucco work which is to be reported separately in classification 0303; and
- Quarrying operations which are to be reported separately in classification 1704.

3104-52 Asbestos products or mica goods: Manufacturing

Applies to establishments engaged in the manufacture of asbestos products and mica goods. Asbestos products include, but are not limited to:

- Brake linings;
- Building materials;
- Chemical filters;
- Clutch facings;
- Dryer felt;
- Electrical insulation;
- Fireproofing;
- Valve packings.

Asbestos is a fibrous mineral form combined with impure magnesium silicate. Flake asbestos can be mixed, spun and woven into cloth, or the flakes can be used as an ingredient in the processing or treatment of paper. To make molded asbestos products, asbestos is mixed with other ingredients, molded, baked, cut to size, and ground. Mica is also a mineral form; it is split to desired thickness using hand knives or knives mounted on tables. The split mica is sent to punch presses which stamp out the various products usually used by the electrical trades. Mica that is too small to be processed on punch presses may be placed in burling machines, mixed with liquids, and then pressed into sheets. Removal of imperfections is usually done by hand; the sheets are dried, baked in ovens and run through sanders prior to crating and shipping.

This classification excludes:

- Establishments engaged in the manufacture of plasterboard or plaster block which are to be reported separately in classification 3104-55;
- Contractors engaged in the installation or removal of asbestos or mica products at the customer's site who are to be reported separately in the classification applicable to the phase of construction being performed; and

~~• Quarrying operations which are to be reported separately in classification 1704.~~

~~3104-53 Stone products: Manufacturing; fabrication, or polishing, N.O.C.~~

~~Applies to establishments engaged in the manufacture of soapstone products, and the cutting, milling, and polishing of stone not covered by another classification (N.O.C.), such as:~~

~~• Granite;~~
~~• Grindstone;~~
~~• Limestone;~~
~~• Lithographic stone (usually sheet zinc) marble;~~
~~• Millstone;~~
~~• Slate.~~

~~Soapstone (also called steatite) is a massive white-to-green talc found in extensive mine beds and is used in products such as, but not limited to:~~

~~• Ceramics;~~
~~• Decorative accessories;~~
~~• Insulation;~~
~~• Ornamental objects;~~
~~• Paints.~~

~~The manufacturing process for stone products requires turning, shaping, carving and polishing with a variety of milling equipment. Finished stone products of granite, marble, or slate include, but are not limited to:~~

~~• Countertops;~~
~~• Decorative accessories;~~
~~• Floor tiles;~~
~~• Tops for furniture;~~
~~• Other building materials.~~

~~Machinery and materials include, but are not limited to:~~

~~• Abrasives;~~
~~• Grinders;~~
~~• Milling machines;~~
~~• Saws.~~

~~This classification excludes:~~

~~• Installation of stone building materials as described in classification 0302;~~
~~• Tile setting as described in classification 0502; and~~
~~• Quarry operations which are to be reported separately in classification 1704.~~

~~3104-55 Plasterboard or plaster block: Manufacturing~~

~~Applies to establishments engaged in the manufacture of plasterboard (wallboard) or plaster block which are used as building materials. Raw materials include, but are not limited to:~~

~~• Fiberboard;~~
~~• Plaster;~~
~~• Rolls of paper.~~

~~Plasterboard is made by bonding plaster to a thin rigid board or to layers of fiberboard or paper to form a flat board or a block. Product is dried in ovens, cut to size with slitters or other cutting machinery, and packed for shipment. This classification includes the mixing of the plaster when done by employees of employers subject to this classification.~~

~~This classification excludes:~~

~~• Establishments operating as plaster mills which are to be reported separately in classification 3104-08;~~

~~• Interior and exterior plastering and stucco work which is to be reported separately in classification 0303; and~~

~~• Quarrying operations which are to be reported separately in classification 1704.~~

~~3104-57 Coating of building materials, N.O.C.~~

~~Applies to establishments engaged in the coating of building materials, not covered by another classification (N.O.C.), with preservatives to keep them from decaying when placed into the ground. These materials include, but are not limited to:~~

~~• Deck materials;~~

~~• Dimensional lumber;~~

~~• Fence posts;~~

~~• Landscaping beams;~~

~~• Lattice work.~~

~~The coating process may include immersing the lumber in vats of preservative, or cutting or drilling small holes into the lumber and applying preservatives that soak in. Machinery and materials include, but are not limited to:~~

~~• Brushes;~~

~~• Drills;~~

~~• Immersion vats;~~

~~• Machines to drill holes and apply preservatives.~~

~~This classification excludes installation of these products which is to be reported separately in the classification applicable to the work being performed.~~

~~3104-58 Monument dealers~~

~~Applies to establishments engaged in selling monuments, statues, cornerstones, and grave markers to others. This classification includes the finish cutting, grinding, polishing, engraving, and sandblasting of the stone when done by employees of employers subject to this classification. Wholesale monument dealers generally receive split, rough cut stone from the mine or quarry. Materials such as granite and marble are cut to block size, and precast bronze markers may be attached to the stone. Some blocks are sold without further processing while others are finished with stone polishers and abrasives, then cut into monuments prior to shipment to retail monument dealers. Retail monument dealers may provide engraving, artwork, lettering, and dates, according to customer specifications, that are usually done with a sandblasting technique. This classification includes installation of monuments when performed by employees of the monument dealer.~~

~~This classification excludes:~~

~~• Installation of monuments by employees of cemeteries which is to be reported separately in classification 6202;~~

~~• Contractors engaged in the installation of monuments which are to be reported separately in the classification applicable to the work being performed; and~~

~~• Establishments engaged in providing specialized services, such as, but not limited to, sandblasting which are to be reported separately in the classification applicable to the work being performed.~~))

Applies to:

Businesses engaged in manufacturing plaster, whiting, talc, or emery powder.

Materials and processes include:

• This classification is for the production of the powders only.

• Plaster - A mixture of lime, sand, water, and may include hair or other fibers, that hardens to a smooth solid and is used for coating walls and ceilings. Plaster can also be manufactured in dry form and sold in bags.

• Whiting - A pure white grade of chalk that has been ground and washed for use in paints, ink, and as an extender in pigments, putty, or whitewash.

• Talc - A fine-grained white, greenish, or gray mineral with a soft soapy texture, which is used in the manufacture of talcum and face powder, as a paper coating, and as a filler for paint and plastics.

• Emery - A fine-grained mineral used for grinding and polishing.

Tools and machinery include, but are not limited to:

• Conveyors;

• Forklifts;

• Machinery for crushing, mixing, grinding, milling, washing, or cooking.

Exclusions:

• Manufacturing plaster statuary or ornaments is classified in 3509;

• Manufacturing plasterboard or plaster block is classified in 3104-55;

• Interior and exterior plastering and stucco work are classified in 0303;

• Quarrying operations are classified in 1704.

3104-52 Asbestos products or mica goods: Manufacturing

Applies to:

Businesses manufacturing asbestos products and mica goods.

Asbestos products include, but are not limited to:

• Brake linings;

• Building materials;

• Chemical filters;

• Clutch facings;

• Dryer felt;

• Electrical insulation;

• Fireproofing;

• Valve packings.

Material and processes include:

• Asbestos is a fibrous mineral form combined with impure magnesium silicate. Flake asbestos can be mixed, spun and woven into cloth, or the flakes can be used as an ingredient in the processing or treatment of paper. To make molded asbestos products, asbestos is mixed with other ingredients, molded, baked, cut to size, and ground.

• Mica is a mineral form. Mica is split to desired thickness using hand knives or knives mounted on tables. The split mica is sent to punch presses which stamp out the various products usually used by the electrical trades. Mica that is too small to be processed on punch presses may be placed in burling machines, mixed with liquids, and then pressed into sheets. Removal of imperfections is usually done by hand; the sheets are dried, baked in ovens, and run through sanders prior to crating and shipping.

Tools and machinery include, but are not limited to:

- Knives mounted on tables or hand knives;
- Punch presses that stamp out various products;
- Burling machines;
- Ovens;
- Sanders;
- Manual removal of imperfections.

Exclusions:

- Manufacturing plasterboard or plaster block is classified in 3104-55;
- Contractors engaged in the installation or removal of asbestos or mica products at the customer's site are classified in the classification applicable to the phase of construction being performed;
- Quarrying operations are classified in 1704.

3104-53 Stone products: Manufacturing; fabrication, or polishing, N.O.C.

Applies to:

Manufacturing soapstone products and cutting, milling, and polishing of stone not covered by another classification (N.O.C.).

Types of stone cut, milled, or polished include, but are not limited to:

- Granite;
- Grindstone;
- Limestone;
- Lithographic stone (usually sheet zinc) marble;
- Millstone;
- Slate;
- Soapstone (also called steatite) is a white-to-green talc found in mine beds and is used in products such as, but not limited to:
  - Ceramics;
  - Decorative accessories;
  - Insulation;
  - Ornamental objects;
  - Paints.

Materials and processes include:

The manufacturing process for stone products requires turning, shaping, carving and polishing with a variety of milling equipment. Finished stone products of granite, marble, or slate include, but are not limited to:

- Countertops;
- Decorative accessories;
- Floor tiles;
- Tops for furniture;
- Other building materials.

Machinery or equipment include, but are not limited to:

- Abrasives;
- Grinders;
- Milling machines;
- Saws.

Exclusions:

- Installation of stone building materials as described in classification 0302 is classified in 0302;

• Tile setting as described in classification 0502 is classified in 0502;
• Quarry operations are classified in 1704.

3104-55 Plasterboard or plaster block: Manufacturing

Applies to:
Businesses manufacturing plasterboard (wallboard) or plaster block, which are used as building materials.

Raw materials include, but are not limited to:
• Fiberboard;
• Plaster;
• Rolls of paper.

Plasterboard is made by bonding plaster to a thin rigid board or to layers of fiberboard or paper to form a flat board or a block. Product is dried in ovens, cut to size with slitters or other cutting machinery, and packed for shipment. This classification includes the mixing of the plaster when done by employees of employers subject to this classification.

Exclusions:
• Plaster mills are classified in 3104-08;
• Interior and exterior plastering and stucco work is classified in 0303;
• Quarrying operations are classified in 1704.

3104-57 Coating of building materials, N.O.C.

Applies to:
Businesses engaged in the coating of building materials with preservatives to keep them from decaying when placed into the ground, when not covered by another classification (N.O.C.).

Building materials that might be coated with preservatives include, but are not limited to:
• Deck materials;
• Dimensional lumber;
• Fence posts;
• Landscaping beams;
• Lattice work.

The coating process may include immersing the building material in vats of preservative, or cutting or drilling small holes into the building material and applying preservatives that soak in.

Machinery and materials include, but are not limited to:
• Brushes;
• Drills;
• Immersion vats;
• Machines to drill holes and apply preservatives.

Exclusion:
Installation of coated products is classified in the classification applicable to the work being performed.

3104-58 Monument dealers

Applies to:
Selling monuments, statues, cornerstones, and grave markers to others.

Materials and processes include:

• **Wholesale monument dealers** generally receive split, rough-cut stone from the mine or quarry. Materials such as granite and marble are cut to block size, and precast bronze markers may be attached to the stone. Some blocks are sold without further processing while others are finished with stone polishers and abrasives, then cut into monuments prior to shipment to retail monument dealers.

• **Retail monument dealers** may engrave artwork, lettering, and dates, according to customer specifications, usually done with a sandblasting technique.

When done by employees of employers subject to this classification, work activities can include:

• Finish cutting;
• Grinding;
• Polishing;
• Engraving;
• Sandblasting of the stone;
• Installation of monuments.

Exclusion:

• Installation of monuments by employees of cemeteries is classified in 6202;

• Contractors engaged in the installation of monuments are classified in the classification applicable to the work being performed;

• Businesses engaged in providing specialized services (such as, but not limited to, sandblasting) are classified in the classification applicable to the work being performed.

AMENDATORY SECTION (Amending WSR 14-17-085, filed 8/19/14, effective 9/19/14)

WAC 296-17A-3411 Classification 3411.

3411-00 Automobile: Dealers, rental or leasing agencies, including service repair garages;
Recreational vehicle: Dealers, rental/leasing agencies, or service/repair garages

((~~Applies to establishments engaged in selling, renting, or leasing automobiles, including service/repair centers operated by dealers. This classification also applies to establishments engaged in selling, renting, leasing or servicing/repairing recreational vehicles. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. The term "recreational vehicle" includes motor homes, travel trailers, campers, and also includes sport and utility trailers. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service and repair work, washing, vacuuming, and waxing vehicles, and detailing such as striping, window tinting, vinyl repair, installing molding and electronic accessories when performed by employees of an employer subject to this classification. This classification includes service managers, parts department employees who have shop exposure, towing service for in-shop repairs, lot personnel, and customer courtesy van or car drivers.~~

~~This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classi-~~

~~fication 6409; recreational vehicle dealers who also sell factory built housing units such as modular and mobile homes who are to be reported separately in classification 3415; parts department employees who are not exposed to any hazards of the service/repair shop who may be reported separately in classification 6309; auto body shop employees or auto body specialty shops who are to be reported separately in classification 3412; dealers who sell truck canopies and related accessories, but do not sell the other vehicles/trailers included in this classification who are to be reported separately in classification 1106; establishments engaged in welding or cutting repairs and/or hydraulic installation which are to be reported separately in classification 3402; and sales employees who may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met.~~

~~***Special notes***: Used automobile dealers will not normally have service/repair garages or parts departments but will have lot personnel and detailers. Automobile rental and leasing agencies will normally have all the operations described above with the exception of parts department employees. New automobile dealers will routinely have all of the operations described above.~~

~~Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.~~

~~3411-01 Automobile: Service centers, repair shops or garages~~

~~Applies to establishments engaged in servicing and repairing automobiles for others. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, all phases of automotive mechanical service when performed by employees of an employer subject to this classification, such as engine overhauls and rebuilding, resurfacing heads, valve grinding, transmission overhauls or rebuilding, electrical repairs, brake service, engine tune ups, fuel injection service, carburetor repair, and engine diagnostic service. This classification includes service managers, parts department employees who have shop exposure, incidental sales of reconditioned cars, towing service for in-shop repairs, customer courtesy van or car drivers, roadside assistance, and tire chain installation. Parts department employees who are not exposed to any hazards of the repair shop may be reported separately in classification 6309.~~

~~This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409; auto body shop employees who are to be reported separately in classification 3412.~~

~~***Special note***: While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line auto parts stores. Care needs to be taken when considering assignment of classification 6309 for auto part sales. Only those businesses that have a full line auto parts store which is physically separated from the repair shop and whose sales of auto parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309. *This classification does not apply to auto repair shops that also sell and install tires on customer vehicles. See classification*~~

~~*6405 for auto repair shops that also sell and install tires.* Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.~~

~~3411-02 Automobile: Service specialty shops~~

~~Applies to establishments engaged in providing specialized automobile repair services such as air conditioning systems, muffler repair, cruise controls and electrical systems. For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. Work contemplated by this classification includes, but is not limited to, inspection of vehicle components for wear, diagnostic analysis, and repair of various components such as brakes and cooling systems, after-market installation of components such as cruise control, air conditioning systems, and sun roofs; and specialized repair services such as mufflers and transmissions. This classification includes service managers, part sales, towing service for in-shop repairs, and customer courtesy van or car drivers.~~

~~This classification excludes: Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery which are to be reported separately in classification 6409.~~

~~***Special note*:** Businesses assigned to this classification will generally have an inventory of supplies and parts which they use in the service and repair of customer vehicles although some sales of parts and components may occur. *This classification does not apply to any shop that sells and installs tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishment engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.~~))

Applies to:

• Businesses selling, renting, or leasing automobiles, including service/repair centers operated by dealers.

• Businesses selling, renting, leasing, or servicing/repairing recreational vehicles.

For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles. The term "recreational vehicle" includes motor homes, travel trailers, campers, and also includes sport and utility trailers.

Occupations include, but are not limited to:

• Customer courtesy van or car drivers;
• Lot personnel;
• Parts department employees who have shop exposure;
• Service managers.

Work activities include, but are not limited to:

• All phases of automotive mechanical service and repair work;
• Detailing such as striping, window tinting, and vinyl repair;
• Installing molding and electronic accessories when performed by employees of an employer subject to this classification;
• Towing service for in-shop repairs;
• Vacuuming, washing, and waxing vehicles.

Special note: Used automobile dealers will not normally have service/repair garages or parts departments but will have lot personnel and detailers. Automobile rental and leasing agencies will normally have all the operations described above with the exception of parts department employees. New automobile dealers will routinely have all of the operations described above. Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

Exclusions:

• Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery are classified in 6409.

• Recreational vehicle dealers who also sell factory built housing units such as modular and mobile homes are classified in 3415.

• Worker hours for parts department employees who are not exposed to any hazards of the service/repair shop are reported separately in classification 6309.

• Worker hours for auto body shop employees are reported separately in classification 3412.

• Auto body specialty shops are classified in 3412.

• Dealers who sell truck canopies and related accessories, but do not sell the other vehicles/trailers included in this classification are classified in 1106.

• Businesses engaged in welding or cutting repairs and/or hydraulic installation are classified in 3402.

• Worker hours for sales employees may be reported separately in classification 6301 provided all the conditions of the general reporting rule covering standard exception employees have been met.

• Businesses providing towing service for hire are classified in 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

3411-01 Automobile: Service centers, repair shops, or garages

Applies to:

Businesses servicing and repairing automobiles for others.

For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles.

Occupations include, but are not limited to:

• Customer courtesy van or car drivers;

• Parts department employees who have shop exposure;

• Service managers.

Work activities include, but are not limited to:

• All phases of automotive mechanical service when performed by employees of an employer subject to this classification;

• Brake service;

• Carburetor repair;

• Electrical repairs;

• Engine diagnostic service;

• Engine overhauls and rebuilding;

• Engine tune ups;

• Fuel injection service;

• Incidental sales of reconditioned cars;
• Resurfacing heads;
• Roadside assistance when performed by employees of an employer subject to this classification;
• Tire chain installation;
• Towing service for in-shop repairs;
• Transmission overhauls or rebuilding;
• Valve grinding.

Special note: While most businesses assigned to this classification have an inventory of parts which they use in the service and repair of customer vehicles, some employers have full line auto parts stores. Care needs to be taken when considering assignment of classification 6309 for auto part sales. Only those businesses that have a full line auto parts store which is physically separated from the repair shop and whose sales of auto parts are primarily for off-premises repair (do it yourself repair) should be considered for classification 6309. *This classification does not apply to auto repair shops that also sell and install tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

Exclusions:

• Parts department employees who are not exposed to any hazards of the repair shop may be reported separately in classification 6309.
• Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery are classified in 6409.
• Worker hours for auto body shop employees are reported separately in 3412.
• Auto repair shops that sell and install tires on customer vehicles are classified in 6405.
• Businesses providing towing service for hire are classified in 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

3411-02 Automobile: Service specialty shops

Applies to:

Businesses providing specialized automobile repair services.

For purposes of this classification, the term "automobile" includes standard sized passenger cars, pickup trucks, and sport utility vehicles.

Occupations include, but are not limited to:

• Customer courtesy van or car drivers;
• Parts department employees who have shop exposure;
• Service managers.

Work activities include, but are not limited to:

• After-market installation of components such as cruise control, air conditioning systems, and sun roofs;
• Diagnostic analysis;
• Inspection of vehicle components for wear;
• Repair of various components such as brakes, cooling systems, cruise controls, and electrical systems;

• Specialized repair services such as mufflers and transmissions;
• Towing service for in-shop repairs.

Special note: Businesses assigned to this classification will generally have an inventory of supplies and parts which they use in the service and repair of customer vehicles although some sales of parts and components may occur. *This classification does not apply to any shop that sells and installs tires on customer vehicles. See classification 6405 for auto repair shops that also sell and install tires.* Establishments engaged in providing towing service for hire are to be reported separately in classification 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the repair shop.

Exclusions:

• Dealers or service/repair centers for semi-trucks, diesel tractor-trailers, buses, and other heavy equipment or machinery are classified in 6409.
• Auto repair shops that sell and install tires on customer vehicles are classified in 6405.
• Businesses providing towing service for hire are classified in 1109. For purposes of this classification, "towing for hire" means a towing service not performed in connection with repairs to be done by the service/repair shop.

AMENDATORY SECTION (Amending WSR 19-17-069, filed 8/20/19, effective 10/1/19)

WAC 296-17A-3905 Classification 3905.

3905-00 Restaurants, N.O.C.

((~~Applies to establishments engaged in restaurant operations not covered by another classification (N.O.C.). These establishments are "traditional, family or full service" restaurants that provide sit-down services, or cafeteria or buffet style meals. This classification includes the preparation and service of food and beverages. Establishments in this classification may serve beer and wine including on premises consumption of beer from microbrewery operations in connection with the restaurant; however, they are prohibited from selling spirits or hard liquor. Typical occupations include, but are not limited to, hostesses, wait staff and assistants, cooks, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in conjunction with the restaurant.~~

~~This classification excludes establishments engaged in operating restaurants or lounges that sell spirits or hard liquor which are to be reported separately in classification 3905-07, and catering services that are not part of the restaurant operation which are to be reported separately in classification 3909.~~

Special note: ~~Traditional, family or full service restaurants are establishments where wait persons bring customers a menu, take orders, and deliver prepared meals to the customer's table or where customers choose from a variety of food items from a buffet or cafeteria style service. Such establishments will generally use nondisposable eating utensils and plates to serve food as opposed to throw away paper plates and plastic eating utensils. Includes establishments where or-~~

~~ders are placed at the counter, and the food or drink is delivered to your table. Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a restaurant are to be reported separately in classification 6605.~~

~~3905-01 Food trucks, food, drink, and candy vendors or concessionaires~~

~~Applies to street vendors, food trucks, and food, drink or candy concessions at places such as, but not limited to, ball parks, race tracks, theaters, exhibitions, and other public or private spaces. This classification is applicable only to food service or concession operations which are operated independently from the facility or event where the service is being provided. These independent vendors selling food items are not employees of the facility or site where the event or exhibition is taking place. Vendors subject to this classification sell a variety of foods, snacks, and beverages from booths, food trucks, mobile push carts, mobile stands, carrying boxes, or trays.~~

~~This classification excludes food and beverage operations (concession stands) operated in connection with an event or facility by employees of the event sponsor or facility operator which are to be reported separately in the classification applicable to the event or exhibition; route food services selling prepackaged items on a route, which are to be reported separately in classification 1101; vendors of nonfood items which are to be reported separately in the applicable classification; and vending machine service companies that replenish food, snack and beverage products in connection with the vending machine business which are to be reported separately in classification 0606.~~

~~3905-03 Commissaries and restaurants with construction, erection, logging or mine operations~~

~~Applies to commissary or restaurant operations conducted *exclusively* in connection with a construction, erection, logging or mining camp operation. This classification is limited to food preparation services provided at a camp site or at a mess hall used to feed employees of the construction, logging, erection, or mining company. The foods prepared and served are not intended for, or offered to, the general public.~~

~~***Special note*:** The purpose of this classification is to provide employees engaged in the food preparation activity with a classification representative of the work being performed, even though such activities may be occurring at or adjacent to the construction, logging, erection or mining site as provided for in the general reporting rule covering general inclusions.~~

~~3905-04 Eating establishments, N.O.C. such as public lunch counters in stores~~

~~Applies to establishments not covered by another classification (N.O.C.) engaged in operating lunch counters and restaurants within a retail store location. Use of this classification is limited to employees of an employer who also operates the retail store where the food service is located.~~

~~3905-06 Taverns~~

~~Applies to establishments engaged in the operation of a tavern. A tavern is primarily engaged in the sale of beer, wine, and alcoholic beverages for on-premises consumption, and may also provide a variety~~

~~of foods ranging from peanuts and pretzels to hot food dishes. Typical occupations include, but are not limited to, bartenders, wait staff and assistants, cooks, dishwashers, and managerial staff. Beer may also be sold by the keg with the rental of necessary taps and pumps. This classification includes the operation of a "beer garden" at special events such as, but not limited to, fairs or race meets, and the operation of a card room in connection with the tavern.~~

~~***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as an independent contractor. Musicians or entertainers who are considered to be employees of a tavern must be reported separately in classification 6605.~~

~~3905-07 Restaurants serving spirits or hard liquor~~

~~Applies to establishments engaged in the operation of a restaurant having a license to sell spirits or hard liquor, beer and wine in connection with their food preparation and service. This classification includes the preparation and service of food and beverages at sit down restaurants and lounges including on premises consumption of beer from microbrewery operations in connection with the restaurant. Such establishments have extensive cooking facilities and equipment to prepare full meals. Typical occupations covered by this classification include, but are not limited to, bartenders, hostesses, wait staff and assistants, valet parking attendants, cooks, busboys, dishwashers, cashiers, and managerial staff. This classification also includes the preparation of "take-out food" that customers pick up directly from the restaurant for consumption away from the premises and the operation of a card room in connection with the restaurant.~~

~~This classification excludes establishments engaged as a restaurant without a license to sell spirits or hard liquor which are to be reported separately in classification 3905-00; taverns which are to be reported separately in classification 3905-06; catering services which are not part of a restaurant operation which are to be reported separately in classification 3909; musicians who are to be reported separately in classification 6605; and entertainers such as dancers who are to be reported separately in classification 6620.~~

~~***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a restaurant must be reported separately in classification 6605.~~

~~3905-08 Pizza parlors~~

~~Applies to establishments engaged in operating a pizza parlor or restaurant. Establishments subject to this classification specialize in the preparation and sales of pizza (but may also provide other foods) and beverages such as wine, beer, alcoholic beverages, or soft drinks for on-premises consumption. Typical occupations include, but are not limited to, hostesses, wait staff and assistants, cooks, dishwasher, cashiers, and managerial staff. This classification also includes establishments that deliver pizza to customers, or where customers can pick up already prepared pizza at the shop, but where no customer seating is provided.~~

~~This classification excludes U-bake pizza operations which are to be reported separately in classification 6403.~~

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a pizza parlor must be reported separately in classification 6605.

3905-09 Fast food drive-ins, N.O.C.

Applies to establishments engaged in the operation of fast food drive-ins or restaurants. These establishments serve easily prepared foods quickly and nonalcoholic beverages which can be eaten on the premises or picked up by customers at a counter or a drive through window. Fast food establishments offer a variety of menu items such as, but not limited to, hamburgers, french fries, tacos, sandwiches, fried chicken, hot dogs, fish and chips, smoothies. Such establishments will generally use disposable eating utensils and throw away plates.

This classification excludes full service restaurants which are to be reported separately in classification 3905-00.

3905-11 Soft drink lounges

Applies to establishments engaged in operating soft drink lounges. These types of establishments may provide entertainment such as dancing for an adult audience or a place where youth under age 21 can dance or listen to music. These lounges do not sell alcoholic beverages. This classification includes the preparation and service of light snacks and hors d'oeuvres, such as chips, peanuts, pretzels or finger sandwiches.

This classification excludes entertainers such as exotic dancers who are to be reported separately in classification 6620; and musicians who are to be reported separately in classification 6605.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys or piano players who may be exempt from coverage as independent contractors. Musicians or entertainers who are considered to be employees of a lounge must be reported separately in classification 6605 or 6620 as applicable.

3905-12 Ice cream parlors

Applies to establishments engaged in the operation of an ice cream parlor or frozen yogurt shop. These specialty shops offer a limited menu, usually confined to ice cream and frozen yogurt offered in individual servings, various size containers, and specialty items. Special occasion ice cream cakes may be ordered and picked up at a later date by the customer. These establishments usually provide customer seating.

This classification excludes route food services selling prepackaged ice cream on a route, which are to be reported separately in classification 1101.

3905-13 Candy, nut, and popcorn retail stores with on-premises manufacturing

Applies to establishments engaged in operating candy, nut or popcorn stores where some or all the products sold are manufactured on the premises. Establishments in this classification may sell a variety of candies, nuts, or popcorn, or may specialize in one or two products. They may also sell their products in gift wrapped packages.

This classification excludes establishments engaged in selling candy, nuts, or popcorn, *that do not manufacture* any product on the

~~premises, which are to be reported separately in classification 6406; and establishments primarily engaged in the wholesale manufacturing of candy which is to be reported separately in classification 3906.~~

~~**3905-14 Espresso/coffee stands and carts**~~

~~Applies to vendors operating espresso or coffee stands or carts. Products sold include, but are not limited to, coffee, espresso, lattes, Italian sodas, soft drinks, pastries and prepackaged items. These types of vendors *do not prepare food*. This classification is distinguishable from retail coffee, tea or spice stores in that coffee stands or carts in classification 3905 sell only ready-to-serve products; they do not sell packaged coffee, tea or spice items.~~))

Applies to:

Restaurant operations not covered by another classification (N.O.C.).

These restaurants are traditional, family, or full service restaurants that provide sit-down services, or cafeteria or buffet style meals.

Traditional, family, or full service restaurants include:

• Wait persons bringing customers a menu, taking orders, and delivering prepared meals to the customer's table;

• Customers choosing from a variety of food items from a buffet or cafeteria style service;

• Generally, using nondisposable eating utensils and plates to serve food as opposed to throw away paper plates and plastic eating utensils;

• Businesses where orders are placed at the counter, and the food or drink is delivered to the customer's table.

Work activities and operations include, but are not limited to:

• Preparing and serving of food and beverages;

• Serving beer and wine, including on premises consumption of beer from microbrewery operations in connection with the restaurant. (They are prohibited from selling spirits or hard liquor);

• Preparing take-out food that customers pick up directly from the restaurant for consumption away from the premises;

• Operating a card room in conjunction with the restaurant.

Typical occupations include, but are not limited to:

• Cashiers;
• Cooks;
• Dishwashers;
• Hostesses;
• Managerial staff;
• Wait staff and assistants.

Exclusions:

• Restaurants or lounges that sell spirits or hard liquor are classified in 3905-07.

• Catering services that are not part of the restaurant operation are classified in 3909.

• Worker hours for musicians or entertainers who do not meet the exclusion criteria of RCW 51.12.020(9) and are considered employees of a restaurant are reported separately in classification 6605.

Special note: Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc

jockeys, or piano players who may be exempt from coverage as an independent contractor.

3905-01 Food trucks, food, drink, and candy vendors or concessionaires

Applies to:

Street vendors, food trucks, and food, drink, or candy concessions.

This classification is applicable only to food service or concession operations that are operated independently from the facility or event where the service is being provided. These independent vendors selling food items are not employees of the facility or site where the event or exhibition is taking place.

Vendors subject to this classification sell a variety of foods, snacks, and beverages from:

- Booths;
- Carrying boxes;
- Food trucks;
- Mobile push carts;
- Mobile stands;
- Trays.

Locations may include, but are not limited to:

- Ball parks;
- Exhibitions;
- Race tracks;
- Theaters;
- Other similar public or private spaces.

Exclusions:

- Food and beverage operations (concession stands) operated in connection with an event or facility by employees of the event sponsor or facility operator which are classified in the classification applicable to the event or exhibition.
- Route food services selling prepackaged items on a route are classified in 1101.
- Vendors of nonfood items are classified in the applicable classification.
- Vending machine service companies that replenish food, snack, and beverage products in connection with the vending machine business are classified in 0606.

3905-03 Commissaries and restaurants with construction, erection, logging, or mine operations

Applies to:

Commissaries or restaurants operated *exclusively* in connection with a construction, erection, logging, or mining camp operation.

This classification is limited to food preparation services provided at a camp site or at a mess hall used to feed employees of the construction, logging, erection, or mining company. The foods prepared and served are not intended for, or offered to, the general public.

***Special note*:** The purpose of this classification is to provide employees engaged in the food preparation activity with a classification representative of the work being performed, even though such activities may be occurring at or adjacent to the construction, logging, erection, or mining site as provided for in the general reporting rule covering general inclusions.

3905-04 Eating establishments, N.O.C., such as public lunch counters in stores

Applies to:

Lunch counters and restaurants within a retail store location not covered by another classification (N.O.C.).

Use of this classification is limited to employees of an employer who also operates the retail store where the food service is located.

3905-06 Taverns

Applies to:

Taverns.

Tavern operations include:

• Primarily, selling beer, wine, and alcoholic beverages for on-premises consumption;

• Providing a variety of foods ranging from peanuts and pretzels to hot food dishes;

• Selling beer by the keg with the rental of necessary taps and pumps;

• Operating a beer garden at special events such as, but not limited to, fairs or race meets;

• Operating a card room in connection with the tavern.

Typical occupations include, but are not limited to:

• Bartenders;
• Cooks;
• Dishwashers;
• Managerial staff;
• Wait staff and assistants.

Exclusion:

• Worker hours for musicians or entertainers who do not meet the exclusion criteria of RCW 51.12.020(9) and are considered employees of a tavern are reported separately in 6605.

***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys, or piano players who may be exempt from coverage as an independent contractor.

3905-07 Restaurants serving spirits or hard liquor

Applies to:

Restaurants that have a license to sell spirits or hard liquor, beer, and wine in connection with their food preparation and service.

Work activities and operations include, but are not limited to:

• Preparing and serving food and beverages at sit-down restaurants and lounges;

• On premises consumption of beer from microbrewery operations in connection with the restaurant;

• Extensive cooking facilities and equipment to prepare full meals;

• Preparing take-out food that customers pick up directly from the restaurant for consumption away from the premises;

• Operating a card room in connection with the restaurant.

Typical occupations include, but are not limited to:

• Bartenders;
• Busboys;

• Cashiers;
• Cooks;
• Dishwashers;
• Hostesses;
• Managerial staff;
• Valet parking attendants;
• Wait staff and assistants.

Exclusions:

• Restaurants without a license to sell spirits or hard liquor are classified in 3905-00.
• Taverns are classified in 3905-06.
• Catering services that are not part of a restaurant operation are classified in 3909.
• Worker hours for musicians or entertainers who do not meet the exclusion criteria of RCW 51.12.020(9) and are considered employees of a restaurant are reported separately in classification 6605.

***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys, or piano players who may be exempt from coverage as independent contractors.

3905-08 Pizza parlors

Applies to:

Pizza parlors or restaurants.

Pizza parlors or restaurants specialize in the preparation and sales of pizza and beverages such as wine, beer, alcoholic beverages, or soft drinks for on-premises consumption. They may also provide other foods in addition to pizza.

This classification also includes businesses that deliver pizza to customers, or where customers can pick up already prepared and cooked pizza at the shop, but where no customer seating is provided.

Typical occupations include, but are not limited to:

• Cashiers;
• Cooks;
• Dishwashers;
• Hostesses;
• Managerial staff;
• Wait staff and assistants.

Exclusions:

• U-bake, you bake, or take and bake pizza operations are classified in 6403.
• Worker hours for musicians or entertainers who do not meet the exclusion criteria of RCW 51.12.020(9) and are considered employees of a pizza parlor are reported separately in classification 6605.

***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys, or piano players who may be exempt from coverage as independent contractors.

3905-09 Fast food drive-ins, N.O.C.

Applies to:

Fast food drive-thru or restaurants.

Fast food drive-thru or restaurants serve nonalcoholic beverages and easily prepared foods quickly. Food can be eaten on the premises

or picked up by customers at a counter or a drive-through window. Fast food businesses will generally use disposable eating utensils and throw-away plates.

Menu items may include, but are not limited to:

- Fish and chips;
- French fries;
- Fried chicken;
- Hamburgers;
- Hot dogs;
- Sandwiches;
- Smoothies;
- Tacos.

Exclusion:

- Full service restaurants are classified in 3905-00.

3905-11 Soft drink lounges

Applies to:

Soft drink lounges.

These types of establishments may provide entertainment such as dancing for an adult audience or a place where youth under age 21 can dance or listen to music.

These lounges do not sell alcoholic beverages.

This classification includes the preparation and service of light snacks and hors d'oeuvres, such as:

- Chips;
- Finger sandwiches;
- Peanuts;
- Pretzels.

Exclusion:

- Worker hours for musicians or entertainers who do not meet the exclusion criteria of RCW 51.12.020(9) and are considered employees of a soft drink lounge are reported separately in classification 6605.

***Special note*:** Care should be exercised when dealing with establishments that provide entertainment such as musicians, entertainers, disc jockeys, or piano players who may be exempt from coverage as independent contractors.

3905-12 Ice cream parlors

Applies to:

Ice cream parlors or frozen yogurt shops.

These specialty shops offer a limited menu, usually confined to ice cream and frozen yogurt offered in individual servings, various size containers, and specialty items. Special occasion ice cream cakes may be ordered and picked up at a later date by the customer. These businesses usually provide customer seating.

Exclusion:

- Route food services selling prepackaged ice cream on a route are classified in 1101.

3905-13 Candy, nut, and popcorn retail stores with on-premises manufacturing

Applies to:

Candy, nut, or popcorn stores where some or all the products sold are manufactured on the premises.

Businesses in this classification may sell a variety of candies, nuts, or popcorn, or may specialize in one or two products. They may also sell their products in gift wrapped packages.

Exclusions:

• Candy, nuts, or popcorn stores *that do not manufacture* any product on the premises are classified in 6406.

• Businesses primarily engaged in wholesale manufacturing of candy are classified in 3906.

3905-14 Espresso/coffee stands and carts

Applies to:

Espresso or coffee stands or carts.

These types of vendors *do not prepare food*.

This classification is distinguishable from retail coffee, tea, or spice stores in that coffee stands or carts in classification 3905 sell only ready-to-serve products; they do not sell packaged coffee, tea, or spice items.

Products sold include, but are not limited to:

• Coffee;
• Espresso;
• Italian sodas;
• Lattes;
• Pastries;
• Prepackaged food items;
• Soft drinks.

AMENDATORY SECTION (Amending WSR 08-15-132, filed 7/22/08, effective 10/1/08)

WAC 296-17A-4109 Classification 4109.

4109-10 Sign painting or lettering inside buildings

((~~Applies to establishments engaged in sign painting or lettering inside a customer's building. This type of painting includes, but is not limited to, names, addresses and office hours on a door or window, and signs in the form of lettering/illustrations on an interior wall. Work contemplated by this classification includes preparing the surface by cleaning, sanding, etc., applying the lettering/illustrations by appropriate method (brushing, rolling, spraying, etc.), and applying a protective finish. This classification includes the painting of scenery, by a contractor, in a shop or theater (if done by the employees of a theater or television broadcasting station it would be an inclusion in classification 4504 or 4502 as applicable), and the painting of an interior mural.~~

~~This classification excludes sign painting shops that paint on, or apply vinyl lettering to, precut backings which are to be reported separately in classification 4109-18; painting in a shop that is not covered by another classification which is to be reported separately in classification 3603-12; and the painting, repair or erection of signs or murals on any part of the exterior of a building which is to be reported separately in classification 0403.~~

~~4109-18 Sign painting in shop~~

~~Applies to establishments engaged in providing sign painting services in their shop. The use of this classification is limited to~~

~~painting on, or applying vinyl lettering to, precut mediums (sign backings) provided by the customer or purchased elsewhere; it does not contemplate the manufacture of the sign backing. (Vinyl lettering or designs are usually computerized. Lettering or designs are entered into a computer; a plotter/cutter attached to the computer cuts the programmed design or lettering from rolls of vinyl.) Work contemplated by this classification includes preparing the surface by cleaning, sanding, etc., applying the lettering/illustrations by appropriate method (such as brushing, rolling, spraying, applying vinyl designs), and applying a protective finish. This classification includes making and applying vinyl lettering in place of painted lettering and lettering/illustrating on vehicles not in connection with auto body repair or painting.~~

~~This classification excludes the painting or lettering of signs in buildings which is to be reported separately in classification 4109-10; painting in a shop which is to be reported separately in classification 3603 (unless the painting is included in another classification); the painting, repair or erection of signs on any part of the exterior of a building which is to be reported separately in classification 0403; and sign painting in connection with sign manufacturing operations which is to be reported separately in the applicable manufacturing classification.~~

~~***Special note*:** An employee who creates vinyl lettering or designs on computerized equipment in an office environment, and is not involved in the further manufacturing of signs, could qualify for class 4904 provided that all the conditions of WAC 296-17-31018 are met.~~))

Applies to:

• Businesses engaged in sign painting or lettering inside a customer's building.

• Painting of scenery by a contractor in a shop or theater.

• Painting of an interior mural.

Sign painting inside buildings includes, but is not limited to, painting lettering or illustrations on doors, windows, or interior walls of buildings.

Lettering includes, but is not limited to:

• Addresses;

• Names;

• Office hours.

Work activities include, but are not limited to:

• Preparing the surface by cleaning and sanding;

• Applying the lettering/illustrations by appropriate method (brushing, rolling, spraying, etc.);

• Applying a protective finish.

Exclusions:

• Painting of scenery by employees of a theater or television broadcasting station is classified in 4504 or 4502 as applicable.

• Sign painting shops that paint on, or apply vinyl lettering to, precut backings are classified in 4109-18.

• Painting in a shop that is not covered by another classification is classified in 3603-12.

• Painting, repair, or erection of signs or murals on any part of the exterior of a building is classified in 0403.

4109-18 Sign painting in shop

Applies to:

• Businesses engaged in providing sign painting services in their shop.

• Businesses making and applying vinyl lettering in place of painted lettering and lettering/illustrating on vehicles not in connection with auto body repair or painting.

Sign painting in this classification is limited to painting on, or applying vinyl lettering to, precut mediums (sign backings) provided by the customer or purchased elsewhere; it does not include the manufacture of the sign backing.

Work activities include, but are not limited to:

• Entering lettering or designs into a computer (vinyl lettering or designs are usually computerized);

• Cutting the programmed design or lettering from rolls of vinyl with a plotter/cutter attached to the computer;

• Preparing the surface by cleaning, sanding, etc.;

• Applying the lettering/illustrations by appropriate method (such as brushing, rolling, spraying, applying vinyl designs);

• Applying a protective finish.

Exclusions:

• Painting or lettering of signs in buildings is classified in 4109-10.

• Painting in a shop is classified in 3603 (unless the painting is included in another classification).

• Painting, repair, or erection of signs on any part of the exterior of a building is classified in 0403.

• Sign painting in connection with sign manufacturing operations is reported separately in the applicable manufacturing classification.

Special note: An employee who creates vinyl lettering or designs on computerized equipment in an office environment, and is not involved in the further manufacturing of signs, could qualify for class 4904 provided that all the conditions of WAC 296-17-31018 are met.

AMENDATORY SECTION (Amending WSR 19-11-109, filed 5/21/19, effective 7/1/19)

WAC 296-17A-4504 Classification 4504.

4504-00 Theaters

((~~Applies to establishments engaged in the operation of indoor motion picture theaters, drive-in theaters, and live production theaters. This classification includes, but is not limited to, managers, stage hands, box office employees, projectionists, ushers, snack bar employees, parking lot attendants, security guards, sound system and lighting engineers, set builders, clerical office employees, and sales personnel. This classification includes the organization and management of nontheatrical events on theater-owned property, such as a "swap meet" on the grounds of an outdoor theater, when done by employees of an employer having operations subject to this classification.~~

~~This classification excludes performers in live theater such as, but not limited to, actors, entertainers, and musicians who are to be reported separately in 6605 or 6620 as applicable; nontheater employees engaged in setting up stage lighting and sound systems who are to be reported separately in classification 0601 or 0608 as applicable;~~

~~and nontheater employees engaged in building and setting up props and sets who are to be reported separately in classification 0516.~~

~~***Special note*:** Theatrical productions often involve independent contractors. The independent contractor tests found in RCW 51.08.180 and 51.08.195 should be applied when reviewing the status of individuals such as, but not limited to, the playwright, composer, set designer, costume designer, lighting and sound designers, and videographer. Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).~~))

Applies to:

Businesses engaged in the operation of indoor motion picture theaters, drive-in theaters, and live production theaters.

Occupations and work activities include, but are not limited to:

- Box office employees;
- Clerical office employees;
- Managers;
- Organization and management of nontheatrical events on theater-owned property, such as a "swap meet" on the grounds of an outdoor theater, when done by employees of an employer having operations subject to this classification:
- Parking lot attendants;
- Projectionists;
- Sales personnel;
- Security guards;
- Set builders;
- Snack bar employees;
- Sound system and lighting engineers;
- Stage hands;
- Ushers.

Exclusions:

- Worker hours engaged as performers in live theater such as, but not limited to, actors, entertainers, and musicians are classified in 6605;
- Nontheater employees engaged in setting up stage lighting and sound systems are classified in 0601 or 0608 as applicable;
- Nontheater employees engaged in building and setting up props and sets are classified in 0516.

***Special note*:** Theatrical productions often involve independent contractors. The independent contractor tests found in RCW 51.08.180 and 51.08.195 should be applied when reviewing the status of individuals such as, but not limited to, the playwright, composer, set designer, costume designer, lighting and sound designers, and videographer. Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 13-10-080, filed 5/1/13, effective 7/1/13)

WAC 296-17A-4901 Classification 4901.

4901-00 Consulting engineering; Architectural services, N.O.C.

((Applies to establishments engaged in providing consulting engineering services, construction management or consulting services, or architectural services not covered by another classification (N.O.C.). Engineers consult with and give technical advice to clients through the use of plans, maps, charts, specifications or other media. They may specialize in particular fields of endeavor such as aeronautical, chemical, civil, electrical, industrial, marine, mechanical or structural engineering. Engineers may research, design and develop a plan, a part, a piece of equipment, or a structure and may also build prototypes and models. Architects research, plan and design building projects for clients, applying knowledge of design, construction procedures, zoning and building codes, and building materials. They may enlist the services of engineers to provide specialized technical services or to solve specific problems. Architects may specialize in certain types of facilities such as hotels, hospitals, or industrial plants, or in the restoration of older structures, or may confine their practice to residential work. They also may be involved in the design of transportation facilities, public assembly complexes, marine or public utility projects. This classification includes employees of engineering or architectural services who perform surveys or who act as project managers or project superintendents for their employer's engineering or architectural projects. Businesses which specialize in offering construction management and/or consulting services, which are not involved in designing, engineering, or any of the actual construction activities, are also included in this classification.

This classification excludes draftsmen whose duties are limited to office work, who may be reported separately in classification 4904 provided the conditions set forth in the standard exception rule have been met, and the engineering and architectural staff of construction companies or other types of businesses who are to be reported in the classifications applicable for those businesses.

Special note: When assigning classifications 4901 or 1007, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed.

4901-16 Geologists, N.O.C.

Applies to establishments engaged in providing geological services, including oil or gas geologists or scouts and lease buyers performing work similar to oil geologists, not covered by another classification. Geologists study the composition, structure, and history of the earth's crust to identify and determine the sequence of processes affecting the development of the earth. By applying knowledge of chemistry, physics, biology and mathematics to explain these phenomena, they help locate mineral, geothermal, petroleum, and underground water resources. They will consult with and give technical advice to clients based on their findings. Projects may include, but are not limited to, landslide analysis and correction, rock slope design, rock fall mitigation and control, and soil cut and embankment design. They also prepare geologic reports and maps, interpret research data, recommend further study or action, and may participate in environmental studies. Duties of oil or gas geologists or scouts and lease buyers include, but are not limited to, reviewing court records, interviewing lease holders, securing data for prospective oil or gas producing land, as well as procuring core or shale samples at drilling locations for analyzing. The oil or gas geologist also may explore and chart stratigraphic arrangement and structure of the earth to locate gas and oil deposits, evaluate results of geophysical prospecting, prepare maps

~~and diagrams indicating probable deposits of gas and oil, as well as estimate oil reserves in proven or prospective fields and visit drilling sites. Scouts keep the client company informed of events in their region, attend local meetings, and report the findings on work.~~

~~This classification excludes geophysical exploration which is to be reported separately in classification 1007; seismic geophysical exploration which is to be reported separately in classification 0103; and geologists or scouts of a drilling or construction contractor who are to be reported separately in the classification applicable to the employer's business.~~

~~***Special note*:** When assigning classifications 4901-16, geologists, 1007-08, geophysical exploration, and 0103, seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.~~))

Applies to:

• Businesses providing consulting engineering services, construction management or consulting services, or architectural services not covered by another classification (N.O.C.).

• Businesses that specialize in offering construction management and/or consulting services, but are not involved in designing, engineering, or any of the actual construction activities.

Work activities for engineers may include, but are not limited to:

• Building prototypes and models;

• Consulting with and giving technical advice to clients through the use of plans, maps, charts, specifications, or other media;

• Researching, designing and developing a plan, a part, a piece of equipment, or a structure.

Engineers may specialize in fields such as, but not limited to:

• Aeronautical engineering;
• Chemical engineering;
• Civil engineering;
• Electrical engineering;
• Industrial engineering;
• Marine engineering;
• Mechanical engineering;
• Structural engineering.

Architects research, plan, and design building projects for clients, applying knowledge of:

• Building materials;
• Construction procedures;
• Design;
• Zoning and building codes.

Architects may specialize in certain types of projects such as, but not limited to:

• Hotels;
• Hospitals;
• Industrial plants;
• Marine projects;
• Public assembly complexes;
• Public utility projects;
• Residential work;
• Restoration of older structures;
• Transportation facilities.

Architects may enlist the services of engineers to provide specialized technical services or to solve specific problems.

This classification includes employees of engineering or architectural services who perform surveys or who act as project managers or project superintendents for their employer's engineering or architectural projects.

Exclusions:

• Worker hours for draftsmen whose duties are limited to office work may be reported separately in classification 4904 when the conditions set forth in the standard exception rule have been met.

• The engineering and architectural staff of construction companies or other types of businesses are classified in the classifications applicable for those businesses.

Special note: When assigning classification 4901 or 1007, care must be taken to look beyond the words "consulting" or "engineering" to determine the actual nature of the activities being performed.

4901-16 Geologists, N.O.C.

Applies to:

Businesses providing geological services, including oil or gas geologists or scouts and lease buyers performing work similar to oil geologists, not covered by another classification (N.O.C.).

Geologists study the composition, structure, and history of the earth's crust to identify and determine the sequence of processes affecting the development of the earth. By applying knowledge of chemistry, physics, biology, and mathematics to explain these phenomena, they help locate mineral, geothermal, petroleum, and underground water resources.

Work activities for geologists include, but are not limited to:

• Consulting with and giving technical advice to clients based on their findings;
• Interpreting research data;
• Participating in environmental studies;
• Preparing geologic reports and maps;
• Recommending further study or action.

Work activities for oil or gas geologists or scouts and lease buyers include, but are not limited to:

• Attending local meetings;
• Estimating oil reserves in proven or prospective fields;
• Evaluating results of geophysical prospecting;
• Exploring and charting stratigraphic arrangement and structure of the earth to locate gas and oil deposits;
• Interviewing lease holders;
• Keeping the client company informed of events in their region;
• Preparing maps and diagrams indicating probable deposits of gas and oil;
• Procuring core or shale samples at drilling locations for analyzing;
• Reporting findings;
• Reviewing court records;
• Securing data for prospective oil or gas producing land;
• Visiting drilling sites.

Geological services projects may include, but are not limited to:

• Landslide analysis and correction;
• Rock slope design;

• Rock fall mitigation and control;
• Soil cut and embankment design.

Exclusions:
• Geophysical exploration is classified in 1007;
• Seismic geophysical exploration is classified in 0103;
• Geologists or scouts of a drilling or construction contractor are classified in the classification applicable to the employer's business.

Special note: When assigning classifications 4901-16, geologists, 1007-08, geophysical exploration, and 0103, seismic geophysical exploration, care must be taken to look beyond the word "geologist" to determine the actual nature of the activities being performed.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-4902 Classification 4902.

4902-00 State government clerical and administrative office personnel

((~~Applies to state employees who are assigned to work in an office environment in a clerical or administrative capacity, with no travel or field duties. The work performed in this classification normally includes working with telephones, correspondence, creating financial, employment, personnel or payroll records, research, composing informational material at a computer, creating or maintaining computer software, or library work, but may include other administrative work performed in an office location. For the purpose of this classification, employees reported in 4902 would have no required field work or travel outside of the office to perform the duties of their job, other than a trip to the bank or post office, occasional errands or meetings, attendance at training or a conference in support of their normal duties. This classification may include, but is not limited to, jobs such as office support, secretary, administrative assistant, customer service representative, accountant, fiscal analyst, information systems, when normal job duties do not require travel and are completed in an office environment.~~

~~This classification excludes: Employees whose duties include field exposure, employees who provide interaction to direct, control, manage, or restrain individuals or participate in recreational activities in state hospitals, schools, homes, detention or correctional facilities, who are to be reported separately in the appropriate classification (5307, 7103, or 7201); administrative field employees who are to be reported separately in risk classification 5300; law enforcement officers in any capacity who are to be reported separately in risk classification 7103; employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be reported in classification 7200; employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported separately in classification 7400; employees who provide care and treatment for patients or residents and work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified who are to be reported separately in risk classifi-~~

~~cation 7201. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.~~

~~This classification may be assigned to all departments, agencies, boards, commissions and committees of either the executive, legislative or judicial branches of state government.~~

~~***Special notes:*** A division of hours is not permitted between classification 4902 and any other classification. For purposes of this classification the term "clerical and administrative office personnel" shall have the same meaning as "clerical office employees" defined in the standard exception provision of the general reporting rule.~~))

Applies to:

State government employees who are assigned to work in an office environment in a clerical or administrative capacity, with no travel or field duties.

Other than trips to the bank or post office, occasional errands or meetings, or attendance at trainings or conferences in support of their normal duties, state government employees reported in 4902 would have no required field work or travel outside of the office to perform the duties of their job.

Work activities include, but are not limited to:

- Composing informational material at a computer;
- Correspondence;
- Creating financial, employment, personnel, or payroll records;
- Creating or maintaining computer software;
- Library work;
- Research;
- Working with telephones;
- Other administrative work performed in an office location.

Occupations, when normal job duties do not require travel and are completed in an office environment, may include, but are not limited to:

- Accountant;
- Administrative assistant;
- Customer service representative;
- Fiscal analyst;
- Information systems;
- Office support;
- Secretary.

This classification may be assigned to all departments, agencies, boards, commissions, and committees of either the executive, legislative, or judicial branches of state government.

Special note: A division of hours is not permitted between classification 4902 and any other classification. For purposes of this classification, the term "clerical and administrative office personnel" shall have the same meaning as "clerical office employees" defined in the standard exception provision of the general reporting rule.

Exclusions:

- State government employees whose duties include field exposure, employees who provide interaction to direct, control, manage, or restrain individuals or participate in recreational activities in state hospitals, schools, homes, detention or correctional facilities are classified in the appropriate classification (5307, 7103, or 7201);
- State government administrative field employees are classified in 5300;

• State government law enforcement officers in any capacity are classified in 7103;

• State government employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program are classified in 7200;

• State government employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program are classified in 7400;

• State government employees who provide care and treatment for patients or residents and work in state hospitals, homes, schools, detention or correctional facilities who are not otherwise classified are classified in 7201;

• Non law enforcement volunteers are classified in 6901;

• Law enforcement volunteers are classified in 6906.

AMENDATORY SECTION (Amending WSR 20-20-108, filed 10/6/20, effective 1/1/21)

WAC 296-17A-4910 Classification 4910.

4910-00 Property management services

((~~Applies to establishments engaged in managing their own property or properties owned by others. Properties include, but are not limited to, privately owned residential or commercial buildings, malls, apartment or condominium complexes, mobile home parks, halls, and conference rooms. Typical operations contemplated by this classification include, but are not limited to, management duties, advertising, showing vacant units to prospective tenants, collecting rent, providing security, and normal maintenance and repair when conducted by employees of employers subject to this classification. Normal maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing structures, normal cleaning or janitorial activities, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not* contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the property management business. *Apartment or condominium complexes and mobile home parks* may have common areas such as, but not limited to, laundry facilities, community rooms, tennis courts, exercise rooms, swimming pools, saunas or hot tubs, and playgrounds or small park areas. Common areas are maintained by employees of the complex or park owner or by the property management service. Residents of mobile home parks are usually responsible for maintaining their own mobile homes and their immediate space.~~

~~This classification includes homeowners' associations where residents in a housing development pay annual fees which cover the maintenance of lawns, paths, sprinkler systems, and common areas such as pools, activity centers, and tennis courts by employees of the homeowners' association.~~

~~This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties such as collecting rents, showing and advertising the facility, conducting auctions, or~~

~~in a combination of clerical and sales duties who are to be reported separately in classification 6303; establishments providing janitorial services exclusively which are to be reported separately in classification 6602; contractors engaged in mobile home set up or removal who are to be reported separately in classification 0517; any new construction or alteration work performed by employees of employers subject to this classification which is to be reported separately in the applicable construction classification; establishments that contract to perform maintenance or repair, but have no responsibilities in the management of the property, which are to be reported separately in the applicable classification; and lodging or food serving operations which are to be reported separately in the applicable classification.~~

~~4910-01 Chimney cleaning - Residential and commercial buildings~~

~~Applies to establishments engaged in providing chimney cleaning services to residential and commercial customers, such as restaurants and hotels. Workers who perform chimney cleaning services are commonly referred to as "chimney sweeps" and usually work alone or as a two-person team. When working as a team, one "sweep" works inside and the other works on the roof. The methods of cleaning vary. To protect the floors and furniture, drop cloths are placed in front of the fireplace and taped over the opening. The vertical drop cloth may have a "boot" or slit in it which allows rods to be pushed through. Various brushes, usually wire, are attached to extension rods and worked up and down the flue to dislodge the soot and creosote. Creosote deposits may be removed also with a chimney bar, which is a pipe-like instrument with a chisel end, or by using metal scrapers. Where the chimney top is protected from the rain by a hood or cap, it may not be possible to insert the brushes into the opening; a chain or weight may be lowered and swung back and forth inside the chimney. Some sweeps have custom-made vacuum trucks with large collection chambers to collect the soot. In addition to cleaning the chimney flue and fireplace, some sweeps clean oil, gas and coal burning furnaces, repair chimney and flue linings, remove animals from chimneys, and offer other related services. Repairs included in this classification are limited to such activities as caulking around the flashing and sealing brickwork.~~

~~This classification excludes establishments engaged in industrial chimney or smokestack cleaning services which are to be reported separately in classification 0508; contractors engaged in chimney reconstruction or new construction made of masonry or brick who are to be reported separately in classification 0302; contractors engaged in the installation of sheet metal stove pipe who are to be reported separately in classification 0307; and the installation of a new lining in the chimney which is to be reported separately in the applicable classification.~~

~~4910-02 Mini-storage facilities~~

~~Applies to establishments engaged in operating mini-storage facilities. Mini-storage facilities are usually fenced and entry is through a locking gate through which owners and renters of units are provided access. The units range from lockers to rooms of various sizes; once the unit is rented, the tenant or owner has sole access to it. Typical operations include, but are not limited to, management or clerical duties, renting or selling storage units to others, providing security, and normal maintenance and repair when performed by employees of employers subject to this classification. Normal maintenance and repair contemplated by this classification includes replacing parts on existing fixtures or equipment, repairing existing struc-~~

~~tures, normal cleaning of public areas, controlling rodents and other pests, maintaining existing landscaping, and shoveling snow from driveways or walkways. Construction, alteration, or improvements to the properties are *not* considered normal maintenance and are *not* contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the storage facilities.~~

~~This classification excludes employees engaged exclusively in clerical duties who are to be reported separately in classification 4904; employees engaged exclusively in sales duties or in a combination of clerical and sales duties who are to be reported separately in classification 6303; and new construction or alteration work which is to be reported separately in the applicable construction classification.~~

~~4910-03 Temporary signs - Placement or removal~~

~~Applies to establishments engaged in placing or removing temporary yard signs such as, but not limited to, real estate signs for real estate offices or property management firms and campaign signs. The smaller signs are usually mounted on a metal rod which is pounded into the ground to a depth of about 18". A post hole digger may be used to dig holes for larger signs that require a more sturdy post.~~

~~This classification excludes all other types of sign installation, painting or repair which are to be reported separately in the applicable classification.~~))

Applies to:

• Businesses engaged in managing their own property or properties owned by others. Properties include, but are not limited to, privately owned residential or commercial buildings, malls, apartment or condominium complexes, mobile home parks, halls, and conference rooms; and

• Homeowners' associations where residents in a housing development pay annual fees which cover the maintenance of lawns, paths, sprinkler systems, and common areas such as pools, activity centers, and tennis courts by employees of the homeowners' association.

Work activities include, but are not limited to:

• Advertising;
• Collecting rent;
• Management duties;
• Providing security;
• Showing vacant units to prospective tenants; and
• Normal maintenance and repair when conducted by employees of employers subject to this classification.

Normal maintenance and repair contemplated by this classification includes:

• Maintaining existing landscaping;
• Normal cleaning or janitorial activities;
• Repairing existing structures;
• Replacing parts on existing fixtures or equipment; and
• Shoveling snow from driveways or walkways.

Construction, alteration, or improvements to the properties are not considered normal maintenance and are not contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the property management business.

Apartment or condominium complexes and mobile home parks may have common areas such as, but not limited to, laundry facilities, community rooms, tennis courts, exercise rooms, swimming pools, saunas or hot tubs, and playgrounds or small park areas. Common areas are maintained

by employees of the complex or park owner or by the property management service. Residents of mobile home parks are usually responsible for maintaining their own mobile homes and their immediate space.

Exclusions:

• Employees engaged exclusively in clerical duties are classified in 4904;

• Employees engaged exclusively in sales duties such as collecting rents, showing and advertising the facility, conducting auctions, or in a combination of clerical and sales duties are classified in 6303;

• Businesses providing janitorial services exclusively are classified in 6602;

• Contractors engaged in mobile home set up or removal are classified in 0517;

• New construction or alteration work performed by employees of employers subject to this classification is classified in the applicable construction classification;

• Businesses that contract to perform maintenance or repair, but have no responsibilities in the management of the property, are classified in the applicable classification; and

• Lodging or food serving operations are classified in the applicable classification.

4910-01 Chimney cleaning - Residential and commercial buildings

Applies to:

Businesses providing chimney cleaning services to residential and commercial customers, such as restaurants and hotels.

Workers who perform chimney cleaning services are commonly referred to as "chimney sweeps" and usually work alone or as a two-person team. When working as a team, one "sweep" works inside and the other works on the roof. The methods of cleaning vary.

Tools used include, but are not limited to:

• Various brushes, usually wire;

• Extension rods;

• Chimney bar, which is a pipe-like instrument with a chisel end;

• Metal scrapers;

• Chain weight; and

• Vacuum trucks with large collection chambers to collect soot.

Typical operations include, but are not limited to:

• Placing drop cloths in front of the fireplace and taping over the opening to protect the floors and furniture. The vertical drop cloth may have a "boot" or slit in it which allows rods to be pushed through;

• Working brushes attached to extension rods up and down the flue to dislodge the soot and creosote;

• Using a metal scraper or a chimney bar, which is a pipe-like instrument with a chisel end to remove creosote deposits;

• Where the chimney top is protected from the rain by a hood or cap, it may not be possible to insert the brushes into the opening; a chain or weight may be lowered and swung back and forth inside the chimney;

• Cleaning oil, gas, and coal burning furnaces;

• Repairing chimney and flue linings;

• Repair services are limited to such activities as caulking around the flashing and sealing brickwork;

• Removing animals from chimneys; and
• Offering other related services.

Exclusions:

• Businesses providing industrial chimney or smokestack cleaning services are classified in 0508;
• Contractors providing chimney reconstruction or new construction made of masonry or brick are classified in 0302;
• Contractors installing sheet metal stove pipe are classified in 0307; and
• The installation of a new lining in the chimney is classified in the applicable classification.

4910-02 Mini-storage facilities

Applies to:

Businesses operating mini-storage facilities. Mini-storage facilities are usually fenced and entry is through a locking gate through which owners and renters of units are provided access. The units range from lockers to rooms of various sizes; once the unit is rented, the tenant or owner has sole access to it.

Typical operations include, but are not limited to:

• Management or clerical duties;
• Providing security;
• Renting or selling storage units to others; and
• Normal maintenance and repair when performed by employees of employers subject to this classification.

Normal maintenance and repair contemplated by this classification includes:

• Controlling rodents and other pests;
• Maintaining existing landscaping;
• Normal cleaning of public areas;
• Repairing existing structures;
• Replacing parts on existing fixtures or equipment; and
• Shoveling snow from driveways or walkways.

Construction, alteration, or improvements to the properties are not considered normal maintenance and are not contemplated by this classification. Major repair work is usually performed by contractors who are not employees of the storage facilities.

Exclusions:

• Employees engaged exclusively in clerical duties are classified in 4904;
• Employees engaged exclusively in sales duties or in a combination of clerical and sales duties are classified in 6303; and
• New construction or alteration work is classified in the applicable construction classification.

4910-03 Temporary signs - Placement or removal

Applies to:

Businesses placing or removing temporary yard signs such as, but not limited to, real estate signs for real estate offices or property management firms and campaign signs.

The smaller signs are usually mounted on a metal rod which is pounded into the ground to a depth of about 18 inches. A post hole digger may be used to dig holes for larger signs that require a more sturdy post.

Exclusion:

All other types of sign installation, painting, or repair are classified in the applicable classification.

AMENDATORY SECTION (Amending WSR 13-11-128, filed 5/21/13, effective 7/1/13)

WAC 296-17A-5001 Classification 5001.

5001-03 Logging, N.O.C.

((~~Applies to establishments engaged in various logging operations not covered by another classification (N.O.C.). Typical work contemplated by this classification includes, but is not limited to, high lead or tower logging, ground logging, and team logging with horses. For purposes of this rule, logging is the complete operation of felling, skidding, yarding, delimbing, and bucking of trees into logs or block wood and loading them onto trucks or rail cars.~~

~~*Definitions:*~~

~~*High Lead or Tower Logging* - Usually occurs in steep terrain where a metal tower is set-up on a hilltop with a system of heavy cables running down the hillside and fastened to a stump or tree and has other smaller cables with chokers hanging from it. A choker is wrapped around each fallen tree and pulled back to the landing site.~~

~~*Helicopter logging* - Includes ground crews that work with the use of helicopters to hoist fallen trees or bucked log lengths to the landing side.~~

~~*Chokers* - Chains or cables which are attached to the fallen trees for skidding to the landing site.~~

~~*Ground logging* - Usually occurs on relatively flat land; fallen trees are moved to a landing by a skidder, cat or shovel.~~

~~*Bucking* - Stripping or delimbing tree of branches and cutting the tree to desired log lengths.~~

~~*Skidding* - Process of dragging the fallen logs to the landing site.~~

~~*Landing* - Place where the fallen logs are brought for sorting and loading onto log trucks.~~

~~*Yarding* - Usually performed at the landing site with use of a log loader to sort the logs by species, length and diameter, prior to loading onto log trucks.~~

~~This classification excludes flight crews of helicopters used in helicopter logging which are to be reported separately in classification 6803; log hauling which is to be reported separately in classification 5003; logging road construction which is to be reported separately in classification 6902; logging machine operators which are to be reported separately in classification 5005-01; and mechanical or mechanized logging operations which are to be reported separately in classification 5005-00 provided the classification has been approved by the classification services section.~~

~~5001-04 Shake, shingle bolt, and post cutting~~

~~Applies to establishments engaged in the cutting of shakes, shingle bolts (blocks), and fence posts in the woods. For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to, the felling of trees, stripping or delimbing of branches, and all further cutting or splitting of~~

~~trees/logs to produce shakes, shingle bolts or fence posts. This classification includes all transporting of shakes, shingle bolts or fence posts from the cutting site when conducted by employees of employers subject to this classification.~~

~~**5001-05 Firewood cutting**~~

~~Applies to establishments engaged in the cutting of firewood in the woods. For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to, the felling of trees, stripping or delimbing of branches, and all further cutting or splitting of trees/logs to produce firewood. This classification includes all transporting of log lengths, rounds or split wood from the cutting site when conducted by employees of employers subject to this classification. This classification excludes firewood sales lots conducted away from logging operations, which are to be reported in classification 1103.~~

~~**5001-06 Sawmill operations conducted in the woods in connection with logging operations**~~

~~Applies to establishments operating a temporary or portable sawmill operation in the woods. This type of work is usually performed on privately owned land. A portable sawmill and saw tables, similar to those at a permanent sawmill location, are transported directly to the logging site. Log lengths are fed through a circular saw that is capable of producing various sized rough cut timber, blocks, boards and planks. This classification includes all transporting of rough cut timber, blocks, boards and planks from the cutting and/or sawing site when conducted by employees of employers subject to this classification.~~

~~This classification excludes sawmill operations which are not conducted in the woods in connection with a logging operation which is to be reported separately in the applicable sawmill classification.~~))

Applies to:

Businesses engaged in various logging operations not covered by another classification (N.O.C.).

For purposes of this rule, logging is the complete operation of felling, skidding, yarding, delimbing, and bucking of trees into logs or block wood and loading them onto trucks or rail cars.

Typical work contemplated by this classification includes, but is not limited to:

- Ground logging;
- High lead or tower logging;
- Team logging with horses.

Definitions:

Bucking - Stripping or delimbing tree of branches and cutting the tree to desired log lengths.

Chokers - Chains or cables which are attached to the fallen trees for skidding to the landing site.

Ground logging - Usually occurs on relatively flat land; fallen trees are moved to a landing by a skidder, cat, or shovel.

Helicopter logging - Includes ground crews that work with the use of helicopters to hoist fallen trees or bucked log lengths to the landing side.

High lead or tower logging - Usually occurs in steep terrain where a metal tower is set up on a hilltop with a system of heavy cables running down the hillside and fastened to a stump or tree and has

other smaller cables with chokers hanging from it. A choker is wrapped around each fallen tree and pulled back to the landing site.

Landing - Place where the fallen logs are brought for sorting and loading onto log trucks.

Skidding - Process of dragging the fallen logs to the landing site.

Yarding - Usually performed at the landing site with use of a log loader to sort the logs by species, length, and diameter, prior to loading onto log trucks.

Exclusions:

• Flight crews of helicopters used in helicopter logging are reported separately in classification 6803;

• Log hauling is reported separately in classification 5003;

• Logging road construction is reported separately in classification 6902;

• Logging machine operators are reported separately in classification 5005-01;

• Mechanical or mechanized logging operations are reported separately in classification 5005-00 provided the classification has been approved by the classification services section.

5001-04 Shake, shingle bolt, and post cutting

Applies to:

Businesses engaged in the cutting of shakes, shingle bolts (blocks), and fence posts in the woods.

For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to:

• All cutting or splitting of trees/logs to produce shakes, shingle bolts, or fence posts;

• Felling of trees;

• Stripping or delimbing of branches.

This classification includes all transporting of shakes, shingle bolts, or fence posts from the cutting site when conducted by employees of employers subject to this classification.

5001-05 Firewood cutting

Applies to:

Businesses engaged in the cutting of firewood in the woods.

For the purposes of this rule, this classification includes all operations performed in the woods such as, but not limited to:

• All further cutting or splitting of trees/logs to produce firewood;

• Felling of trees;

• Stripping or delimbing of branches.

This classification includes all transporting of log lengths, rounds or split wood from the cutting site when conducted by employees of employers subject to this classification.

Exclusion:

• Firewood sales lots conducted away from logging operations are reported in classification 1103.

5001-06 Sawmill operations conducted in the woods in connection with logging operations

Applies to:

Businesses operating a temporary or portable sawmill operation in the woods.

This type of work is usually performed on privately owned land.

Work processes include, but are not limited to:

• Transporting portable sawmill and saw tables, similar to those at a permanent sawmill location, directly to the logging site;

• Feeding log lengths through a circular saw that is capable of producing various sized rough cut timber, blocks, boards, and planks;

• All transporting of rough cut timber, blocks, boards, and planks from the cutting or sawing site when conducted by employees of employers subject to this classification.

Exclusion:

• Sawmill operations that are not conducted in the woods in connection with a logging operation are classified in the applicable sawmill classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5208 Classification 5208.

5208-00 Iron or steel works: Fabrication or assembly - Structural iron or steel

((~~Applies to establishments engaged in the fabrication or assembly of structural iron or steel. Structural in this classification will mean when fabricated for and used in the frame or grid work of a building, tower, bridge, or similar construction. Fabrication means the laying out of the pieces, the marking, cutting, sawing, drilling, punching, bolting, welding, assembling and finishing of the structural steel products. Raw materials include, but are not limited to, steel I-beams, tube steel, angle steel, and flat steel. Machinery includes overhead cranes, horizontal and vertical band saws, shears, punches, drill press, brake presses, and welding equipment. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.~~

~~This classification excludes the erection of structural iron or steel in connection with towers, refineries, elevated railways, and buildings which is to be reported separately in the applicable iron or steel construction classification; contractors engaged in building construction who are to be reported separately in the applicable iron or steel construction class; bridge construction, including structural iron or steel erection, which is to be reported separately in the classification applicable to the work being performed; and manufacturing of rebar for construction which is to be reported separately in classification 5209.~~

~~5208-01 Brass, bronze, iron - Ornamental: Shop fabrication, assembly or manufacture~~

~~Applies to establishments engaged in the manufacture, fabrication, or assembly of ornamental items from brass, bronze and/or iron. Products include, but are not limited to, railings, guards, staircases, fire escapes, and art items. Products are often light and do not require cranes or hoists to move them. The processes vary depending on the product being produced. The equipment includes, but is not limited~~

~~to, iron workers, shears, drill presses, band saws, forklifts, welders, and grinders. The painting of products manufactured is included in this classification when performed by employees of employers subject to this classification. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.~~

~~This classification excludes installation which is to be reported separately in the classification applicable to the work being performed.~~

~~5208-02 Iron works: Fabrication, assembly, or manufacture; nonstructural iron or steel~~

~~Applies to establishments engaged in the manufacture, fabrication or assembly of nonstructural iron or steel. Fabrication means the laying out of the pieces, the marking, cutting, sawing, drilling, punching, bolting, welding, assembling and finishing operations including painting. Products include, but are not limited to, cattle crossing grates, window gratings, grill pieces, and storage racks used by warehouses. Equipment includes, but is not limited to, cut saws, welders, drill presses, grinders, band saws, and hoists. This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.~~

~~This classification excludes installation which is to be reported separately in the classification applicable to the work being performed.~~))

Applies to:

Fabrication or assembly of structural iron or steel.

Structural in this classification means when fabricated for use in the frame or grid work of a building, tower, bridge, or similar construction.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Fabrication and assembly work include, but are not limited to:

• Laying out of the pieces of iron or steel.

• Marking, cutting, sawing, drilling, punching, bolting, welding, assembling, and finishing of the structural steel products.

Raw materials used include, but are not limited to:

• Angle steel;
• Flat steel;
• Steel I-beams;
• Tube steel.

Machinery used include, but are not limited to:

• Brake presses;
• Drill presses;
• Horizontal and vertical band saws;
• Overhead cranes;
• Punches;
• Shears;
• Welding equipment.

Exclusions:

• Erection of structural iron or steel in connection with towers, refineries, elevated railways, and buildings is classified in the applicable iron or steel construction classification.

• Contractors engaged in building construction are classified in the applicable iron or steel construction class.

• Bridge construction, including structural iron or steel erection, is classified in the applicable classification to the work being performed.

• Manufacturing of rebar for construction is classified in 5209.

5208-01 Brass, bronze, iron - Ornamental: Shop fabrication, assembly, or manufacture

Applies to:

Manufacturing, fabrication, or assembly of ornamental items from brass, bronze and/or iron.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Products manufactured include, but are not limited to:

• Art items;
• Guards;
• Fire escapes;
• Railings;
• Staircases.

Equipment used include, but are not limited to:

• Band saws;
• Drill presses;
• Forklifts;
• Grinders;
• Iron workers;
• Shears;
• Welders.

Processes vary depending on the products being produced. The painting of products manufactured is included in this classification when performed by employees of employers subject to this classification.

Exclusions:

• Installation of ornamental items made from brass, bronze, and/or iron is classified in the applicable classification of the work being performed.

5208-02 Iron works: Fabrication, assembly, or manufacture; nonstructural iron or steel

Applies to:

Manufacturing, fabrication, or assembly of nonstructural iron or steel.

This is a shop or plant only classification; it includes work being performed in an adjacent yard when operated by an employer having operations subject to this classification.

Products manufactured include, but are not limited to:

• Cattle crossing grates;
• Grill pieces;
• Storage racks used by warehouses;
• Window gratings.

Fabrication work includes, but is not limited to:

• Laying out of the pieces of iron or steel;
• Marking, cutting, sawing, drilling, punching, bolting, welding;

• Assembling;
• Finishing operations including painting.

Equipment used include, but are not limited to:
• Band saws;
• Cut saws;
• Drill presses;
• Grinders;
• Hoists;
• Welders.

Exclusions:
• Installation of nonstructural iron or steel items is classified in the classification applicable to the work being performed.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5305 Classification 5305.

5305-06 Clerical office, administrative employees, and elected officials of cities and towns

((~~Applies to clerical office, administrative employees, and elected officials of cities and towns. Clerical duties include, but are not limited to, answering telephones, handling correspondence, computer work, and maintaining financial, personnel and payroll records. A clerical office is a work area which is physically separated from all other work areas by walls, partitions or other physical barriers. Administrative duties may be conducted in or out of the city or town facilities, but are conducted in an atmosphere free from the operative hazards of the work environments such as, but not limited to, jails, law enforcement and road works. In addition to management activities, this classification also includes field auditors, social workers or similar activities professionals would perform.~~

~~See classifications 0803, 1301, 1507, 6901, 6904, 6905 and 6906 for other city or town operations.~~))

Applies to:
Administrative employees of cities and towns, including elected officials.

Occupations include, but are not limited to:
• Administrative employees;
• Clerical office employees;
• Elected officials;
• Field auditors;
• Social workers.

Work activities include, but are not limited to:
• Answering telephones;
• Computer work;
• Handling correspondence;
• Maintaining financial, payroll, and personnel records;
• Management activities.

A clerical office is a work area which is physically separated from all other work areas by walls, partitions, or other physical barriers.

Administrative duties may be conducted in or out of the city or town facilities, but are conducted in an atmosphere free from the operative hazards of the work environments such as, but not limited to, jails, law enforcement, and road works.

Exclusions:

• Employees of cities and towns with field exposure are classified in 0803.

• Municipal power districts are classified in 1301.

• Public utility water districts, co-ops, or privately operated water distribution systems are classified in 1507.

• Law enforcement officers are classified in 6905 or 6906.

• Firefighters are classified in 6904.

• Volunteers are classified in 6901.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-5306 Classification 5306.

5306-07 Clerical office, administrative employees, and elected officials of counties, public utility districts and taxing districts, N.O.C.

((~~Applies to clerical office, administrative employees, and elected officials of counties, public utility districts and taxing districts, not otherwise classified (N.O.C.). Clerical duties include, but are not limited to, answering telephones, handling correspondence, computer work, and maintaining financial, personnel and payroll records. A clerical office is a work area which is physically separated from all other work areas by walls, partitions or other physical barriers. Administrative duties may be conducted in or out of the county, public utility district or taxing district facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement and road works. In addition to management activities, this classification also includes field auditors, social workers, alcohol and drug abuse programs, senior health and nutrition programs, medical and dental clinics or similar activities professionals would perform.~~

~~See classifications 1301, 1501, 1507, 4201, 6103, 6104, 6901, 6904, 6905, and 6906 for other county, public utility districts and taxing districts operations.~~

~~5306-25 Clerical office and administrative employees of Native American tribal councils~~

~~Applies to clerical office and administrative employees of Native American tribal councils. Clerical duties include, but are not limited to, answering telephones, handling correspondence, computer work, and maintaining financial, personnel and payroll records. A clerical office is a work area which is physically separated from all other work areas by walls, partitions or other physical barriers. Administrative duties may be conducted in or out of the tribal council facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement and road works. In addition to management activities, this classification also includes field auditors, social workers, alcohol and drug abuse programs, senior health and nutrition programs, youth services,~~

~~counselors, courts, medical and dental clinics or similar activities professionals would perform.~~

~~See classifications 1501 and 6905 for other Native American tribal council operations.~~

~~***Special note*:** Tribal operations unrelated to the business of governing such as liquor and tobacco stores, casinos, logging, fisheries and bingo parlors are to be reported separately in the classification applicable to the operation.~~

~~5306-26 Clerical office and administrative employees of local public housing authorities~~

~~Applies to clerical office and administrative employees of local public housing authorities. Clerical duties include, but are not limited to, answering telephones, handling correspondence, computer work, and maintaining financial, personnel and payroll records. A clerical office is a work area which is physically separated from all other work areas by walls, partitions or other physical barriers. Administrative duties may be conducted in or out of the housing authority facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement and road works. In addition to management activities, this classification also includes field auditors, social workers or similar activities professionals would perform.~~

~~This classification excludes all other employees including meter readers who are to be reported separately in classification 1501 and volunteers who are to be reported separately in classifications 6901 or 6906 as appropriate.~~

~~5306-27 Clerical office and administrative employees of military base maintenance contractors~~

~~Applies to clerical office and administrative employees of military base maintenance contractors. Clerical duties include, but are not limited to, answering telephones, handling correspondence, computer work, and maintaining financial, personnel and payroll records. A clerical office is a work area which is physically separated from all other work areas by walls, partitions or other physical barriers. Administrative duties may be conducted in or out of the military base facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement and road works. In addition to management activities, this classification also includes field auditors, social workers or similar activities professionals would perform.~~

~~See classification 1501 for other military base maintenance contractors' operations.~~))

Applies to:

Administrative employees including elected officials of counties, public utility districts, and taxing districts, not otherwise classified (N.O.C.).

Occupations include, but are not limited to:

- Administrative employees;
- Clerical office employees;
- Elected officials;
- Field auditors;
- Social workers.

Work activities include, but are not limited to:

- Answering telephones;

• Computer work;
• Handling correspondence;
• Maintaining financial, payroll, and personnel records;
• Management activities.

A clerical office is a work area which is physically separated from all other work areas by walls, partitions, or other physical barriers.

Administrative duties may be conducted in or out of the county, public utility district, or taxing district facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement, and road works.

This classification includes staff of alcohol and drug abuse programs, senior health and nutrition programs, medical and dental clinics or similar activities professionals would perform.

Exclusions:

• All other employees of counties and taxing districts, N.O.C., are classified in 1501.
• Municipal power districts are classified in 1301.
• Public utility water districts, co-ops, or privately operated water distribution systems are classified in 1507.
• Port districts operated by a municipality are classified in 4201.
• Schools, libraries, and museums are classified in 6103 and 6104.
• Law enforcement officers are classified in 6905 or 6906.
• Firefighters are classified in 6904.
• Volunteers are classified in 6901.

5306-25 Clerical office and administrative employees of Native American tribal councils

Applies to:

Administrative employees of Native American tribal councils.

Occupations include, but are not limited to:

• Administrative employees;
• Clerical office employees;
• Counselors;
• Field auditors;
• Social workers.

Work activities include, but are not limited to:

• Answering telephones;
• Computer work;
• Handling correspondence;
• Maintaining financial, payroll, and personnel records;
• Management activities.

A clerical office is a work area which is physically separated from all other work areas by walls, partitions, or other physical barriers.

Administrative duties may be conducted in or out of the tribal council facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement, and road works.

This classification includes staff of alcohol and drug abuse programs, senior health and nutrition programs, medical and dental clinics, or similar activities professionals would perform.

Exclusions:

• All other employees of Native American tribal councils are classified in 1501.

• Law enforcement officers are classified in 6905 or 6906.

• Tribal operations unrelated to the business of governing such as liquor and tobacco stores, casinos, logging, fisheries, and bingo parlors are classified in the classification applicable to the operation.

5306-26 Clerical office and administrative employees of local public housing authorities

Applies to:

Administrative employees of local public housing authorities.

Occupations include, but are not limited to:

• Administrative employees;
• Clerical office employees;
• Field auditors;
• Social workers.

Work activities include, but are not limited to:

• Answering telephones;
• Computer work;
• Handling correspondence;
• Maintaining financial, payroll, and personnel records;
• Management activities.

A clerical office is a work area which is physically separated from all other work areas by walls, partitions, or other physical barriers.

Administrative duties may be conducted in or out of the housing authority facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement, and road works.

This classification includes staff of alcohol and drug abuse programs, senior health and nutrition programs, medical and dental clinics, or similar activities professionals would perform.

Exclusions:

• All other employees of local public housing authorities including meter readers are classified in 1501.

• Volunteers are classified in 6901 or 6906.

5306-27 Clerical office and administrative employees of military base maintenance contractors

Applies to:

Administrative employees of military base maintenance contractors.

Occupations include, but are not limited to:

• Administrative employees;
• Clerical office employees;
• Field auditors;
• Social workers.

Work activities include, but are not limited to:

• Answering telephones;
• Computer work;
• Handling correspondence;
• Maintaining financial, payroll, and personnel records;
• Management activities.

A clerical office is a work area which is physically separated from all other work areas by walls, partitions, or other physical barriers.

Administrative duties may be conducted in or out of the military base facilities, but are conducted in an atmosphere free from the operative hazards of work environments such as, but not limited to, jails, law enforcement, and road works.

This classification includes staff of alcohol and drug abuse programs, senior health and nutrition programs, medical and dental clinics, or similar activities professionals would perform.

Exclusion:

• All other employees of military base maintenance contractors are classified in 1501.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6105 Classification 6105.

6105-05 Hospitals: N.O.C. - (to be assigned only by the hospital underwriter).

((~~Applies to establishments engaged in operating hospitals which are not covered by another classification (N.O.C.) and that do not have routine patient lifting and moving hazard. Types of hospitals covered by this classification include, but are not limited to, alcohol and chemical dependency, physical rehabilitation, and private psychiatric. This classification contemplates all necessary and usual employments found in hospitals including, but not limited to, admissions, clerical and sales staff, medical professionals, pharmacy staff, dietitians and food preparation staff, and laundry, housekeeping, custodial and grounds keeping staff.~~

~~This classification excludes acute care hospitals as defined in WAC 296-17-35203(7).~~))

Applies to:

Hospitals which are not covered by another classification (N.O.C.) and that do not have a routine patient lifting and moving hazard.

Excluding routine patient lifting and moving, this classification includes all necessary and usual employments found in hospitals.

Types of hospitals covered by this classification include, but are not limited to:

• Alcohol and chemical dependency;
• Physical rehabilitation;
• Private psychiatric.

Occupations include, but are not limited to:

• Admissions staff;
• Clerical and sales staff;
• Custodial and groundskeeping staff;

• Dietitians and food preparation staff;
• Housekeeping and laundry staff;
• Medical professionals;
• Pharmacy staff.

Exclusion:

• Acute care hospitals, as defined in WAC 296-17-35203(7), are classified in 6120 or 6121.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6120 Classification 6120.

6120-00 Acute care hospitals - With a fully implemented safe patient handling program (to be assigned only by the hospital underwriter)

((~~Applies to establishments that meet the definition of an acute care hospital contained in WAC 296-17-35203(7) that are using the required patient lifting and moving equipment as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c). This classification contemplates all necessary and usual employments found in hospitals including, but not limited to, admissions, clerical and sales staff, medical professionals, pharmacy staff, dietitians and food preparation staff, and laundry housekeeping, custodial and grounds keeping staff.~~))

Applies to:

Acute care hospitals, as defined in WAC 296-17-35203(7), that are using the patient lifting and moving equipment required as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c).

This classification includes all necessary and usual employments found in acute care hospitals.

Occupations include, but are not limited to:

• Admissions staff;
• Clerical and sales staff;
• Custodial and groundskeeping staff;
• Dietitians and food preparation staff;
• Housekeeping and laundry staff;
• Medical professionals;
• Pharmacy staff.

Exclusions:

• Acute care hospitals, as defined in WAC 296-17-35203(7), without a fully implemented safe patient handling program are classified in 6121.

• Hospitals which are not covered by another classification (N.O.C.) and that do not have a routine patient lifting and moving hazard are classified in 6105.

AMENDATORY SECTION (Amending WSR 24-23-081, filed 11/19/24, effective 1/1/25)

WAC 296-17A-6121 Classification 6121.

6121-00 Acute care hospitals - Without a fully implemented safe patient handling program (to be assigned only by the hospital underwriter)

((~~Applies to establishments that meet the definition of an acute care hospital contained in WAC 296-17-35203(7) but that are not using the required patient lifting and moving equipment as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c). This classification contemplates all necessary and usual employments found in hospitals including, but not limited to, admissions, clerical, and sales staff, medical professionals, pharmacy staff, dietitians and food preparation staff, and laundry, housekeeping, custodial and grounds keeping staff.~~))

Applies to:

Acute care hospitals, as defined in WAC 296-17-35203(7), but that are not using the patient lifting and moving equipment required as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c).

This classification includes all necessary and usual employments found in acute care hospitals.

Occupations include, but are not limited to:

- Admissions staff;
- Clerical and sales staff;
- Custodial and groundskeeping staff;
- Dietitians and food preparation staff;
- Housekeeping and laundry staff;
- Medical professionals;
- Pharmacy staff.

Exclusions:

- Acute care hospitals, as defined in WAC 296-17-35203(7), with a fully implemented safe patient handling program are classified in 6120.
- Hospitals which are not covered by another classification (N.O.C.) and that do not have a routine patient lifting and moving hazard are classified in 6105.

AMENDATORY SECTION (Amending WSR 19-11-109, filed 5/21/19, effective 7/1/19)

WAC 296-17A-6605 Classification 6605.

6605-00 Actors and performers, N.O.C.

((~~Applies to establishments or individuals providing performances that are not of a physical or strenuous nature, and who are not specifically covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes, but is not limited to, comedians, magicians or clowns at parties, or nightclubs. Physical or strenuous activities which are not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics, or performing stunts.~~

~~This classification excludes actors, players, performers, entertainers, or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; players, entertainers or musicians N.O.C., hired by thea-~~

~~ters, who perform nonstrenuous routines or performances who are to be reported separately in classification 6605-03; musicians performing nonstrenuous routines or performances at dance halls who are to be reported separately in classification 6605-04; musicians, N.O.C. performing nonstrenuous routines or performances who are to be reported separately in classification 6605-01; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502; and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.~~

~~***Special note*:** Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes actors and performers whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the actors and performers may be exempt from coverage as specified in RCW 51.12.020(9).~~

~~6605-01 Musicians, N.O.C.~~

~~Applies to establishments or individuals engaged as musicians whose entertainment is not of a physical or strenuous nature, and who are not specifically covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes disk jockeys or members of a musical band playing at nightclubs, concerts, or other events, as well as members of the entertainer's road crew who set up or disassemble musical equipment or sound systems. Physical or strenuous activities which are not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics or performing stunts.~~

~~This classification excludes actors, players, performers, entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; players, entertainers or musicians hired by theaters performing nonstrenuous routines or performances who are to be reported separately in classification 6605-03; actors or performers performing nonstrenuous routines or performances who are to be reported separately in classification 6605-00; musicians performing nonstrenuous routines or performances at dance halls who are to be reported separately in classification 6605-04; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502 and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.~~

~~***Special note*:** Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes musicians whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the musicians may be exempt from coverage as specified in RCW 51.12.020(9).~~

~~6605-03 Players, entertainers and musicians hired by a theater, N.O.C.~~

~~Applies to establishments or individuals engaged as players, entertainers, and musicians who are hired by theaters to provide entertainment of a nonphysical or strenuous nature, and who are not covered by another classification (N.O.C.). For purposes of this classification, entertainment that is not physical or strenuous includes players, entertainers, and musicians in theatrical productions such as plays, programs, or operas. Physical or strenuous activities which are~~

~~not covered by this classification include, but are not limited to, ballet, dancing, skating, gymnastics, or performing stunts.~~

~~This classification excludes actors, players, performers, entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; actors and performers performing nonstrenuous routines or performances who are to be reported separately in classification 6605-00; musicians, N.O.C. performing nonstrenuous routines or performances who are to be reported separately in classification 6605-01; entertainers engaged in television or radio company operations who are to be reported separately in classification 4502; and entertainers engaged in motion picture production company operations who are to be reported separately in classification 6608.~~

~~***Special note*:** Classifications 6620 and 6605 may be assigned to a single establishment provided the establishment maintains accurate records which distinguishes players, entertainers and musicians whose routines are of a physical and strenuous nature, from the routines which are not physical or strenuous. Care should be exercised when assigning this classification as the players, entertainers and musicians hired by a theater may be exempt from coverage as specified in RCW 51.12.020(9).~~

~~**6605-04 Dance halls, N.O.C.**~~

~~Applies to establishments engaged in operating dance halls that are not covered by another classification (N.O.C.). Establishments contemplated by this classification may provide only the dance hall facility, or may also provide disc jockey services or live musicians, singers, and/or dancers. Some charge a cover charge; some will allow customers to bring their own beverages and/or snacks. This classification applies to all employees including, but not limited to, bouncers, security personnel, attendants, and food and beverage servers.~~

~~This classification excludes entertainers or musicians whose routines or performances are of a physical or strenuous nature who are to be reported separately in classification 6620; and lounges or restaurants that provide entertainment for customers which are to be reported separately in classification 3905.~~))

Applies to:

Establishments or individuals providing performances who are not specifically covered by another classification (N.O.C.).

Actors and performers include, but are not limited to:

- Clowns;
- Comedians;
- Dancing;
- Gymnastics;
- Magicians;
- Performing stunts;
- Skating.

Exclusions:

- Players, entertainers, or musicians N.O.C., hired by theaters are classified in 6605-03;
- Musicians performing at dance halls are classified in 6605-04;
- Musicians, N.O.C. are classified in 6605-01;
- Entertainers engaged in television or radio company operations are classified in 4502;
- Entertainers engaged in motion picture production company operations are classified in 6608.

Special note: Care should be exercised when assigning this classification as the actors and performers may be exempt from coverage as specified in RCW 51.12.020(9).

6605-01 Musicians, N.O.C.

Applies to:

Establishments or individuals engaged as musicians who are not specifically covered by another classification (N.O.C.).

Musicians include, but are not limited to:

- Disk jockeys;
- Members of a musical band;
- Members of the musician's road crew who set up or disassemble musical equipment or sound systems.

Exclusions:

- Players, entertainers, or musicians hired by theaters are classified in 6605-03;
- Actors or performers of that nature are classified in 6605-00;
- Musicians performing at dance halls are classified in 6605-04;
- Entertainers engaged in television or radio company operations are classified in 4502;
- Entertainers engaged in motion picture production company operations are classified in 6608.

Special note: Care should be exercised when assigning this classification as the musicians may be exempt from coverage as specified in RCW 51.12.020(9).

6605-03 Players, entertainers, and musicians hired by a theater, N.O.C.

Applies to:

Establishments or individuals engaged as players, entertainers, and musicians who are hired by theaters to provide entertainment and who are not covered by another classification (N.O.C.).

Players, entertainers, and musicians hired by a theater may be in theatrical productions such as plays, programs, or operas.

Exclusions:

- Actors and performers not hired by a theater are classified in 6605-00;
- Musicians, N.O.C. are classified in 6605-01;
- Entertainers engaged in television or radio company operations are classified in 4502;
- Entertainers engaged in motion picture production company operations are classified in 6608.

Special note: Care should be exercised when assigning this classification as the players, entertainers, and musicians hired by a theater may be exempt from coverage as specified in RCW 51.12.020(9).

6605-04 Dance halls, N.O.C.

Applies to:

Establishments engaged in operating dance halls that are not covered by another classification (N.O.C.).

Establishments in this classification may provide only the dance hall facility, or may also provide disc jockey services or live musicians, singers, or dancers. Some charge a cover charge; some will allow customers to bring their own beverages and/or snacks.

This classification applies to all employees of the establishment including, but not limited to:

- Attendants;
- Bouncers;
- Food and beverage servers;
- Security personnel.

Exclusion:

- Lounges or restaurants that provide entertainment for customers are classified in 3905.

***Special note*:** Care should be exercised when assigning this classification as the entertainers or musicians may be exempt from coverage as specified in RCW 51.12.020(9).

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-6909 Classification 6909.

6909-00 Laboratories - Analytical, testing, or quality control for others

((~~Applies to establishments engaged in operating laboratories which provide analytical, testing, and quality control services. This classification includes laboratories that experiment and provide a variety of tests and analysis for other customers' products and/or materials. Generally, the employees include chemists, engineers and other scientists and research aides who use a variety of chemicals and sophisticated scientific equipment and machinery for the testing and analysis process. This classification includes the quality control inspection of fish and agricultural products. Work may be performed at the laboratory or at the customer's location.~~

~~This classification excludes outside X-raying and drilling which is to be reported separately in the classification applicable to the X-raying or drilling being performed.~~

~~***Special note*:** This classification does not apply to establishments that operate a laboratory in connection with testing or inspecting their own products/materials, which is to be included in the basic classification applicable to the business. For example, a laboratory to test and analyze the assembled fly rod or the composition of the graphite rod when operated by a fly rod manufacturer, is included within classification 3510.~~

~~**6909-02 Laboratories: Medical**~~

~~Applies to establishments engaged in operating medical laboratories. Services include, but are not limited to, providing data on which to base decisions concerning the detection, diagnosis and treatment of disease and to evaluate a patient's response to treatment. Laboratory personnel perform analytical tests on the tissues and fluids of the human body, detect parasites, bacteria, viruses, drugs, and poisons; and interpret cell and tissue abnormalities. This classification includes employment-related drug testing for others.~~

~~***Special note*:** This classification does not apply to establishments that operate a laboratory in connection with testing or analyzing services, which is to be included in the basic classification applicable to the business. For example, a hospital which also operates~~

~~a laboratory as part of their medical facility to provide an analysis of patient tests and samples is included within classification 6105.~~

~~**6909-03 Blood banks**~~

~~Applies to establishments engaged in operating blood banks. Generally, these types of facilities allow individuals to come in and donate, save, or sell their blood for a fee. Medical and laboratory personnel perform routine laboratory tasks including extracting blood from individuals, testing and analyzing blood, processing whole blood and blood components, and storing blood in refrigerated storage rooms. This classification also includes services offered by bloodmobiles.~~

~~***Special note*:** This classification does not apply to establishments that operate a laboratory in connection with testing or analyzing services which is to be included in the basic classification applicable to the business. For example, a hospital which also operates a laboratory as part of their medical facility to provide an analysis of patient tests and samples is included within classification 6105.~~

~~**6909-22 Laboratories: Assaying**~~

~~Applies to establishments engaged in operating assaying laboratories which examine, test, and analyze the quantitative or qualitative substance of material such as a metal, ore or drug. This classification includes a variety of laboratories who experiment and provide tests and analysis of products and/or materials including specialty laboratories such as, but not limited to, chemical, drugs, food products, rock formation and minerals, fossils and bones, and soil and toxic materials. Generally, the employees include chemists, engineers, and other scientists and research aides who use a variety of chemical and sophisticated equipment and machinery for the testing and analysis process.~~

~~***Special note*:** This classification does not apply to establishments that operate a laboratory in connection with testing or inspecting their own products/materials which is to be assigned to the basic classification applicable to the business. For example, a mining operation which also operates a laboratory to determine the composition of rock and minerals excavated from the mine is included as part of the mining classification.~~))

Applies to:

Laboratories which provide analytical, testing, and quality control services and provide a variety of tests and analysis for other customers' products and/or materials. Work may be performed at the laboratory or at the customer's location.

Occupations include, but are not limited to:

- Chemists;
- Engineers;
- Research aides;
- Scientists.

Work activities include, but are not limited to:

- Inspecting agricultural products for quality control;
- Inspecting fish products for quality control;
- Using a variety of chemicals and sophisticated scientific equipment and machinery for the testing and analysis process.

***Special note*:** This classification does not apply to establishments that operate a laboratory in connection with testing or inspecting their own products/materials, which is to be included in the basic classification applicable to the business. For example, a laboratory

to test and analyze the assembled fly rod or the composition of the graphite rod when operated by a fly rod manufacturer, is included within classification 3510.

Exclusion:

• Outside X-raying and drilling is classified in the classification applicable to the X-raying or drilling being performed.

6909-02 Laboratories: Medical

Applies to:

Medical laboratories. This classification includes employment-related drug testing for others.

Work activities include, but are not limited to:

• Detecting parasites, bacteria, viruses, drugs, and poisons;
• Evaluating a patient's response to treatment;
• Interpreting cell and tissue abnormalities;
• Performing analytical tests on the tissues and fluids of the human body;
• Providing data on which to base decisions concerning the detection, diagnosis, and treatment of disease.

Special note: This classification does not apply to establishments that operate a laboratory in connection with testing or analyzing services, which is to be included in the basic classification applicable to the business. For example, a hospital which also operates a laboratory as part of their medical facility to provide an analysis of patient tests and samples is included within classification 6105.

6909-03 Blood banks

Applies to:

Blood banks. These types of facilities allow individuals to come in and donate, save, or sell their blood products for a fee. This classification also includes services offered by bloodmobiles.

Work activities include, but are not limited to:

• Extracting blood from individuals;
• Operating a bloodmobile;
• Performing routine laboratory tasks;
• Processing whole blood and blood components;
• Testing and analyzing blood;
• Storing blood in refrigerated storage rooms.

Special note: This classification does not apply to establishments that operate a laboratory in connection with testing or analyzing services which is to be included in the basic classification applicable to the business. For example, a hospital which also operates a laboratory as part of their medical facility to provide an analysis of patient tests and samples is included within classification 6105.

6909-22 Laboratories: Assaying

Applies to:

Assaying laboratories which examine, test, and analyze the quantitative or qualitative substance of material.

Occupations include, but are not limited to:

• Chemists;
• Engineers;
• Research aides;
• Scientists.

Work activities include, but are not limited to:

- Analyzing products and/or materials;
- Experimenting;
- Testing;
- Using a variety of chemicals and sophisticated scientific equipment and machinery for the testing and analysis process.

Materials tested include, but are not limited to:

- Bones;
- Chemicals;
- Drugs;
- Food products;
- Fossils;
- Metals;
- Minerals;
- Ores;
- Rock formations;
- Soil;
- Toxic materials.

Special note: This classification does not apply to establishments that operate a laboratory in connection with testing or inspecting their own products/materials which is to be assigned to the basic classification applicable to the business. For example, a mining operation which also operates a laboratory to determine the composition of rock and minerals excavated from the mine is included as part of the mining classification.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-7200 Classification 7200.

7200-00 State government - Mental health or acute care hospitals with a fully implemented safe patient handling program, patient or health care personnel (to be assigned only by the hospital underwriter)

((~~Applies to state employees who provide any type of patient or health care at state-operated mental health or acute care hospitals that are equipped with the required patient lifting and moving equipment as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c). All employees who have responsibility for mental health care or medical care of patients in these facilities are included in this classification.~~

~~This classification excludes: Patient or health care personnel working at a mental health or acute care hospital that does not have a fully implemented safe patient handling program who are to be reported separately in classification 7400; patient or health care personnel at health care facilities that do not operate as a mental health or acute care hospital who are to be reported separately in classification 7201; employees who work in state hospitals, schools, or prisons who do not work directly in patient care such as food service, laundry, and janitorial, who are to be reported separately in classification 5307; administrative field employees who are to be reported separately in classification 5300; clerical and administrative office personnel who are to be reported separately in classification 4902; law enforcement officers who are to be reported separately in classification~~

~~7103; volunteers who are to be reported separately in classification 6901; and law enforcement volunteers who are to be reported separately in classification 6906.~~))

Applies to:

State government employees who provide any type of patient or health care at state-operated mental health or acute care hospitals that are equipped with the required patient lifting and moving equipment as part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c).

All employees who have responsibility for mental health care or medical care of patients in these facilities are included in this classification.

Exclusions:

• State government employees providing patient or health care at a mental health or acute care hospital that does not have a fully implemented safe patient handling program are classified in 7400.

• State government employees providing patient or health care at health care facilities that do not operate as a mental health or acute care hospital are classified in 7201.

• State government employees working in state hospitals, schools, or correctional facilities who do not work directly in patient care such as food service, laundry, and janitorial, are classified in 5307.

• State government administrative field employees are classified in 5300.

• State government clerical and administrative office personnel are classified in 4902.

• State government law enforcement officers in any capacity are classified in 7103.

• Volunteers are classified in 6901.

• Law enforcement volunteers are classified in 6906.

AMENDATORY SECTION (Amending WSR 07-24-045, filed 12/1/07, effective 1/1/08)

WAC 296-17A-7201 Classification 7201.

7201-00 State government - Patient, resident, or health care personnel, N.O.C. (to be assigned only by the hospital underwriter)

((~~Applies to state employees who are not otherwise classified who provide patient or health care at state-operated hospitals, schools, homes, camps, detention or correctional facilities, that are not operated as mental health or acute care hospitals as defined in WAC 296-17-35203(7) and that do not have routine patient lifting and moving exposure. All employees who have responsibility for physical or mental health care of patients or residents in these facilities are included in this classification. Types of employment contemplated by this classification include, but are not limited to, doctors, nurses, therapists, attendants, or training and counseling staff who provide care and treatment for patients or residents and are required to restrain or attend to patients who are potentially aggressive or violent.~~

~~This classification excludes: Employees who provide patient or health care at state-operated mental health or acute care hospitals with a fully implemented safe patient handling program who are to be~~

~~reported separately in classification 7200; employees who provide patient or health care at state-operated mental health or acute care hospitals that do not have a fully implemented safe patient handling program who are to be reported separately in classification 7400; law enforcement officers in any capacity who are to be separately reported in classification 7103; employees who work in state hospitals, schools or correctional facilities, who do not work in patient or resident care such as food service, laundry, and janitorial, who are to be separately reported in classification 5307; administrative field employees who are to be separately reported in classification 5300; or clerical and administrative office personnel who are to be separately reported in classification 4902. Volunteers are to be reported in classification 6901, and law enforcement volunteers in classification 6906.~~))

Applies to:

State government employees not otherwise classified who provide patient or health care at state-operated hospitals, schools, homes, camps, detention or correctional facilities, that are not operated as mental health or acute care hospitals as defined in WAC 296-17-35203(7) and that do not have routine patient lifting and moving exposure.

All employees who have responsibility for physical or mental health care of patients or residents in these facilities are included in this classification.

Occupations include, but are not limited to:

- Attendants;
- Doctors;
- Nurses;
- Therapists;
- Training and counseling staff.

Staff provide care and treatment for patients or residents and are required to restrain or attend to patients who are potentially aggressive or violent.

Exclusions:

- State government employees providing patient or health care at a mental health or acute care hospital that has a fully implemented safe patient handling program are classified in 7200.
- State government employees providing patient or health care at a mental health or acute care hospital that does not have a fully implemented safe patient handling program are classified in 7400.
- State government law enforcement officers in any capacity are classified in 7103.
- State government employees working in state hospitals, schools, or correctional facilities who do not work directly in patient care such as food service, laundry, and janitorial, are classified in 5307.
- State government administrative field employees are classified in 5300.
- State government clerical and administrative office personnel are classified in 4902.
- Volunteers are classified in 6901.
- Law enforcement volunteers are classified in 6906.

AMENDATORY SECTION (Amending WSR 12-11-109, filed 5/22/12, effective 7/1/12)

WAC 296-17A-7202 Classification 7202.

7202-00 Real estate agencies

((~~Applies to establishments engaged in buying, selling, renting, and appraising real estate for others. A real estate licensee will:~~

~~• Accompany clients to property sites to show the property;~~

~~• Assist at the closing;~~

~~• Assist in the completion of real estate documents such as real estate contracts, leases, and seller disclosure documents;~~

~~• Conduct negotiations;~~

~~• Hold open houses;~~

~~• Study property listings.~~

~~This classification includes clerical office and sales personnel. Real estate sales personnel, including brokers, are considered to be workers of the managing broker or real estate agency employing them.~~

~~This classification excludes building and/or property management services which are to be reported separately in classification 4910.~~

~~***Special note*:** Real estate brokers are included in the industrial insurance definition of "worker" and must NOT be treated as independent contractors. (RCW 51.08.180 and 51.08.195.)~~))

Applies to:

Businesses engaged in buying, selling, renting, and appraising real estate for others.

Work activities include, but are not limited to:

• Accompanying clients to property sites to show the property;

• Assisting at the closing;

• Assisting in the completion of real estate documents such as real estate contracts, leases, and seller disclosure documents;

• Conducting negotiations;

• Holding open houses; and

• Studying property listings.

Occupations include, but are not limited to:

• Clerical office personnel;

• Real estate licensees;

• Sales personnel.

Real estate sales personnel, including brokers, are considered workers of the managing broker or real estate agency employing them.

***Special note*:** Real estate brokers are included in the industrial insurance definition of "worker" and must NOT be treated as independent contractors. (RCW 51.08.180 and 51.08.195.)

Exclusion:

• Building and/or property management services are classified in 4910.

AMENDATORY SECTION (Amending WSR 16-14-085, filed 7/5/16, effective 1/1/17)

WAC 296-17A-7203 Classification 7203.

7203-00 Offenders: Community service work

((~~Applies to adult and juvenile offenders who are under jurisdiction of the state or local law enforcement agencies and who are authorized to perform community service work for state agencies, and other government or public benefit nonprofit corporations.~~

~~Some offenders perform these services in lieu of imprisonment and the work is for the benefit of the entity requesting services. The work may include a wide range of duties, all of which are included in this classification.~~

~~***Special notes***: This classification is assigned only if the agency or organization for which the service is being provided elects to cover their community service workers (RCW 51.12.045). To add this coverage, the department must receive a completed application for elective coverage of excluded employments form F213-112-000 from the entity prior to the entity receiving the offenders' services.~~

~~Public benefit nonprofit corporations are described in RCW 24.03.005(17).~~

~~Juvenile offenders under a diversion agreement contract are described in RCW 13.40.080.~~))

Applies to:

Adult and juvenile offenders who are under jurisdiction of the state or local law enforcement agencies and who are authorized to perform community service work for state agencies and other government or public benefit nonprofit corporations.

Some offenders perform these services in lieu of imprisonment and the work is for the benefit of the entity requesting services.

Work activities include, but are not limited to:

• A wide range of duties, all of which are included in this classification.

Special notes: This classification is assigned only if the agency or organization for which the service is being provided elects to cover their community service workers (RCW 51.12.045). To add this coverage, the department must receive a completed application for elective coverage of excluded employments form F213-112-000 from the entity prior to the entity receiving the offenders' services.

Public benefit nonprofit corporations are described in RCW 24.03A.245(17). Juvenile offenders under a diversion agreement contract are described in RCW 13.40.080.

AMENDATORY SECTION (Amending WSR 07-01-014, filed 12/8/06, effective 12/8/06)

WAC 296-17A-7400 Classification 7400.

7400-00 State government - Mental health or acute care hospitals without a fully implemented safe patient handling program - Patient or health care personnel (to be assigned only by the hospital underwriter)

((~~Applies to state employees who provide any type of patient or health care at state-operated mental health or acute care hospitals that are not equipped with the required patient lifting and moving equipment as a part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c). All employees who have responsibility for mental health care or medical care of patients in these facilities are included in this classification.~~

~~This classification excludes: Patient or health care personnel working at a mental health or acute care hospital that has a fully implemented safe patient handling program who are to be reported separately in classification 7200; patient or health care personnel at health care facilities that do not operate as a mental health or acute care hospital who are to be reported separately in classification 7201; employees who work in state hospitals, schools or prisons who do not work directly in patient care such as food service, laundry, and janitorial staff who are to be reported separately in classification 5307; administrative field employees who are to be reported separately in classification 5300; clerical and administrative office personnel who are to be reported separately in classification 4902; law enforcement officers who are to be reported separately in classification 7103; volunteers who are to be reported separately in classification 6901; and law enforcement volunteers who are to be reported separately in classification 6906.~~))

Applies to:

State government employees who provide any type of patient or health care at state-operated mental health or acute care hospitals that are not equipped with the required patient lifting and moving equipment as a part of a fully implemented safe patient handling program as defined in WAC 296-17-35203 (7)(c).

All employees who have responsibility for mental health care or medical care of patients in these facilities are included in this classification.

Exclusions:

• State government employees providing patient or health care at a mental health or acute care hospital that has a fully implemented safe patient handling program who are classified in 7200.

• State government employees providing patient or health care at health care facilities that do not operate as a mental health or acute care hospital are classified in 7201.

• State government employees working in state hospitals, schools, or correctional facilities who do not work directly in patient care such as food service, laundry, and janitorial, are classified in 5307.

• State government administrative field employees are classified in 5300.

• State government clerical and administrative office personnel are classified in 4902.

• State government law enforcement officers in any capacity are classified in 7103.

• Volunteers are classified in 6901.

• Law enforcement volunteers are classified in 6906.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 296-17A-6620 Classification 6620.

WSR 26-17-098
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed August 19, 2026, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-09-096.

Title of Rule and Other Identifying Information: WAC 458-20-248 Sales of precious metal bullion and monetized bullion.

Hearing Location(s): On September 22, 2026, at 10:00 a.m. Contact Cathy Holder at CathyH@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: October 20, 2026.

Submit Written Comments to: Ken Torgerson, P.O. Box 47453, Olympia, WA 98504-7453, email Kent@DOR.WA.GOV, fax 360-534-1606 or 360-534-1579, beginning August 19, 2026, at 8:30 a.m., by October 2, 2026, at 8:00 a.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department of revenue intends to amend WAC 458-20-248 to incorporate changes enacted pursuant to ESSB 5794 (2025), repealing RCW 82.04.062 Sale at wholesale, "sale at retail" excludes sale of precious metal bullion and monetized bullion.

Reasons Supporting Proposal: The update is to conform the rule to ESSB 5794, which passed during the 2025 legislative session.

Statutory Authority for Adoption: RCW 82.01.060 and 82.32.300.

Statute Being Implemented: Repeal of RCW 82.04.062 under ESSB 5794.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Ken Torgerson, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1579; Implementation and Enforcement: Jeannette Becker, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1599.

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

A cost-benefit analysis is not required under RCW 34.05.328. This rule is not a significant legislative rule as defined by RCW 34.05.328.

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

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-minor costs on businesses, as it does not propose any new requirements not already provided for in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

August 19, 2026
Perry Stern
Rules Coordinator

RDS-7109.1

AMENDATORY SECTION (Amending WSR 86-09-016, filed 4/9/86)

WAC 458-20-248 Sales of precious metal bullion and monetized bullion. ((~~Effective July 1, 1985~~)) (1) Introduction. This rule explains the application of business and occupation (B&O), retail sales, and use taxes to the sale of precious metal bullion and monetized bullion.

(2) Effective January 1, 2026, sales of precious metal bullion and monetized bullion are taxable "retail sales" under RCW 82.04.050 and "wholesale sales" under RCW 82.04.060.

(3) From July 1, 1985, through December 31, 2025, amounts derived from sales of precious metal bullion and monetized bullion as defined herein, are not subject to business and occupation tax under either the wholesaling or retailing classification or to retail sales tax. Statutory law expressly excludes such sales from the definitions of the terms, "wholesale sale," "sale at wholesale," "retail sale," and "sale at retail."

((~~The term,~~)) For that time-period, sales of processed or refined precious metal valued solely upon the content thereof, whatever its form, are not subject to tax in this state. This includes processed nuggets, bars, sticks, dust, and other processed forms of precious metal. For example, sales of gold or silver in raw, refined forms to dentists, laboratories, jewelers, and other persons, for their own consumption or for resale are not taxable. However, sales of precious metal which has been manufactured or further processed into any form which determines or adds to the value thereof are fully taxable. For example, sales of jewelry items, medallions, artworks, and other items, the value of which is dependent upon more than the mere content of precious metal therein, are subject to wholesaling or retailing business and occupation tax, whichever is applicable, and retail sales tax as appropriate.

Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable. However, sales of coin or money, whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artworks therefrom are fully taxable. For example, sales of coins for necklaces or to be used as buttons or in paintings or painting frames, etc., are taxable.

It is presumed that all sales of coin and metal money are entitled to tax exemption: Provided, that in order to be exempt of tax persons who knowingly sell such things to buyers who are regularly engaged in the business of manufacturing jewelry or works of art must take a written, signed, and dated statement from such buyers that the coins or metal money are not being purchased for use in manufacturing jewelry or works of art.

The tax exclusions explained here apply equally to sales of precious metal bullion or monetized bullion transferred through documents of ownership, certificates, confirmation slips, or other indicia of ownership.

(4) Definitions.

(a) "Precious metal bullion" ((~~is statutorily defined to~~)) means any precious metal which has been put through a process of smelting or refining((~~,~~)) including, but not limited to, gold, silver, platinum, rhodium, and palladium, and which is in such state or condition that its value depends upon its contents and not upon its form.

((~~The term,~~)) (b) "Monetized bullion" means coin or other forms of money manufactured from gold, silver, or other metals and hereto-

fore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation((~~, but does~~)).

(c) "Precious metal bullion" and "monetized bullion" do not include coins or money sold to be manufactured into jewelry or works of art.

((~~Thus, sales of processed or refined precious metal valued solely upon the content thereof, whatever its form, are not subject to tax in this state. This includes processed nuggets, bars, sticks, dust, and other processed forms of precious metal. For example, sales of gold or silver in raw, refined forms to dentists, laboratories, jewelers, and other persons, for their own consumption or for resale are not taxable. However, sales of precious metal which has been manufactured or further processed into any form which determines or adds to the value thereof are fully taxable. For example, sales of jewelry items, medallions, artworks, and other items, the value of which is dependent upon more than the mere content of precious metal therein, are subject to wholesaling or retailing business and occupation tax, whichever is applicable, and retail sales tax as appropriate.~~

~~Sales of metal money, in coined or other form, which is recognized as a medium of exchange in the financial marketplace, are not taxable. However, sales of coin or money, whether or not recognized as a medium of exchange, to jewelers or other persons for the purpose of manufacturing jewelry or artworks therefrom are fully taxable. For example, sales of coins for necklaces or to be used as buttons or in paintings or painting frames, etc., are taxable.~~

~~It is presumed that all sales of coin and metal money are entitled to tax exemption: Provided, That in order to be exempt of tax persons who knowingly sell such things to buyers who are regularly engaged in the business of manufacturing jewelry or works of art must take a written, signed, and dated statement from such buyers that the coins or metal money are not being purchased for use in manufacturing jewelry or works of art.~~)) (5) Exemption. Artistic or cultural organizations which purchase such things are exempt of retail sales tax as provided in WAC 458-20-249.

((~~The tax exclusions explained herein apply equally to sales of precious metal bullion or monetized bullion transferred through documents of ownership, certificates, confirmation slips, or other indicia of ownership.~~))

Taxable Commissions

Amounts received as commissions upon sales of precious metals by dealers, brokers, and other selling and/or buying agents who sell or buy precious metal bullion or monetized bullion for the accounts of customers are subject to the service and other activities classification of business and occupation tax. The amount of any shared commission or fee paid to other dealers or commissioned agents associated in such transactions are deductible from the measure of this tax. However, no deduction is allowed for any of the dealer's or commissioned agent's own costs of doing business, including salaries or commissions paid to their own salespersons or other employees. Similarly, persons who receive any part of shared commissions derived from having been associated in transactions for the purchase or sale of precious metal or monetized bullion for the account of others, are themselves subject to service business tax measured by such amounts received.

Use Tax

((~~The use tax does not apply upon the use of precious metal bullion or monetized bullion in this state under such circumstances that the sale of such bullion to the user would not be taxable if made in this state as explained earlier herein. In all other cases the~~)) For purchases occurring on or after January 1, 2026, use tax applies upon the first use by a consumer of precious metals in this state if retail sales tax has not been paid. See WAC 458-20-178.

WSR 26-17-099
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed August 19, 2026, 10:08 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-08-035.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-450-0015 What types of income are not used by the department to figure out my benefits?, 388-466-0120 Refugee cash assistance (RCA), and 388-466-0140 Income and resources for refugee cash assistance eligibility.

Hearing Location(s): On September 22, 2026, at 10:00 a.m., virtually via Teams or call in. See the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not earlier than September 23, 2026.

Submit Written Comments to: DSHS rules coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning August 19, 2026, at noon, by September 22, 2026, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, TTY 711 relay service, email Tenczsa@dshs.wa.gov, by September 8, 2026, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments will update income disregard rules for the RCA program, pursuant to federal regulations. If applicable, these amendments will make additional changes required to improve clarity, update policy, or better align rule language with state and federal law or regulations. Related emergency rules currently in place via WSR 26-10-041.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.300, 74.04.500, 74.04.510, 74.04.515, 74.08.090, 74.08A.010, 74.08A.120, 74.08A.250, 74.08A.903, and 82.08.0206.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Yein Pyo, P.O. Box 45470, Olympia, WA 98504-5470, 360-819-0335.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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

Is exempt under RCW 19.85.061 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: Office of Refugee Resettlement, Policy Letter 23-04. Failure to comply would misalign program rules with federal policy guidance, and subject the program to potential audit findings.

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 19.85.025(4).

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

Explanation of exemptions: These amendments do not impact small businesses. They only impact DSHS customers.

Scope of exemption for rule proposal:

Is fully exempt.

August 13, 2026
Katherine I. Vasquez
Rules Coordinator

SHS-5145.2

AMENDATORY SECTION (Amending WSR 26-13-005, filed 6/3/26, effective 7/4/26)

WAC 388-450-0015 What types of income are not used by the department to figure out my benefits? (1) We do not count the following types of income when we determine your cash assistance and basic food benefits:

(a) Bona fide loans as defined in WAC 388-470-0045, except certain student loans as specified under WAC 388-450-0035;

(b) Federal income tax refunds, earned income tax credit (EITC), and Washington's working families tax credit (WFTC) payments in the month received;

(c) Federal economic stimulus payments that are excluded for federal and federally assisted state programs;

(d) Federal $25 supplemental weekly unemployment compensation payments authorized by the American Recovery and Reinvestment Act of 2009;

(e) Title IV-E and state foster care maintenance payments if you choose not to include the foster child in your assistance unit (AU);

(f) Educational assistance we do not count under WAC 388-450-0035;

(g) Native American benefits and payments we do not count under WAC 388-450-0040;

(h) Income from employment and training programs we do not count under WAC 388-450-0045;

(i) Money withheld from a benefit to repay an overpayment from the same income source;

(j) One-time cash payments issued ((~~under the Department of State or Department of Justice reception and replacement programs, such as voluntary agency (VOLAG) payments~~)) as part of the federal refugee resettlement program used to cover direct costs of initial resettlement;

(k) Payments we are directly told to exclude as income under state or federal law;

(l) Payments made to someone outside of the household for the benefits of the AU using funds that are not owed to the household;

(m) Distributions for qualified disability expenses from an achieving a better life experience (ABLE) account; and

(n) Medicare advantage supplemental benefits.

(2) For basic food only:

(a) We do not count the total monthly amount of all legally obligated current or back child support payments paid by the AU to someone outside of the AU for:

(i) A person who is not in the AU; or

(ii) A person who is in the AU to cover a period of time when they were not living with the member of the AU responsible for paying the child support on their behalf;

(b) We do count money withheld because you were overpaid for not meeting requirements of a federal, state, or local means tested programs such as temporary assistance for needy families (TANF), state family assistance (SFA), aged, blind, or disabled (ABD) cash assistance, pregnant women assistance (PWA), and supplemental security income (SSI); and

(c) We do not count energy assistance payments:

(i) Provided under federal law such as LIHEAP or HUD payments.

(ii) Provided under state law for households that include an elderly or disabled AU member.

(3) For cash only we do not count:

(a) Income received under RCW 43.03.230, to compensate participation in part-time boards and commissions.

(b) Energy assistance payments.

(c) For TANF and SFA recipients, legally obligated, current child support payments as defined in WAC 388-422-0005.

AMENDATORY SECTION (Amending WSR 25-20-049, filed 9/25/25, effective 10/26/25)

WAC 388-466-0120 Refugee cash assistance (RCA). (1) **Who can apply for refugee cash assistance (RCA)?**

Anyone can apply to the department of social and health services (DSHS) for refugee cash assistance and have their eligibility determined within 30 days.

(2) **How do I know if I qualify for RCA?**

You may be eligible for RCA if you meet the following conditions:

(a) You meet the immigration status requirements of WAC 388-466-0005;

(b) You have had the qualifying immigration status described in subsection (a) of this section for less than the duration of the pro-

gram as determined by the director of the federal office of refugee resettlement;

(c) You meet the income and resource requirements under chapters 388-450 and 388-470 WAC, except we do not count a one-time ((~~resettlement~~)) cash payment ((~~that a~~)) issued as part of the federal refugee resettlement ((~~agency may use~~)) program used to cover direct ((~~assistance~~)) costs of initial resettlement((~~, such as rent, household goods, and other essential needs~~)) (WAC 388-466-0140);

(d) You meet the work and training requirements of WAC 388-466-0150; and

(e) If you are a refugee, you provide the name of the resettlement agency which resettled you.

(3) **What are the other reasons for not being eligible for RCA?**

You may not be able to get RCA if you:

(a) Are eligible for temporary assistance for needy families (TANF); or

(b) Have been denied TANF due to your refusal to meet TANF eligibility requirements; or

(c) Are employable and have, without good cause, voluntarily quit or refused to accept a bona fide offer of employment within 30 consecutive days immediately prior to your application for RCA; or

(d) Are a full-time student in a college or university.

(4) **What if I am 65 years of age or older, blind, or disabled?**

You may be eligible for supplemental security income (SSI). If you also meet the eligibility requirements for RCA, you may be eligible to receive RCA benefits for the duration of the program as determined by the director of the federal office of refugee resettlement or until SSI benefits are authorized, whichever occurs sooner.

(5) **If I meet the requirements for the RCA program, what date will be used as the start date of the RCA benefit period?**

The date that will be used as the start of the RCA benefit period is the date that you qualify for federal refugee resettlement services based on your immigration status.

(a) The start date of the RCA benefit period will be the date you entered the United States if you are a(n):

(i) Refugee;

(ii) Amerasian;

(iii) Special Immigrant Visa (SIV) holder from Iraq or Afghanistan;

(iv) Afghan Special Immigrant Parolee (SI/SQ); or

(v) Afghan individual with Special Immigrant (SI) Conditional Permanent Residence (CPR).

(b) If you are a Cuban-Haitian entrant, the start date of the RCA benefit period is the date you met the definition of a Cuban-Haitian entrant as defined in 45 C.F.R. Part 401.2.

(c) If you are an asylee, the start date of the RCA benefit period will be the date that your asylum status is granted. For example: You entered the United States on December 1, 2021, as a tourist, then applied for asylum on April 1, 2022, interviewed with the asylum office on July 1, 2022, and were granted asylum on September 1, 2022. September 1, 2022, will be used as the start date of your RCA benefit period.

(d) If you are certified as a victim of human trafficking, the start date of the RCA benefit period will be the date on the certification, eligibility, or interim assistance letter from the federal U.S. Department of Health and Human Services (HHS).

(e) If you are a Ukrainian humanitarian parolee that entered the United States between February 24, 2022, and September 30, 2023, the start date of the RCA benefit period is May 21, 2022, or the date you were granted parole, whichever is later. If you entered the United States between October 1, 2023, and September 30, 2024, your date of eligibility is April 24, 2024, or the date you were granted parole, whichever is later.

(f) If you are an Afghan humanitarian parolee that entered the United States between July 31, 2021, and September 30, 2023, the start date of the RCA benefit period is October 1, 2021, (if you entered between July 31, 2021, and September 30, 2021) or the date you "entered the community," whichever is later.

(6) **If I am a victim of human trafficking, what kind of documentation do I need to provide to be eligible for RCA?**

You are eligible for RCA to the same extent as a refugee if you are:

(a) An adult victim, 18 years of age or older, you provide the original certification letter from the U.S. Department of Health and Human Services (HHS), and you meet eligibility requirements in subsection (2) of this section. You do not have to provide any other documentation of your immigration status.

(b) A child victim under the age of 18, in which case you do not need to be certified. HHS issues a special eligibility or interim assistance letter for children. Children also have to meet income eligibility requirement;

(c) A family member of a certified victim of human trafficking, you have a T-2, T-3, T-4, T-5, or T-6 Visa (Derivative T-Visas), and you meet the eligibility requirements in subsections (2)(c) and (d) of this section.

(7) **When can I start receiving RCA?**

The date DSHS has sufficient information to make an eligibility decision is the date you can start receiving RCA (WAC 388-406-0055).

(8) **How long can I receive RCA benefits?**

(a) You can receive RCA benefits for the duration of the program as determined by the director of the federal office of refugee resettlement starting from the date you qualify for services through the federal office of refugee resettlement (ORR).

(b) The benefit period for RCA begins the date you are eligible for ORR services, not the date of application for RCA. The actual number of months you receive RCA benefits depends on the date you apply and are approved for RCA. You will only be able to receive RCA for the number of months between RCA approval and the last day of the benefit for the program as determined by the director of ORR, which is calculated from your date of eligibility for ORR services.

(c) If you get a job, your income will affect your RCA based on the TANF rules (chapter 388-450 WAC). If you earn more than is allowed by WAC 388-478-0035, you are no longer eligible for RCA.

(d) The number of months that you may receive RCA benefits could change if the federal office of refugee resettlement changes the eligibility period.

(9) **Are there other reasons why RCA may end?**

Your RCA also ends if:

(a) You move out of Washington state;

(b) Your unearned income or resources go over the maximum limit (WAC 388-466-0140); or

(c) You, without good cause, refuse to meet refugee employment and training requirements (WAC 388-466-0150).

(10) **Will my spouse be eligible for RCA, if they arrive in the U.S. after me?**

When your spouse arrives in the United States, DSHS determines their eligibility for RCA and other income assistance programs.

(a) Your spouse may be eligible for RCA for the duration of the program as determined by the director of the federal office of refugee resettlement. The date your spouse qualifies for RCA is based on the date they qualify for federal refugee services through the federal office of refugee resettlement.

(b) If you live together, you and your spouse are part of the same assistance unit and your spouse's eligibility for RCA is determined based on you and your spouse's combined income and resources (WAC 388-466-0140).

(11) **What can I do if I disagree with a decision or action that has been taken by DSHS on my case?**

If you disagree with a decision or action taken on your case by the department, you have the right to request a review of your case or an administrative hearing (WAC 388-02-0090). Your request must be made within 90 days of the date of the decision or action.

AMENDATORY SECTION (Amending WSR 12-19-037, filed 9/12/12, effective 10/13/12)

WAC 388-466-0140 Income and resources for refugee cash assistance eligibility. (1) **How does DSHS count my income and resources when determining my eligibility for refugee cash assistance?**

We determine your eligibility for RCA using the TANF rules about income and resources in chapters 388-450 and 388-470 WAC, except we do not count a ((~~onetime resettlement~~)) one-time cash payment ((~~provided to you by your voluntary agency (VOLAG)~~)) issued as part of the federal refugee resettlement program used to cover direct costs of initial resettlement.

WSR 26-17-100
PROPOSED RULES
LAKE WASHINGTON
INSTITUTE OF TECHNOLOGY
[Filed August 19, 2026, 10:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-01-166.

Title of Rule and Other Identifying Information: Chapter 495D-121 WAC, Student conduct code.

Hearing Location(s): On September 23, [2026], at 9:00 a.m., at W302E.

Date of Intended Adoption: October 1, 2026.

Submit Written Comments to: Dr. Sheila Walton, 11605 132nd Avenue N.E., Kirkland, WA 98034, email Sheila.walton@lwtech.edu, beginning August 20, 2026, 9:00 a.m., by September 22, 2026, 3:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updating student conduct code to incorporate small changes for clarity and also to bring the code into compliance with federal guidance and amendments to Title IX. The new regulations address student conduct code updates to policies and practices around hazing.

Reasons Supporting Proposal: Federal rule making and guidance.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Rule is necessary because of federal law, Title IX regulations and federal guidance; repeal of HB [2SHB] 1751.

Name of Agency Personnel Responsible for Drafting and Enforcement: Dr. Sheila Walton, Office of Student Life, East Building, 425-739-8661; Implementation: Dr. Ruby Hayden, W213C, 425-739-8208.

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. Adopting this change is necessary to comply with federal Title IX regulations.

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: 34 C.F.R. Part 106; adopting this change is necessary to comply with federal Title IX regulations.

Scope of exemption for rule proposal:

Is fully exempt.

August 19, 2026
Elsa J. Gossett
Director of Planning and Operations
Office of the President

RDS-6887.1

AMENDATORY SECTION (Amending WSR 24-07-022, filed 3/9/24, effective 4/9/24)

WAC 495D-121-320 Student conduct code—Jurisdiction. (1) The student conduct code shall apply to student conduct that occurs:

(a) On college premises;

(b) At or in connection with college-sponsored activities;

(c) ((~~Off-campus when,~~)) Off college premises, if in the judgment of the college, ((~~it adversely affects the college community or the pursuit of its objectives~~)) the conduct has an adverse impact on the college community, the pursuit of its objectives, or the ability of a student or staff to participate in the college's programs and activities.

(2) Jurisdiction extends to((~~, but is not limited to,~~)) locations in which students ((~~engage~~)) are engaged in official college programs or activities including, but not limited to:

(a) College-sponsored housing;

(b) Foreign or domestic travel;

((~~(b)~~)) (c) Activities funded by the ((~~associated~~)) students;

((~~(c)~~)) (d) Student government;

(e) Student clubs or organizations;

(f) Athletic events;

((~~(d)~~)) (g) Training internships;

((~~(e)~~)) (h) Cooperative and distance education;

((~~(f)~~)) (i) Online education;

((~~(g)~~)) (j) Practicums;

((~~(h)~~)) (k) Supervised work experiences; or

((~~(i)~~)) (l) Any other college-sanctioned social or club activities.

(3) Students are responsible for their conduct from the time of application for admission through the actual receipt of a degree, even though conduct may occur before the quarter's classes begin or after the quarter's classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(5) The college has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct ((~~to~~)) of students or student groups that occurs off campus.

(6) In addition to initiating disciplinary proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 24-07-022, filed 3/9/24, effective 4/9/24)

WAC 495D-121-330 Student conduct code—Definitions. The following definitions apply for the purposes of this student conduct code:

(1) "Business day" means a weekday, excluding weekends and official college holidays.

(2) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property the college owns, uses, or controls.

(3) "Complainant" ((~~means an alleged victim of sexual misconduct~~)) is a student, employee, or another member of the college community who was participating or attempting to participate in college programs and activities at the time of the alleged violation, and who is directly affected by a claimed violation of this student conduct code. The complainant may be the reporting party, but not necessarily; witnesses or other third parties may file complaints alleging a violation of the student conduct code. A complainant who is directly affected by a claimed violation of this student conduct code is afforded certain rights including, but not limited to:

(a) The right to be informed of all orders issued in the disciplinary case in which the person is a complainant; or

(b) The right to appeal a disciplinary decision or dismissal of their complaint; and

(c) The right to be accompanied by an advisor, who may be an attorney retained at complainant's cost.

(4) "Conduct review officer" means the vice president of student services or other college administrator the president designates to have responsibility to receive and review or refer appeals of student disciplinary actions consistent with the procedures of this code. The president can reassign any and all of the conduct review officer's duties or responsibilities as set forth in this chapter as reasonably necessary.

(5) "Disciplinary action" means the process by which the student conduct officer imposes discipline against a student for a violation of the student conduct code. A verbal or written warning is not disciplinary action.

(6) "Disciplinary appeal" means the process by which an aggrieved ((~~student~~)) party can appeal the discipline imposed by the student conduct officer. The student conduct committee hears disciplinary appeals for a suspension in excess of 10 instructional days or a dismissal. The college will review appeals of all other appealable disciplinary action through brief adjudicative proceedings.

(7) "Filing" means the process by which a document is officially delivered to a college official responsible to facilitate a disciplinary review. Unless otherwise provided, filing shall be accomplished by:

(a) Hand delivery of the document to the specified college official or college official's assistant; or

(b) Sending the document by email or first class mail to the specified college official's office ((~~and~~)) or college email address.

Papers required for filing are considered filed when the specified college official actually receives the papers or email during office hours.

(8) "Hazing" means any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person attending a public institution of higher education in this state, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other

substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions.

(9) "President" means the president of the college. The president is authorized to:

(a) Delegate any of their responsibilities as set forth in this chapter as may be reasonably necessary; and

(b) Reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(10) "Program" or "programs and activities" means all operations of the college.

(11) "Respondent" ((~~means the student against whom the college initiates disciplinary action~~)) is a student who is alleged to have violated the student conduct code.

((~~(11)~~)) (12) "Service" means the process by which a document is officially delivered to a party. Unless otherwise provided, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) Sending the document by email or by certified mail or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed or deposited in the mail.

((~~(12) "Sexual misconduct" has the meaning ascribed to this term in WAC 495D-121-590(18).~~))

(13) "Student" includes all persons who take classes at or through the college, whether on a full-time or part-time basis, and whether such classes are credit courses, noncredit courses, online courses, or otherwise. People who withdraw after allegedly violating the code, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who were notified of their acceptance for admission are considered students for purposes of this chapter.

(14) "Student conduct committee" means a college committee as described in WAC 495D-121-400.

(15) "Student conduct officer" means a college administrator to whom the president or vice president of student services designates responsibility to implement and enforce the student conduct code. The president or vice president can reassign any and all of the student conduct officer's duties or responsibilities as set forth in this chapter as reasonably necessary.

(16) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation occurred while the individual was performing employment-related work.

(17) "Student group" is a student organization, athletic or intramural team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

((~~(17) "Title IX coordinator" means a college administrator to whom the president designates responsibility to implement and enforce the guidelines of federal Title IX legislation.~~)) (18) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the

complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:

(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or

(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extracurricular or any other activity, regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-340 Student conduct code—Initiation of discipline.

((~~(1) The student conduct officer initiates all disciplinary actions. If that officer is the subject of a complaint the respondent initiates, the president will, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities that relate to the complainant.~~

~~(2) The student conduct officer initiates disciplinary action by personally informing the student of the allegations or serving the respondent with written notice directing them to attend a disciplinary meeting. The notice will briefly describe the:~~

~~(a) Factual allegations;~~

~~(b) Provision(s) of the conduct code the respondent allegedly violated;~~

~~(c) Range of possible sanctions for the alleged violation(s);~~

~~(d) Time and location of the meeting.~~

~~At the meeting, the student conduct officer will present the allegations to the respondent and the respondent will be afforded an opportunity to explain what took place. If the respondent fails or refuses to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.~~

~~(3) The student conduct officer, prior to taking disciplinary action in a case involving allegations of sexual misconduct, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions, if any, that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.~~

~~(4) Within ten calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer will give the respondent a written decision that states:~~

~~(a) The facts and conclusions that support the decision;~~

~~(b) The specific student conduct code provisions that were violated;~~

~~(c) The discipline imposed, if any;~~

~~(d) A notice of any appeal rights with an explanation of the consequences of not filing a timely appeal.~~

~~(5) The student conduct officer may take any of the following disciplinary actions:~~

~~(a) Exonerate the respondent and terminate the proceedings;~~

~~(b) Impose a disciplinary sanction(s) as described in WAC 495D-121-290;~~

~~(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. The student conduct officer will make this referral in writing, to the attention of the student conduct committee's chair with a copy served on the respondent.~~

~~(6) In cases involving allegations of sexual misconduct, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.~~)) (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(3) Hazing by student groups. A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(4) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(5) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(6) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(7) Both the respondent and the complainant, when applicable, shall be provided the same procedural rights to participate in student

discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.

(8) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

(9) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing the respondent to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

(10) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

(11) Within 10 calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the student conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

(12) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 495D-121-600; or

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-350 Student conduct code—Appeal from disciplinary action. (1) The respondent, and when applicable a complainant, may appeal a disciplinary ((~~action~~)) decision by filing a written notice of appeal with the conduct review officer within ((~~ten~~)) 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's decision shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent or complainant is seeking review.

(3) The parties to an appeal shall be the respondent, the complainant if any, and the student conduct ((~~review~~)) officer.

(4) A respondent, and when applicable a complainant, who timely appeals a disciplinary action or whose case is referred to the student conduct committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the ((~~imposition of a~~)) disciplinary action, and any sanction by a preponderance of the evidence.

(6) Imposition of a disciplinary action for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(7) A conduct review officer shall conduct a brief adjudicative proceeding for appeals of:

(a) Suspensions of 10 instructional days or less;

(b) Disciplinary probation;

(c) Written reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(8) The student conduct committee shall hear appeals from:

(a) The imposition of disciplinary suspensions in excess of ((~~ten~~)) 10 instructional days;

(b) Dismissals; ((~~and~~))

(c) Sexual misconduct cases; and

(d) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president.

((~~(8) Student conduct appeals from the imposition of the following disciplinary sanctions shall be reviewed through a brief adjudicative proceeding:~~

~~(a) Suspensions of ten instructional days or less;~~

~~(b) Disciplinary probation;~~

~~(c) Written reprimands; and~~

~~(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.~~))

(9) Except as provided elsewhere in these rules, ((~~disciplinary~~)) verbal or written warnings and dismissals of disciplinary actions are final actions and are not subject to appeal.

((~~(10) In cases involving allegations of sexual misconduct, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:~~

~~(a) The dismissal of a sexual misconduct complaint; or~~

~~(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.~~

~~(11) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.~~

~~(12) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to the respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.~~))

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-380 Student conduct code—Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by a conduct review officer. The conduct review officer shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent, complainant if applicable, and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party:

(a) An opportunity to be informed of the ((~~agency's~~)) college's view of the matter; and

(b) An opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon ((~~both the parties within ten~~)) the respondent and the student conduct officer within 10 calendar days of consideration of the appeal. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within ((~~ten~~)) 21 calendar days of service of the initial decision, the initial decision shall be deemed the final decision.

(4) ((~~In cases involving allegations of sexual misconduct, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.~~

~~(5)~~)) If the conduct review officer, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension ((~~of more than ten~~)) in excess of 10 instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

(5) Each party may be accompanied at the hearing by an advisor of their choice, which may be an attorney retained at the party's expense.

(6) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the conduct review officer, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-390 Student conduct code—Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president, provided a party files a written

request for review with the conduct review officer within ((~~ten~~)) 21 calendar days of service of the initial decision.

(2) The president shall not participate in any case in which they are a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president shall give all parties an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the sanctions should be modified or whether the proceedings should be referred to the student conduct committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within ((~~twenty~~)) 20 calendar days of the initial decision or of the request for review, whichever is later. The decision on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the president does not make a disposition of the matter within ((~~twenty~~)) 20 calendar days after the request is submitted.

(5) If the president, upon review, determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than ((~~ten~~)) 10 instructional days or dismissal, the matter shall be referred to the student conduct committee for a disciplinary hearing.

((~~(6) In cases involving allegations of sexual misconduct, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.~~))

AMENDATORY SECTION (Amending WSR 14-14-047, filed 6/25/14, effective 7/26/14)

WAC 495D-121-400 Student conduct code—Student conduct committee. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members appointed by the president;

(c) One administrative staff member, other than an administrator serving as a student conduct or conduct review officer, appointed by the president at the beginning of the academic year.

(2) The administrative staff member appointed on a yearly basis shall serve as the chair of the committee and may take action on preliminary hearing matters prior to convening the committee. The chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee, so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student conduct committee shall not participate in any case in which they are a party, complainant, or witness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition for disqualification of a committee member ((~~pursuant to RCW 34.05.425(4)~~)).

(5) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-410 Student conduct code—Appeal—Student conduct committee. (1) Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.

(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:

(a) A copy of the student conduct code;

(b) The basis for jurisdiction;

(c) The alleged violation(s);

(d) A summary of facts underlying the allegations;

(e) The range of possible sanctions that may be imposed; and

(f) A statement that retaliation is prohibited.

(3) The committee chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.

(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the committee chair, the parties shall exchange, no later than the third calendar day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.

(5) The committee chair may provide to the committee members in advance of the hearing copies of (a) the student conduct officer's notification of imposition of discipline (or referral to the committee) and (b) the notice of appeal, or any response to referral, by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.

(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.

(7) The student conduct officer, upon request, shall provide reasonable assistance to the respondent and complainant in obtaining relevant and admissible evidence that is within the college's control.

(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.

(9) In cases heard by the committee, each party may be accompanied at the hearing by ((~~a nonattorney assistant of their choice. The respondent in all appeals before the committee, or a complainant in an appeal involving allegations of sexual misconduct before the committee, may elect to be represented by an attorney at their own cost, but will be deemed to have waived that right unless, at least four business days before the hearing, written notice of the attorney's identity and participation is filed with the committee chair with a copy to the student conduct officer. The committee will ordinarily be advised by an assistant attorney general. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may also be represented by a second, appropriately screened assistant attorney general~~)) an advisor of their choice, which may be an attorney retained at the party's expense.

(10) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.

(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-420 Student conduct code—Student conduct appeals committee hearings—Presentation of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that ((~~he/she~~)) the chair selects, in accordance with RCW 34.05.449. ((~~That recording, or a copy, shall be made available to any party upon request.~~)) The chair shall assure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer, unless represented by an assistant attorney general, shall present the case for imposing disciplinary sanctions.

(6) All testimony shall be given under oath or affirmation. Evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) ((~~In cases involving allegations of sexual misconduct, no party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf~~)) The chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-430 Student conduct code—Student conduct committee—Initial decision. (1) At the conclusion of the hearing, the student conduct committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee also may permit each party to propose findings, conclusions, and/or a proposed decision for its consideration.

(2) Within ((~~twenty~~)) 20 calendar days following the later of the conclusion of the hearing, or the committee's receipt of closing arguments, the committee shall issue ((~~an initial~~)) a decision in accordance with RCW 34.05.461 and WAC 10-08-210. The ((~~initial~~)) decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(3) The committee's ((~~initial order~~)) decision shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall identify and impose disciplinary sanction(s) or conditions, if any, as authorized in the student code. If the matter is an appeal by a party, the committee may affirm, reverse, or modify the disciplinary sanction and/or conditions imposed by the student conduct officer and/or impose additional disciplinary sanction(s) or conditions as authorized herein.

(4) The committee chair shall cause copies of the ((~~initial~~)) decision to be served on the parties and their legal counsel of record. The committee chair shall also promptly transmit a copy of the decision and the record of the committee's proceedings to the president.

((~~(5) In cases involving allegations of sexual misconduct, the chair of the student conduct committee, on the same date as the initial decision is served on the respondent, will serve a written notice~~

~~upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of their appeal rights.~~))

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-440 Student conduct code—((~~Appeal from~~)) Student conduct committee—Review of initial decision. (1) ((~~A respondent who is aggrieved by the findings or conclusions issued by the student conduct committee~~)) Any party, including a complainant when applicable, may appeal the committee's ((~~initial~~)) decision to the president by filing a ((~~notice of~~)) written appeal with the president's office within ((~~ten~~)) 21 calendar days of service of the committee's ((~~initial~~)) decision. Failure to file a timely appeal constitutes a waiver of the right and the ((~~initial~~)) decision shall be deemed final.

(2) The ((~~notice of~~)) written appeal must identify the specific findings of fact and/or conclusions of law in the initial decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator or decision maker had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the ((~~notice of~~)) appeal.

((~~(3)~~)) (5) The president shall ((~~provide~~)) serve a written decision to all parties, and their attorneys if any, within ((~~twenty~~)) 20 calendar days after receipt of the notice of appeal. The president's decision shall be final and ((~~shall include a notice of any rights to request reconsideration and/or judicial review.~~

~~(4) In cases involving allegations of sexual misconduct, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respond-~~

~~ent for the complainant's protection, including suspension or dismissal of the respondent~~)) subject to judicial review pursuant to chapter 34.05 RCW, Part V.

((~~(5)~~)) (6) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-450 Student conduct code—Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety or welfare of members of the college community; or

(c) Poses an ongoing threat of substantial disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with oral or written notice of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two ((~~business~~)) calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension" and shall include:

(a) The reasons for imposing the summary suspension, including a description of the conduct giving rise to the summary suspension and reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the conduct review officer for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included ((~~that warns the student~~)) warning the respondent that their privilege to enter into or remain on college premises has been withdrawn, and that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or conduct review officer, or to attend a disciplinary hearing.

(5) ((~~Hearing procedures:~~

~~(a)~~)) The conduct review officer shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension.

((~~(b)~~)) (a) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

((~~(c)~~)) (b) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

((~~(d)~~)) (c) If the ((~~student~~)) respondent fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

((~~(e)~~)) (d) As soon as practicable following the hearing, the conduct review officer shall issue a written decision which shall include a brief explanation for any decision continuing and/or modifying the summary suspension and notice of any right to appeal.

((~~(f)~~)) (e) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices who may be bound or protected by it.

(6) In cases involving allegations of sexual misconduct, the complainant shall be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-500 Student conduct code—Free movement on campus. The president or designee is authorized in the instance of any event that they deem impedes the movement of persons or vehicles or which they deem to disrupt the ingress or egress of persons from ((~~the~~)) college facilities, to prohibit the entry of, or withdraw the license of, or privileges of a person or persons or any group of persons to enter onto or remain upon any portion of the college facility. The president may act through the vice president of administrative services or any other person they may designate.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-530 Student conduct code—Authority to prohibit trespass. (1) Individuals who are not students or members of the faculty or staff and who violate Lake Washington Institute of Technology's rules, or whose conduct threatens the safety or security of its students, staff, or faculty will be advised of the specific nature of the violation, and if they persist in the violation, they will be requested by the ((~~campus~~)) president, or their designee, to leave ((~~the~~)) college property. Such a request will be deemed to prohibit the entry of, withdraw the license or privilege to enter onto or remain upon any portion of the college property by the person or group of persons requested to leave, and subject such individuals to arrest under the provisions of chapter 9A.52 RCW.

(2) Members of the college community, students, faculty, and staff who do not comply with these regulations will be reported to the

appropriate college office or agency for action in accord with established college policies.

(3) When the college revokes the license or privilege of any person to be on college property, temporarily or for a stated period of time, that person may file a request for review of the decision with the vice president of administrative services or designee within ((~~ten~~)) 10 days of receipt of the trespass notice. The request must contain the reasons why the individual disagrees with the trespass notice. The trespass notice will remain in effect during the pendency of any review period. The decision of the vice president of administrative services or designee will be the final decision of the college and should be issued within five business days.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-570 Student conduct code—Authority. The board of trustees, acting pursuant to RCW 28B.50.140 ((~~(13)~~)) (14), delegates to the president of the college the authority to administer student disciplinary action. The president is authorized to delegate or reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary. Administration of the disciplinary procedures is the responsibility of the vice president of student services or designee. The student conduct officer shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 14-14-047, filed 6/25/14, effective 7/26/14)

WAC 495D-121-580 Student conduct code—Statement of student rights. As members of the academic community, students are encouraged to develop the capacity for critical judgment and to engage in an independent search for truth. Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. The responsibility to secure and to respect general conditions conducive to the freedom to learn is shared by all members of the college community.

The following enumerated rights are guaranteed to each student within the limitations of statutory law and college policy which are deemed necessary to achieve the educational goals of the college:

(1) **Academic freedom.**

(a) Students are guaranteed the rights of free inquiry, expression, and assembly upon and within college facilities that are generally open and available to the public.

(b) Students are free to pursue appropriate educational objectives from among the college's curricula, programs, and services, subject to the limitations of RCW 28B.50.090 (3)(b).

(c) Students shall be protected from academic evaluation ((~~which~~)) that is arbitrary, prejudiced, or capricious, but are re-

sponsible for meeting the standards of academic performance established by each of their instructors.

(d) Students have the right to a learning environment which is free from unlawful discrimination, inappropriate and disrespectful conduct, and any and all harassment, including sexual harassment.

(2) **Due process.**

(a) The rights of students to be secure in their persons, quarters, papers, and effects against unreasonable searches and seizures is guaranteed.

(b) No disciplinary sanction may be imposed on any student without notice to the accused of the nature of the charges.

(c) A student accused of violating this code of student conduct is entitled, upon request, to procedural due process as set forth in this chapter.

AMENDATORY SECTION (Amending WSR 24-07-022, filed 3/9/24, effective 4/9/24)

WAC 495D-121-590 Student conduct code—Prohibited student conduct. The college may impose disciplinary sanctions against a student or a college-sponsored student organization, athletic team, or living group, who commits, ((~~or~~)) attempts to commit, aids, abets, incites, encourages, or assists another person to commit, an act(s) of misconduct which include, but are not limited to, the following:

(1) **Abuse of others.** Assault, physical abuse, verbal abuse, threat(s), intimidation, or other conduct that harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(2) **Abuse in later life.**

(a) Neglect, abandonment, economic abuse, or willful harm of an adult aged 50 or older by an individual in an ongoing relationship of trust with the victim; or

(b) Domestic violence, dating violence, sexual assault, or stalking of an adult aged 50 or older by any individual; and

(c) Does not include self-neglect.

(3) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to((~~, cheating, plagiarism, and fabrication.~~)):

(a) Cheating ((~~includes~~)): Any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism ((~~includes~~)): Taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication ((~~includes~~)): Falsifying data, information, or citations in completing an academic assignment and also includes providing false or deceptive information to an instructor concerning the completion of an assignment.

(d) Deliberate damage: Taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

Academic consequences for academic dishonesty or abetting in academic dishonesty may be imposed at the discretion of a faculty member up to and including a failing grade for the course. Students should refer to each of their faculty's course syllabus. Further academic consequences may follow consistent with the provisions in any program handbook. Incidents of academic dishonesty may also be referred to the student conduct officer for disciplinary action consistent with this chapter in addition to the academic consequences identified above.

((~~(2) **Other**~~)) (4) **Acts of dishonesty.** Any other acts of dishonesty. Such acts include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students; ((~~or~~))

(c) Furnishing false information or failing to furnish correct information, in response to the request or requirement of a college officer or employee; or

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

((~~(3)~~)) (5) **Obstructive or disruptive conduct.** Conduct, not otherwise protected by law, that interferes with, impedes, or otherwise unreasonably hinders:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activity;

(b) The free flow of pedestrian or vehicular movement on college property or at a college activity;

(c) Any student's ability to profit from the instructional program; or

(d) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

((~~(4)~~)) (6) **Assault, intimidation, and/or harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property. For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior, not otherwise protected by law that intentionally humiliates, harms, or intimidates the victim.

((~~(5)~~)) (7) **Imminent danger.** Where the student presents an imminent danger to college property, or to themselves, or other students or persons in college facilities on or off campus, or to the education processes of the college.

((~~(6)~~)) (8) **Alcohol.** Use, possession, manufacture, or distribution of alcoholic beverages or paraphernalia (except as expressly permitted by college policies, and federal, state, and local laws), or public intoxication on college premises or at college-sponsored events. Alcoholic beverages may not, in any circumstance, be used by, possessed by, or distributed to any person not of legal age.

(9) **Cannabis, drug, and tobacco violations.**

(a) Cannabis. The use, possession, growing, delivery, sale, or being observably under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form, or the possession of cannabis paraphernalia on college premises or college-sponsored events. While state law permits the

recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(b) Drugs. The use, possession, production, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner.

(c) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(10) **Cyber misconduct.** Cyberstalking, cyberbullying, or online harassment. Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps) and social media sites to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person. Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third parties using another's email identity, nonconsensual recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

((~~(7)~~)) (11) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person. Property for purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

((~~(8)~~)) (12) **Noncompliance.** Failure to comply with:

(a) The direction of a college officer or employee who is acting in the legitimate performance of their duties, including failure to properly identify oneself to such a person when requested to do so;

(b) A college rule or policy as set forth in the *Lake Washington Institute of Technology Policies and Procedures Manual* which may be found ((~~in the library or~~)) online.

((~~(9)~~)) (13) **Weapons.** Possession, holding, wearing, transporting, storage, or presence of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, martial arts weapons, explosive device, dangerous chemicals, or any other weapon apparently capable of producing bodily harm is prohibited on the college campus and in conjunction with college programs and activities, subject to the following exceptions:

(a) Commissioned law enforcement personnel or legally authorized military personnel while in performance of their duties; or

(b) ((~~A~~)) Students with ((~~a valid concealed~~)) legally issued weapons permits may store ((~~a firearm~~)) their weapons in their vehicle

parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or designee may authorize possession of a weapon on campus upon a ((~~showing~~)) determination that the weapon is reasonably related to a legitimate ((~~pedagogical~~)) teaching purpose. Such permission shall be in advance to bringing weapons to the college, in writing, and shall be subject to such terms or conditions incorporated therein.

(d) Possession and/or use of disabling chemical sprays for purposes of self-defense is not prohibited.

((~~(10)~~)) (14) **Hazing.** ((~~(a) Hazing is any act committed as part of:~~

~~(i) A person's recruitment, initiation, pledging, admission into, or affiliation with a student group; or~~

~~(ii) Any pastime or amusement engaged in with respect to such a student group;~~

~~(iii) Any act that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student.~~

~~(b) Examples of hazing include, but are not limited to:~~

~~(i) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;~~

~~(ii) Humiliation by ritual act;~~

~~(iii) Striking another person with an object or body part;~~

~~(iv) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or~~

~~(v) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.~~

~~(c) "Hazing" does not include customary athletic events or other similar contests or competitions.~~

~~(d) Consent is not a valid defense against hazing.~~

(11) **Tobacco, electronic cigarettes, and related products.** ~~The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college or in any location where such use is prohibited, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased, or operated by the college. "Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, and snuff.~~

(12) **Alcohol.** ~~Being observably under the influence of any alcoholic beverage, or otherwise using, possessing, selling, or delivering any alcoholic beverage, except as permitted by law and authorized by the college president.~~

(13) **Marijuana.** ~~The use, possession, delivery, sale, or being observably under the influence of marijuana or the psychoactive compounds found in marijuana and intended for human consumption, regardless of form. While state law permits the recreational use of marijuana, federal law prohibits such use on college premises or in connection with college activities.~~

(14) **Drugs.** ~~The use, possession, delivery, sale, or being observably under the influence of any legend drug, including anabolic steroids, androgens, or human growth hormones as defined in chapter 69.41 RCW, or any other controlled substance under chapter 69.50 RCW, except as prescribed for a student's use by a licensed practitioner. Being observably under the influence of any lawfully prescribed drug when~~

~~enrolled in classes that require operation of heavy equipment or other dangerous equipment.~~

~~(15)~~)) Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, affiliation with, or maintenance of membership in a student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student or other person, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing.

(15) **Indecent exposure.** The intentional or knowing exposure of a person's genitals or other private body parts when done in a place or manner in which such exposure is likely to cause affront or alarm. Breastfeeding or expressing breast milk is not indecent exposure.

(16) **Disorderly conduct.** Conduct which is disorderly, lewd, obscene, or a breach of peace on college premises or at college-sponsored activities that is not otherwise protected under the law.

((~~(16) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of their race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age; religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.~~))

(17) **Discriminatory harassment.**

(a) Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive so as to:

(i) Limit the ability of a student to participate in or benefit from the college's educational and/or social programs and/or student housing;

(ii) Alter the terms of an employee's employment; or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) Protected status includes a person's race; color; creed/religion; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age; genetic information; sexual orientation; gender identity or expression; veteran or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law.

(c) Discriminatory harassment may be physical, verbal, or nonverbal conduct and may include written, social media, and electronic communications not otherwise protected by law.

(18) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 495D-121-680 (supplemental Title IX student conduct procedures). Sex discrimination or sexual misconduct that does not fall within Title IX may still be a violation of this student conduct code and addressed in accordance with the procedures in this student conduct code.

(a) **Sexual harassment.** The term "sexual harassment" is a form of discrimination and means unwelcome sexual or gender-based conduct, including unwelcome sexual advances, requests for sexual favors, ((~~quid pro quo harassment,~~)) and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to((~~:~~

~~(i) Deny or limit the ability of a student to participate in or benefit from the college's educational program;~~

~~(ii) Alter the terms or conditions of employment for a college employee(s); and/or~~

~~(iii) Create an intimidating, hostile, or offensive environment for other campus community members.~~

~~(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of "sexual harassment" and means threatening or emotionally distressing conduct based on sex, including, but not limited to, nonconsensual recording of sexual activity or the distribution of such recording~~)) deny or limit an individual's ability to participate in the college's programs or activities including the following conduct:

(i) Quid pro quo harassment. A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) Hostile environment. Unwelcome sexual or gendered conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

((~~(c)~~)) (b) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

((~~(d)~~)) (i) **Nonconsensual sexual intercourse((~~,~~))** is any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

((~~(e)~~)) (ii) **Nonconsensual sexual contact((~~,~~)) (fondling or criminal sexual contact)** is any actual or attempted intentional sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth,

or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

((~~(f)~~)) (iii) **Incest((~~.~~))** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

((~~(g)~~)) (iv) **Statutory rape((~~. Consensual intercourse between a person who is 18 years of age or older, and a person who is under the age of 16~~))** **(rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.

((~~(h)~~)) (v) **Domestic violence((~~.~~))** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, or stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW ((~~26.50.010~~)) 26.55.010.

((~~(i)~~)) (vi) **Dating violence((~~.~~))** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person((~~:~~

~~(i)~~)) who is or has been in a social relationship of a romantic or intimate nature with the victim((~~:~~)) and ((~~(ii)~~)) where the existence of such a relationship shall be determined based on a consideration of the following factors:

(A) The length of the relationship;

(B) The type of relationship; and

(C) The frequency of interaction between the persons involved in the relationship.

((~~(j)~~)) (vii) **Stalking** is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.

(c) **Consent.** For purposes of this code, "consent" means knowing, voluntary, and clear permission by word or action, to engage in mutually agreed upon sexual activity.

(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.

(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.

(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.

(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

((~~(18) **Harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, that is directed at a person~~

~~because of such person's protected status and that is sufficiently serious as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; sensory, mental, or physical disability; age; religion; creed; genetic information; sexual orientation; gender identity; veteran's status; or any other legally protected classification. See "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications.~~

~~(19) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.~~

~~(20)~~)) (19) **Harassment or bullying.** Conduct unrelated to a protected class that is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities.

(a) Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(b) For purposes of this code, "bullying" is defined as repeated or aggressive unwanted behavior not otherwise protected by law when a reasonable person would feel humiliated, harmed, or intimidated.

(c) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(20) **Retaliation.** Harming, threatening, intimidating, coercing, or other adverse action taken against any individual for reporting, providing information, exercising one's rights or responsibilities, participating, or refusing to participate, in the process of responding to, investigating, or addressing allegations or violations of federal, state or local law, or college policies.

(21) **Misuse of information resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization;

(i) Failure to comply with the college's acceptable use policy.

((~~(21)~~)) (22) **Breach of campus safety.** Safety violation includes any nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community. Breaching campus safety or security includes, but is not limited to:

(a) Unauthorized access to college facilities; intentionally damaging door locks; unauthorized possession of college keys or access cards; duplicating college keys or access cards; propping open of exterior doors; or unauthorized entry onto or into college property;

(b) Tampering with fire safety equipment, such as fire extinguishers, smoke detectors, alarm pull stations or emergency exits or triggering false alarms or other emergency response systems;

(c) Placement of equipment or vehicles, including bicycles, so as to obstruct the means of access to/from college buildings;

(d) Entering or remaining in any closed college facility or entering after the closing time of the college facility without permission of a college official;

(e) Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

((~~(22)~~)) (23) **Abuse of procedures.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena;

(b) Falsification or misrepresentation of information;

(c) Disruption or interference with the orderly conduct of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student conduct committee member;

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

((~~(23)~~)) (24) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college housing, traffic, and parking rules.

((~~(24)~~)) (25) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(26) **Unauthorized recording.** The following conduct is prohibited:

(a) Making audio, video, digital recordings, live streams, or photographic images of a person without that person's consent in a location where that person has a reasonable expectation of privacy.

(b) Storing, sharing, publishing, or otherwise distributing such recordings or images by any means.

(c) The recording of instructional content without the express permission of the instructor(s), unless approved as a disability accommodation.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state, or local laws to civil and criminal authorities for disposition. The college reserves the right to pursue student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-600 Student conduct code—Corrective action, disciplinary sanctions, terms and conditions. (1) ((~~The following primary disciplinary sanctions may be imposed upon students found to have violated~~)) One or more of the following corrective actions or disciplinary sanctions may be imposed upon a student or upon college-sponsored student organizations, athletic teams, or living groups found responsible for violating the student conduct code.

(a) **((~~Disciplinary~~)) Warning.** A verbal or written statement to a student that there is a violation and that continued violation may be cause for ((~~further~~)) disciplinary action. Warnings are corrective actions, not disciplinary, and may not be appealed.

(b) **Written reprimand.** Notice in writing that the student has violated one or more terms of this code of conduct and that continuation of the same or similar behavior may result in more severe disciplinary action.

(c) **Disciplinary probation.** Formal action placing specific conditions and restrictions upon the student's continued attendance depending upon the seriousness of the violation and which may include a deferred disciplinary sanction. If the student subject to a deferred disciplinary sanction is found in violation of any college rule during the time of disciplinary probation, the deferred disciplinary sanction, which may include, but is not limited to, a suspension or a dismissal from the college, shall take effect immediately without further review. Any such sanction shall be in addition to any sanction or conditions arising from the new violation. Probation may be for a limited period of time or may be for the duration of the student's attendance at the college.

(d) **Disciplinary suspension.** Dismissal from the college and from ((~~the~~)) student status for a stated period of time. There will be no refund of tuition or fees for the quarter in which the ((~~action is taken~~)) suspension is imposed. The student is not guaranteed readmission at the end of such period of time, but is guaranteed a review of the case and a decision regarding eligibility for readmission.

(e) **Dismissal.** The revocation of all rights and privileges of membership in the college community and exclusion from the campus and college-owned or controlled facilities without any possibility of return. There will be no refund of tuition or fees for the quarter in which the ((~~action is taken~~)) dismissal is imposed.

(2) Disciplinary terms and conditions that may be imposed in conjunction with the imposition of a disciplinary sanction include, but are not limited to, the following:

(a) ((**Restitution.** Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(b) **Professional evaluation.** Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation including, but not limited to, drug and alcohol education, anger management coursework, or ongoing treatment. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(c) **Not in good standing.** A student may be deemed "not in good standing" with the college. If so the student shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) **No contact orders and other summary relief.** The college may require a student to refrain from any form of contact with another student or college employee. Other forms or relief include, but are not limited to: Switching to alternate sections of individual classes or programs, delaying admission to an instructional program, assigned seating during a class, or behavioral contracts.

(3) **Secondary sanctions.** No order of severity is established for secondary sanctions:

(a) **Community/college service.** A student may be offered an opportunity to complete a specified number of hours of community/college service in lieu of other sanctions. The type of community/college service must be approved by the hearing officer.

(b) **Educational requirements.** A provision to complete a specific educational requirement directly related to the violation committed. The provision will be clearly defined. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, an anger management class, essays, or reports.

(c) **Restrictions.** The withdrawal of specified privileges for a definite period of time, but without the additional stipulations contained in the imposition of conduct probation. The restrictions involved will be clearly defined.

(d) **Loss of parking privileges on campus.** Revocation of parking privileges.)) Education. Participation in or successful completion of an educational assignment designed to create an awareness of the stu-

dent's misconduct. The provision will be clearly defined. Such educational requirements may include, but are not limited to, completion of an alcohol education workshop, a diversity awareness workshop, an anger management class, essays, or reports.

(b) Loss of privileges. Denial of specified privileges for a designated period of time.

(c) Not in good standing. A student deemed "not in good standing" with the college shall be subject to the following restrictions:

(i) Ineligible to hold an office in any student organization recognized by the college or to hold any elected or appointed office of the college.

(ii) Ineligible to represent the college to anyone outside the college community in any way, including representing the college at any official function, or any forms of intercollegiate competition or representation.

(d) No contact directive. A directive to a student to have no contact with a specified individual, whether another student, college employee, or a member of the college community, or prohibiting a student from entering a particular college facility or participating in specified college programs or activities.

(e) Professional evaluation. Referral for drug, alcohol, psychological, or medical evaluation by an appropriately certified or licensed professional may be required. The student may choose the professional within the scope of practice and with the professional credentials as defined by the college. The student will sign all necessary releases to allow the college access to any such evaluation. The student's return to college may be conditioned upon compliance with recommendations set forth in such a professional evaluation. If the evaluation indicates that the student is not capable of functioning within the college community, the student will remain suspended until future evaluation recommends that the student is capable of reentering the college and complying with the rules of conduct.

(f) Restitution. Reimbursement for damage to or misappropriation of property, or for injury to persons, or for reasonable costs incurred by the college in pursuing an investigation or disciplinary proceeding. This may take the form of monetary reimbursement, appropriate service, or other compensation.

(g) Trespass or restriction. A student may be restricted from any or all college premises and/or college-sponsored activities based on the violation.

(h) Community/college service. A student may be offered an opportunity to complete a specified number of hours of community/college service in addition to or in lieu of other sanctions. The type of community/college service must be approved by the hearing officer.

(3) More than one of the disciplinary terms and conditions listed above may be imposed for any single violation.

(4) If a student withdraws from the college or fails to reenroll before completing a disciplinary sanction or condition, the disciplinary sanction or condition must be completed either prior to or upon the student's reenrollment, depending on the nature of the sanction, condition, and/or the underlying violation. Completion of disciplinary sanctions and conditions may be considered in petitions for readmission to the college.

AMENDATORY SECTION (Amending WSR 24-07-022, filed 3/9/24, effective 4/9/24)

WAC 495D-121-605 Student conduct code—Hazing prohibited—Sanctions. (1) Hazing by a student or a student group is prohibited pursuant to WAC 495D-121-590((~~(10)~~)) (14).

(2) No student may conspire to engage in hazing or participate in hazing of another. State law provides that hazing is a criminal offense, punishable as a misdemeanor.

(3) Washington state law provides that:

(a) Any student group that knowingly permits hazing is strictly liable for harm caused to persons or property resulting from hazing. If the organization, association, or student living group is a corporation, whether for profit or nonprofit, the individual directors of the corporation may be held individually liable for damages.

(b) Any person who participates in the hazing of another shall forfeit any entitlement to state-funded grants, scholarships, or awards for a period of time determined by the college.

(c) Student groups that knowingly permit hazing to be conducted by its members or by others subject to its direction or control shall be deprived of any official recognition or approval granted by the college.

(d) Student groups found responsible for violating the code of student conduct, college antihazing policies, or state or federal laws relating to hazing or offenses related to alcohol, drugs, sexual assault, or physical assault will be disclosed in a public report issued by the college setting forth the name of the student group, the date the investigation began, the date the investigation ended, a finding of responsibility, a description of the incident(s) giving rise to the finding, and the details of the sanction(s) imposed.

(e) Any student who is found responsible for engaging, participating, or conspiring to participate in hazing may be sanctioned in accordance with this student conduct code.

AMENDATORY SECTION (Amending WSR 14-14-047, filed 6/25/14, effective 7/26/14)

WAC 495D-121-630 Student conduct code—Readmission after suspension. The college will normally readmit any student suspended from the college for academic or disciplinary reasons on a space available basis in the students' program of study, when the suspension ends.

(1) The college may readmit a student after receiving approval of a written petition submitted to the vice president of student services, or other designated administrator, who imposed such suspension if:

(a) A student who was suspended believes that circumstances merit reconsideration of the suspension before it ends.

(b) The student was suspended with conditions imposed for readmission.

(2) This petition must state reasons that support a reconsideration of the matter. The vice president's or designee's decision, after reviewing the petition, is final.

AMENDATORY SECTION (Amending WSR 14-14-047, filed 6/25/14, effective 7/26/14)

WAC 495D-121-650 Student conduct code—Campus speakers. ((~~(1)~~)) Student organizations officially recognized by the college may invite speakers to the campus to address their own membership and other interested students and faculty if:

((~~(a)~~)) (1) Suitable space is available.

((~~(b)~~)) (2) It does not interfere with the college's regularly scheduled programs.

Although allowed by the college, having such speakers on the campus does not imply the college's approval or disapproval of them or their viewpoints. For speakers who are candidates for political office, the college will make equal opportunities available to opposing candidates if they desire.

((~~(2) To ensure an atmosphere of open exchange and to not obscure the college's educational objectives, the president or designee, in a case with strong emotional feeling, may set conditions for conducting the meeting, such as requiring:~~

~~(a) A designated member of the college community as chair; or~~

~~(b) Permission for comments and questions from the floor.~~

~~The president or designee may encourage the appearance of one or more additional speakers at any meeting or at following meetings so people can express other points of view. The president may designate representatives to recommend conditions such as time, manner, and place for conducting particular meetings.~~))

AMENDATORY SECTION (Amending WSR 14-14-047, filed 6/25/14, effective 7/26/14)

WAC 495D-121-670 Student conduct code—Commercial activities. (1) No one can use college facilities for commercial solicitation, advertising, or promotional activities except when these activities:

(a) Clearly serve educational objectives including, but not limited to, display of books of interest to the academic community or the display or demonstration of technical or research equipment.

(b) Are conducted under the sponsorship or at the request of the college or official college organizations if the solicitation does not interfere with or operate to the detriment of the conduct of college affairs or the free flow of vehicular or pedestrian traffic.

(2) Students cannot use college facilities, equipment, and supplies for personal commercial gain.

(3) For the purpose of this regulation, the term "commercial activities" does not include handbills, leaflets, newspapers, and similarly related materials ((~~as regulated in WAC 495D-121-660~~)).

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-680 Student conduct code—Supplemental Title IX procedures—Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction

pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with Lake Washington Institute of Technology's standard disciplinary procedures, WAC 495D-121-320 through 495D-121-670, these supplemental procedures shall take precedence. The college may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-690 Student conduct code—Supplemental Title IX procedures—Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, Lake Washington Institute of Technology may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" ((~~encompasses~~)) means conduct on the basis of sex that satisfies one or more of the following ((~~conduct~~)):

(1) Quid pro quo harassment. A Lake Washington Institute of Technology employee conditioning the provision of an aid, benefit, or service of Lake Washington Institute of Technology on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct ((~~that a reasonable person would find~~)) determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to Lake Washington Institute of Technology's educational programs or activities((~~, or employment~~)).

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of ((~~eighteen~~)) 18.

(d) Statutory rape. ((~~Consensual~~)) Nonforcible sexual intercourse between someone who is ((~~eighteen~~)) 18 years of age or older and someone who is under the age of ((~~sixteen~~)) 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, ((~~or stalking~~)) coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW ((~~26.50.010~~)) 26.55.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-700 Student conduct code—((~~Prohibited conduct under~~)) Supplemental Title IX procedures—Title IX jurisdiction. (1) This supplemental procedure applies only if the alleged misconduct:

(a) Occurred in the United States;

(b) Occurred during a Lake Washington Institute of Technology educational program or activity; and

(c) Meets the definition of sexual harassment as that term is defined in this supplemental procedure.

(2) For purposes of this supplemental procedure, an "educational program or activity" is defined as locations, events, or circumstances over which Lake Washington Institute of Technology exercised substantial control over both the respondent and the context in which the alleged sexual harassment occurred. This definition includes any building owned or controlled by a student organization that is officially recognized by Lake Washington Institute of Technology.

(3) Proceedings under this supplemental procedure must be dismissed if the decision maker determines that one or all of the requirements of subsection (1)(a) through (c) of this section have not been met. Dismissal under this supplemental procedure does not prohibit Lake Washington Institute of Technology from pursuing other disciplinary action based on allegations that the respondent violated other provisions of Lake Washington Institute of Technology's student conduct code, WAC 495D-121-320 through 495D-121-670.

(4) If the student conduct officer determines the facts in the investigation report are not sufficient to support Title IX jurisdiction and/or pursuit of a Title IX violation, the student conduct officer will issue a notice of dismissal in whole or part to both parties explaining why some or all of the Title IX claims have been dismissed.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-710 Student conduct code—Supplemental Title IX procedures—Initiation of discipline. (1) Upon receiving ((~~the~~)) a Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with either the chair of the student conduct committee or the college's appointed Title IX hearing officer and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s);

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) Lake Washington Institute of Technology will appoint ((~~the party~~)) an advisor of Lake Washington Institute of Technology's choosing at no cost to the party, if the party fails to do so.

(3) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-720 Student conduct code—Supplemental Title IX procedures—Prehearing procedure. (1) Upon receiving the disciplinary notice, the chair of the student conduct committee or the college's appointed Title IX hearing officer will send a hearing notice to all parties, in compliance with WAC 495D-121-410. In no event will the hearing date be set less than ((~~ten~~)) 10 calendar days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five calendar days before the hearing, the attorney files a notice of

appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether Lake Washington Institute of Technology intends to offer the evidence at the hearing.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-730 Student conduct code—Supplemental Title IX procedures—Rights of parties. (1) Lake Washington Institute of Technology's student conduct procedures, WAC 495D-121-320 through 495D-121-670, and this supplemental procedure shall apply equally to all parties.

(2) The Lake Washington Institute of Technology bears the burden of offering and presenting sufficient testimony and evidence to establish that the respondent is responsible for a Title IX violation by a preponderance of the evidence.

(3) The respondent will be presumed not responsible until such time as the disciplinary process has been finally resolved.

(4) During the hearing, each party shall be represented by an advisor. The parties are entitled to an advisor of their own choosing and the advisor may be an attorney. If a party does not choose an advisor, then the Title IX coordinator will appoint an advisor of Lake Washington Institute of Technology's choosing on the party's behalf at no expense to the party.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-740 Student conduct code—Supplemental Title IX procedures—Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair or the college's appointed Title IX hearing officer shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) ((~~Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee or the college's appointed Title IX hearing officer must not rely on any~~

~~statement by that party or witness in reaching a determination of responsibility~~)) Complainant and respondent may not ask questions directly of one another. Questions may be asked through a party's advisor or by the chair, after the chair determines the question is relevant and not privileged or otherwise impermissible. The chair has discretion to follow this procedure for other witnesses as well.

(5) No negative inference: The committee or the college's appointed Title IX hearing officer may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee or the college's appointed Title IX hearing officer shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-750 Student conduct code—Supplemental Title IX procedures—Initial order. (1) In addition to complying with WAC 495D-121-430, the student conduct committee or the college's appointed Title IX hearing officer will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the ((~~grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility, including notices~~)) procedural steps taken from receipt of the formal complaint through the determination, including any notifications to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination ((~~of responsibility~~));

(d) Reaches conclusions ((~~as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX~~)) applying the conduct code to the facts;

(e) Contains a statement of, and rationale for, the ((~~committee's or the college's appointed Title IX hearing officer's determination of responsibility for each allegation~~)) result as to each allegation, including a determination regarding responsibility;

(f) Describes any disciplinary sanction or conditions imposed against the respondent, if ((~~any~~)) the committee determines the respondent violated the conduct code;

(g) ((~~Describes to what extent, if any, complainant is entitled to~~)) Determines whether remedies designed to restore or preserve com-

plainant's equal access to Lake Washington Institute of Technology's education programs or activities will be provided by the college; and

(h) Describes the process for appealing the initial order to the Lake Washington Institute of Technology president.

(2) The committee chair or the college's appointed Title IX hearing officer will serve the initial order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 21-18-041, filed 8/24/21, effective 9/24/21)

WAC 495D-121-760 Student conduct code—Supplemental Title IX procedures—Appeals. ((~~(1) The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 495D-121-440.~~

~~(2) The president or their delegate will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether the disciplinary sanction and condition(s) imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanction and/or condition(s).~~

~~(3) President's office shall serve the final decision on the parties simultaneously.~~)) (1) All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 calendar days of service of the initial order or notice of dismissal. Appeals must identify the specific findings of fact and/or conclusions in the initial order or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or notice of dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 calendar days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five calendar days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their review of parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions.

(5) The president's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 495D-121-660	Student conduct code——Distribution of information.

WSR 26-17-105
PROPOSED RULES
WASHINGTON STATE UNIVERSITY
[Filed August 19, 2026, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 26-12-066.

Title of Rule and Other Identifying Information: Chapter 504-21 WAC, University policy on student education records.

Hearing Location(s): On September 24, 2026, at 4:00 p.m., via Zoom meeting, Meeting ID 873 4533 5317, Passcode 901358; or join by telephone 253-215-8782 (Enter meeting ID and passcode at prompt). For help connecting to a Washington State University (WSU) Zoom meeting, see https://tinyurl.com/2kbrhrjt.

Date of Intended Adoption: November 19, 2026.

Submit Written Comments to: Kenyah Thomas, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email policies@wsu.edu, beginning September 1, 2026, by September 23, 2026, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Kenyah Thomas, email policies@wsu.edu, by September 21, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The WSU administration's updates to this rule are as follows: (1) Clarify and update definitions relevant to the chapter; (2) set forth roles related to student records access, amendment, and appeal; and (3) clarify procedural steps for requesting and accessing student education records.

Reasons Supporting Proposal: The proposed amendments modify, clarify, and update WSU's policies regarding student education records and Family Educational Rights and Privacy Act compliance.

Statutory Authority for Adoption: RCW 28B.30.150.

Rule is necessary because of federal law, 20 U.S.C. § 1232g or 34 C.F.R. Part 99.

Name of Proponent: WSU, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Matt Zimmerman, Assistant Vice Provost for Enrollment Management and University Registrar, Office of the Registrar, 1815 N.E. Wilson Road, French Administration Building, Room 346, Pullman, WA 99164-1035, 509-335-0899.

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

A cost-benefit analysis is not required under RCW 34.05.328. These rules are not significant legislative rules or other agency rules subject to RCW 34.05.328, as defined in RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

August 18, 2026
Kenyah Thomas
Policies, Records, and Forms
Rules Coordinator

RDS-7337.1

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

WAC 504-21-010 University policy on student education records. Public Law 93-380, the Family Educational Rights and Privacy Act of 1974, requires that the university adopt guidelines concerning the right of a student to inspect ((~~his or her~~)) their education records, and guidelines concerning the release of personally identifiable information to third parties. The act further provides that such a student has the right to a hearing ((~~in order~~)) to provide for the correction or deletion of inaccurate, misleading or otherwise inappropriate data. The act also provides that students be informed of the types of education records maintained by the university that are directly related to students.

Consistent with that act, this policy on student education records is established to ((~~insure~~)) ensure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information.

AMENDATORY SECTION (Amending Order 77-1, filed 5/2/77)

WAC 504-21-020 Definitions ((~~of a student~~)). ((~~A student is defined as any person who is or has been officially enrolled at Washington State University and with respect to whom the university maintains education records or personally identifiable information.~~)) (1) Education records. For purposes of this chapter, the term "education records" means records, files, documents, and other materials, regardless of format or medium, that contain information directly related to a student and that are maintained by the institution or by a party acting for the institution.

The term "education records" does not include:

(a) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

(b) Records of the university police department which are maintained by the law enforcement unit of WSU that were created by the WSU law enforcement unit for the purposes of law enforcement;

(c) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes. Records relating to an individual in attendance at the university who is employed because of their status as a student are education records and not excepted under this paragraph;

(d) Records on a student that are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting or assisting in a professional or paraprofessional capacity; created, maintained, or used only in connection with the provision of treatment to the student; and are not available to anyone other than persons providing such treatment. These records may be personally reviewed by a physician or other appropriate professional of the student's choice. In addition, health care information may be disclosed if authorized by state law; or

(e) Records that contain information about an individual and are created when the individual is no longer in attendance as a student at the university.

(2) Attendance. A student is "in attendance" if (a) the student is officially enrolled, and (b) the term for which the student is enrolled has begun.

(3) Student. For the purposes of this chapter, a student is any person who has ever been in attendance at the university and with respect to whom the university maintains education records.

(4) Student records appeals officer. The university's chief compliance and risk officer or designee serves as the student records appeals officer. They conduct hearings, review, and respond to appeals regarding student records requests after the student has brought the issue to the student records officer.

(5) Student records officer. The university registrar serves as the student records officer and is responsible for responding to and fulfilling student record requests, reviewing unusual requests for information, hearing requests for amendments to student records, and assisting in the interpretation of these rules.

AMENDATORY SECTION (Amending WSR 09-04-060, filed 2/2/09, effective 3/5/09)

WAC 504-21-030 Education records—Student's right to inspect. (1) A student has the right to inspect and review ((~~his or her~~)) their education records. ((~~A list of the types of education records maintained by the university and the record locations may be obtained by the student at the registrar's office.~~

~~(a) For purposes of this chapter the term "education records" means those records, files, documents and other materials which contain information directly related to a student.~~

~~(b) The term "education records" does not include:~~

~~(i) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute or the maker's administrator.~~

~~(ii) Records of the university police department which are maintained by the law enforcement unit of WSU that were created by the WSU law enforcement unit for the purposes of law enforcement.~~

~~(iii) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this paragraph.~~

~~(iv) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional, acting in a professional or paraprofessional capacity, or assisting in that capacity and which are created, maintained or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment. Such records can be personally reviewed by a physician or other appropriate professional of the student's choice. In addition, health care information may be disclosed if authorized by state law.~~

~~(v) Records that contain information about an individual after he or she is no longer a student at that agency or institution.~~)) The student records officer must respond to a student's request for their own records within a reasonable time frame and no later than 45 days after receiving the request. All requests must be submitted to the student records officer or the public records office. The student records officer is responsible for collecting the relevant documents and providing them to the student, except that for complex requests, the public records office may handle this process under the Washington Public Records Act.

(2) Recommendations, evaluations, or comments concerning a student that are provided in confidence, either expressed or implied((~~, as~~)) between the author and the recipient, ((~~shall~~)) will be made available to the student, except as provided in this subsection.

(a) The student may specifically release ((~~his or her~~)) their right to review where the information consists only of confidential letters and recommendations respecting:

(i) Admission to any educational institution((~~, or~~));

(ii) Employment application information and documents filed and maintained at the student's request at the career services office((~~.~~));

(iii) Receipt of an honor or honorary recognition((~~.~~)); or

(iv) Faculty evaluations and other education records placed in departmental files where the department serves in a placement or referral capacity.

(b) A student's waiver of ((~~his or her~~)) their right of access to confidential ((~~statements~~)) letters and recommendations is valid only if:

(i) The student, upon request, ((~~shall be~~)) is notified of the names of all persons ((~~making confidential statements concerning him; and~~)) who provided the confidential letters and recommendations concerning the student;

(ii) Confidential statements ((~~shall be~~)) are used solely for the purpose for which they were originally intended; ((~~and~~))

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the university((~~.~~)); and

(iv) The waiver is made in writing and signed by the student, regardless of age.

(c) Recommendations, evaluations, or comments concerning a student that have been provided in confidence, either expressed or implied((~~, as~~)) between the author and the recipient, prior to January 1, 1975, ((~~shall~~)) will not be ((~~subject to release~~)) released to the student. ((~~Such~~)) These records ((~~shall~~)) remain confidential and ((~~shall~~)) will be released only with the consent of the author of the specific document. ((~~Such~~)) These records ((~~shall~~)) will be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student ((~~shall be~~)) is entitled to receive or be informed of only that part of the record or data that pertains to the requesting student. Such requests may be directed to the public records office for processing and may require additional response time or fees in accordance with chapter 504-45 WAC.

(4) Students have the right to obtain copies of their education records((~~. Charges for the copies shall not exceed the cost normally charged by a Washington State University copy center (~~)) at no charge

except in cases where charges have previously been approved for certain specified services, such as ((~~transcripts and grade sheets~~)) official transcripts or requests processed through the public records office in accordance with WAC 504-45-070.

(5) The ((~~registrar is the official custodian of academic records and therefore~~)) student records officer or designee is the only official who may issue a transcript of the student's official academic record.

(6) Student education records may be destroyed in accordance with ((~~a department's routine retention schedule where the departmental procedure has been~~)) the university's established records retention schedule as approved by the university records officer. In no case will any record ((~~which~~)) that is requested by a student for review in accordance with these regulations be removed or destroyed prior to final disposition of the record request.

AMENDATORY SECTION (Amending WSR 09-04-060, filed 2/2/09, effective 3/5/09)

WAC 504-21-040 Requests for amendment and appeal procedures. (1) A request by a student for review of information or a request for amendment ((~~shall~~)) will be made in writing to the ((~~university employee or office having custody of the particular record. A request for amendment may be appropriate if the student believes the records contain information that is inaccurate, misleading, or in violation of his/her rights to privacy. Neither the student records officer nor the registration and records committee shall review any matter regarding the appropriateness of official academic grades. (University academic regulations 104, "academic complaint procedures," and 105, "administrative changes to final grades," should be followed in all cases involving grading disputes.)~~

~~(2) The person or office receiving a proper request for review or amendment of information must respond to the request within a reasonable period of time, but in cases where a student requests review, no more than forty-five days after the request has been made.~~

~~(3)(a) A student who believes his or her request has not been properly answered by a particular person or office should consult the appropriate dean or director having supervisory responsibility for the office.~~

~~(b) If a student remains dissatisfied after consulting with the appropriate dean or director, the student may then appeal to the student records officer, who will review the appeal and may refer it to the university registration and records committee. All cases involving requests for amendment will be referred to the registration and records committee for hearing. In either case, the decision shall be rendered within a reasonable period of time. The decision shall be final, *except as provided in WAC 504-21-080.*~~

~~(c) Appeals must be filed with the student records officer within ninety days from the date of the initial request to the custodian of the record.~~)) student records officer.

(2) A request for amendment may be appropriate if the student believes the records contain information that is inaccurate, misleading, or in violation of their rights to privacy. The student records officer will not review any matter regarding the appropriateness of official academic grades. (University academic regulations 104, "address-

ing course concerns," and 105, "administrative changes to final grades," should be followed in all cases involving grading disputes.)

(3) The student records officer must respond to the request within a reasonable period of time and no more than 45 days after the request has been made. If the student records officer decides not to amend a record as requested, they inform the student of their decision and their right to an appeal hearing.

(4)(a) A student who believes their request has not been properly answered by the student records officer may then appeal to the student records appeals officer, who will review the appeal. Appeals must be filed with the student records appeals officer within 90 days from the date of the initial request to the student records officer.

(b) The student records appeals officer will provide the student with a full and fair opportunity to present evidence relevant to the issues raised. The student may be represented by one or more individuals of their own choice, including an attorney. The hearing may be conducted live, virtually, or in writing at the discretion of the student records appeals officer.

(c) The decision must be rendered within a reasonable period of time and include a summary of the evidence and the reasons for the decision. The decision is final.

(d) ((~~Eligible~~)) Students eligible under the provisions of this chapter are hereby notified of their right to file a complaint with the Department of Education concerning any alleged failure of Washington State University to comply with the Family Educational Rights and Privacy Act of 1974, as amended.

AMENDATORY SECTION (Amending WSR 09-04-060, filed 2/2/09, effective 3/5/09)

WAC 504-21-050 Release of personally identifiable records. (1) The university ((~~shall~~)) will not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," (as defined in ((~~subsection (5) of this section~~)) WAC 504-21-020), without the written consent of the student to any party other than the following:

(a) School officials with ((~~a~~)) legitimate educational interest. A school official is a person employed by WSU in an administrative, supervisory, academic or research, or support staff position (including health staff and WSU police); a person or company with whom the university has contracted (such as an attorney, auditor, or collection agent); a person serving on the board of trustees; or a student serving on an official committee (such as a disciplinary or grievance committee, or assisting another school official in performing ((~~his or her~~)) their tasks). A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill ((~~his or her~~)) their educational responsibilities((~~.~~));

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally- or state-supported education program or in connection with the enforcement of federal or state legal requirements which relate to such programs. In such cases the information required ((~~shall~~)) will be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials, and such personally identifiable data

((~~shall~~)) will be destroyed when no longer needed for ((~~such~~)) audit, evaluation, or enforcement of legal requirements((~~.~~));

(c) Persons or organizations, other than parents or legal guardians, providing ((~~to the student financial aid,~~)) financial aid to the student or determining financial aid decisions concerning eligibility, amount, condition, and enforcement of terms of said aid((~~.~~));

(d) Organizations conducting studies for or on behalf of the university for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if ((~~such~~)) studies are conducted in ((~~such~~)) a manner ((~~as~~)) that will not permit the personal identification of students by persons other than representatives of such organizations, and ((~~such~~)) information will be destroyed when no longer needed for the purposes for which it was provided((~~.~~));

(e) Education records may be used for legitimate academic research((~~,~~)), provided that:

(i) The procedures utilized and the reported findings do not violate the student's confidence;

(ii) Students' names will not be included in the study or in any way linked with the data;

(iii) Case histories and case records are sufficiently disguised to prevent identification of the individuals involved; and

(iv) The student's written permission is obtained ((~~where~~)) when individual identification occurs((~~.~~));

(f) Accrediting organizations ((~~in order~~)) to carry out their accrediting functions((~~.~~));

(g) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that a reasonable attempt has been made to notify the student of all ((~~such~~)) orders or subpoenas in advance of the compliance ((~~therewith~~)) unless the subpoena is issued for a law enforcement purpose or is issued by a federal grand jury and the court or other issuing agency has ordered that the existence of the subpoena not be disclosed. Any university employee or office receiving a subpoena or judicial order for education records should immediately notify the WSU division of the office of the attorney general((~~.~~));

(h) Parents or legal guardians of a student who have established that student's status as their dependent according to Internal Revenue Code((~~.~~));

(i) An alleged victim of any crime of violence or nonforcible sexual offense, as ((~~they are~~)) defined in Appendix A to 34 C.F.R. Part 99, ((~~shall~~)) will be informed of the results of any disciplinary proceeding conducted by WSU against the alleged perpetrator of that crime with respect to that crime((~~.~~));

(j) To the office of the attorney general when disclosure is to comply with a judicial order or to provide legal ((~~advice.~~)) counsel;

(k) WSU may provide to parents or guardians of students under age ((~~twenty one~~)) 21 information regarding violations of federal, state, or local laws or the university's ((~~conduct code where such~~)) standards of conduct for students with violations ((~~concern~~)) concerning the use or possession of alcohol or controlled substances and ((~~where~~)) WSU ((~~determines that those students have~~)) has determined the student committed such violations.

(l) When either the student initiates legal action against WSU or when WSU initiates legal action against the student, WSU may disclose to the court any educational records of the student that are relevant to the legal actions((~~.~~)); and

(m) Information may be disclosed in conformance with other exceptions to the prior written consent requirement of the Family Educational Rights and Privacy Act and implementing regulations found at 34 C.F.R. § 99. A copy of these regulations may be obtained from the office of the registrar.

(2) ((~~Where the~~)) When consent of a student is obtained for the release of education records, ((~~it shall~~)) the consent must be in writing, signed, and dated by the person ((~~giving such consent, and shall~~)) granting consent. A signature may be handwritten or electronic, including a verified email communication from the student's institutional or otherwise authenticated email account. The consent must include:

(a) A specification of the records to be released,

(b) The reasons for ((~~such~~)) release, and

(c) The identity of the parties to whom ((~~such~~)) records will be released, unless the nature of the activity is such that advance identification of recipients is not possible ((~~such as~~)). This includes employment assistance provided by the university office of career services and placement, in which case an effort will be made to identify recipients of information as they become known.

(3) In cases where records are made available without student consent as permitted by subsection (1)(b), (c), (d), (e), (f), and (g) of this section (except in cases where the subpoena prohibits disclosure), subsection (1)(i) of this section and, when required by law, subsection (1)(m) of this section the university ((~~shall~~)) will maintain a record which ((~~will~~)) indicates the parties which have requested or obtained access to a student's records maintained by the university and which ((~~will~~)) indicates the legitimate interest of the requesting party.

(4) Personally identifiable education records released to third parties, with or without student consent, ((~~shall~~)) will be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student unless such disclosures are made pursuant to subsection (1)(g), (h), (j), (k), or (l) of this section or the information released is directory information as defined in subsection (5) of this section.

(5) The term "directory information" used in subsection (1) of this section is defined as student's name (including any former name), local and permanent addresses and telephone numbers, ((~~electronic mail~~)) email address(es), major and minor fields of study, participation in officially recognized activities in sports, weight and height of members of athletic teams, dates of attendance, enrollment status (e.g., undergraduate or graduate; full-time or part-time), ((~~grade~~)) class level (first-year, sophomore, etc.), ((~~degrees,~~)) status as graduate assistant and assignment, degrees, certificates, and awards received, including the president's honor roll, and the most recent previous educational institution attended by the student. Students may request that the university not release directory information by ((~~filing a request online or with the office of payroll services~~)) updating their FERPA restrictions in the student information system. Former students who no longer have access to the student information system should contact the office of the registrar for assistance.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

(7) Certain requests for student records, such as those containing information on other students or which qualify as public records due to the nature of their content, may require involvement of the public records office. In such cases, the response timeline and associated costs are determined in accordance with chapter 504-45 WAC and may exceed those established for other student records requests. The student records officer will direct requests to the public records office as necessary.

AMENDATORY SECTION (Amending WSR 95-07-043, filed 3/8/95, effective 4/8/95)

WAC 504-21-090 Notice of rights given under Family Educational Rights and Privacy Act of 1974. In accordance with the requirements of the Family Education Rights and Privacy Act of 1974, the university will ((~~make its best efforts to notify all students of the rights under this act. Such notification shall be done through the Washington Administrative Code procedure, notices to the campus newspaper and radio and television services, and such other publications and media that the university deems appropriate~~)) notify students on an annual basis of their rights under the act and this chapter.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 504-21-060	University records.
WAC 504-21-070	Student records officer.
WAC 504-21-080	Right of student to register objections.

WSR 26-17-106
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed August 19, 2026, 10:57 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-107 and 26-10-099.

Title of Rule and Other Identifying Information: WAC 110-15-0075 Determining income eligibility and copayment amounts.

Hearing Location(s): On September 22, 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 23, 2026.

Submit Written Comments to: Department of children, youth, and families (DCYF) rules coordinator, website https://dcyf.wa.gov/practice/policy-laws-rules/rulemaking/participate/online, beginning August 20, 2026, by September 22, 2026, 8:00 a.m.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, relay 711, by September 15, 2026.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The early learning division (ELD) is amending these WAC to implement ESSB 5752, regarding changes to working connection child care (WCCC) copayment structure. ELD must adopt a copayment structure that applies to households eligible for WCCC, except for those eligible under RCW 43.216.808 (categorically eligible child protective, child welfare, or family assessment response services and participation in specialty courts), and 43.216.814 (high school students or students under 21 years old working towards a high school equivalency certificate).

Also per ESSB 5752, modifications to WAC language are necessary to implement child care subsidy program changes related to repealing expanded eligibility for registered apprenticeships and child care employees and removing enrollment in a state registered apprenticeship as being excluded from the work requirements as a condition of receiving WCCC. These apprenticeship-related modifications are currently in effect in emergency status under WSR 26-14-061.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 43.216.804, ESSB 5752.

Statute Being Implemented: RCW 43.216.804, ESSB 5752.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Christin James, Yakima, Washington, 360-688-0479; 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. DCYF is not among the agencies listed as required to comply with 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 set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:
Is fully exempt.

August 19, 2026
Brenda Villarreal
Rules Coordinator

RDS-7365.1

AMENDATORY SECTION (Amending WSR 24-20-130, filed 10/1/24, effective 11/1/24)

WAC 110-15-0075 Determining income eligibility and copayment amounts. (1) The department determines consumers' eligibility and copayments, when care is provided under a WCCC voucher or contract, by:

(a) Family size as described in WAC 110-15-0015; and

(b) Countable income as described in WAC 110-15-0065.

(2) The department calculates consumers' copayments as follows:

If the ((~~household's income is~~)) households' incomes are:	Then the ((~~household's~~)) households' maximum monthly ((~~copayment is~~)) copayments are:
((~~At or below 20~~)) Below 25 percent of the SMI	((~~Waived~~)) $0
((~~Above 20 percent and at or below 36~~)) At or above 25 percent and below 35 percent of the SMI	((~~$65~~)) 25 percent of the state median income for a household of two, multiplied by five percent
((~~Above 36 percent and at or below 50~~)) At or above 35 percent and below 45 percent of the SMI	((~~$90~~)) 35 percent of the state median income for a household of two, multiplied by 5.5 percent
((~~Above 50 percent and at or below 60~~)) At or above 45 percent and below 55 percent of the SMI	((~~$165~~)) 45 percent of the state median income for a household of two, multiplied by six percent
((~~At reapplication, above 60 percent and at or below 65 percent of the SMI~~	~~$215~~
~~An applicant between 60 percent and 75 percent of the SMI for families participating in a state-registered apprenticeship~~	~~$215~~))
At or above 55 percent of the state median income	55 percent of the state median income for a household of two, multiplied by 6.5 percent

(3) Active recipients of the supplemental nutrition assistance program are income eligible and the copayment will be determined using the income standards in subsection (2) of this section.

(4) The department does not prorate copayments when consumers use care for only part of a month.

(5) The department waives copayments for eligible consumers who meet one or more of the following:

(a) Age 21 years or younger who attend high school or are working towards completing a high school equivalency certificate;

(b) ((~~Employed by, as confirmed or verified in the department's electronic workforce registry:~~

~~(i) A licensed or certified child care provider;~~

~~(ii) An early childhood education and assistance program;~~

~~(iii) A birth to three early childhood education and assistance program;~~

~~(iv) A head start program;~~

~~(v) An early head start program; or~~

~~(vi) A successor federal program;~~

~~(c)~~)) Eligibility under:

(i) WAC 110-15-0023; or

(ii) WAC 110-15-0024.