

WSR 11-16-005
PROPOSED RULES
SUPERINTENDENT OF
PUBLIC INSTRUCTION

[Filed July 21, 2011, 11:54 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-06-049.

Title of Rule and Other Identifying Information: WAC 392-121-200 through 392-121-299, Finance—General apportionment—Certificated instructional staff.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 Washington Street, Olympia, WA 98504, on September 29, 2011, at 10:00 a.m.

Date of Intended Adoption: September 29, 2011.

Submit Written Comments to: Ross Bunda, P.O. Box 47200, Olympia, WA 98504-7200, e-mail ross.bunda@k12.wa.us, fax (360) 753-4201, by September 28, 2011.

Assistance for Persons with Disabilities: Contact Wanda Griffin by September 28, 2011, TTY (360) 664-3631 or (360) 725-6132.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule revisions expand the criteria for recognizing degrees and credits on the salary schedule for certificated instructional staff, to also include degrees and credits earned from a college or university which is accredited by the distance education and training council (DETC), pursuant to the 2010 rule revisions of the professional educator standards board, per WAC 181-78A-010(7). These revisions also update the definition of basic education and institutional education programs; clarify the definition of a certificated employee's highest degree level, and specifically, nondegreed employees; and provide other "housekeeping" updates.

Statutory Authority for Adoption: RCW 28A.150.290 (1) and 28A.415.024.

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

Name of Proponent: [OSPI], governmental.

Name of Agency Personnel Responsible for Drafting: Ross Bunda, OSPI, (360) 725-6308; Implementation: JoLynn Berge, OSPI, (360) 725-6301; and Enforcement: Shawn Lewis, OSPI, (360) 725-6292.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable - no small business impact.

A cost-benefit analysis is not required under RCW 34.05.328. OSPI is not subject to RCW 34.05.328 per subsection (5)(a)(i). Additionally, this rule is not a significant legislative rule per subsection (5)(c)(iii).

July 20, 2011
 Randy Dorn
 State Superintendent

AMENDATORY SECTION (Amending WSR 01-08-048, filed 3/30/01, effective 4/30/01)

WAC 392-121-210 Definition—Basic education certificated instructional employee. As used in this chapter,

"basic education certificated instructional employee" means a district certificated instructional employee or a contractor certificated instructional employee assigned in whole or in part to the following programs as defined in the accounting manual for public school districts in the state of Washington:

- (1) 01 Basic Education~~((, program 01))~~;
- (2) 02 Basic Education-Alternative Learning Experience;
- (3) 31 Vocational, Basic, State~~((, program 31))~~;
- ~~((3))~~ (4) 34 Middle School Career and Technical Education-State;
- (5) 45 Skills Center, Basic, State~~((, program 45))~~; and
- ~~((4 District-wide))~~ (6) 97 Districtwide Support~~((, program 97))~~.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-217 Definition—Institutional education certificated instructional employee—Full-time equivalent institutional education certificated instructional staff. As used in this chapter, "institutional education certificated instructional employee" and "full-time equivalent institutional education certificated instructional staff" means a certificated instructional employee and full-time equivalent of certificated instructional employees assigned to the following programs:

- (1) 26 Special Education~~((—))~~-Institutions~~((—))~~-State;
- (2) 56 State Institutions, Centers and Homes~~((—))~~-Delinquent;
- (3) 59 Institutions-Juveniles in Adult Jails.

AMENDATORY SECTION (Amending WSR 06-19-045, filed 9/15/06, effective 10/16/06)

WAC 392-121-249 Definition—~~((Regionally))~~ Accredited institution of higher education. As used in this chapter, "~~((regionally))~~ accredited institution of higher education" means ((the same as defined in)) a community college, college, or university which is accredited, or is a candidate for accreditation, by one of the regional accrediting associations, pursuant to WAC 181-78A-010(6), or by the distance education and training council, pursuant to WAC 181-78A-010(7).

AMENDATORY SECTION (Amending WSR 09-15-127, filed 7/20/09, effective 8/20/09)

WAC 392-121-250 Definition—Highest degree level. As used in this chapter, the term "highest degree level" means:

- (1) The highest degree earned by the employee from ~~((a regionally))~~ an accredited institution of higher education, pursuant to WAC 392-121-249; or
- (2) "Nondegreed" for a certificated instructional employee who:
 - (a) Holds no bachelor's or higher level degree; or
 - ~~((3))~~ "Nondegreed" for a certificated instructional employee who) (b) Holds a bachelor's or higher level degree and a valid vocational/career and technical education certifi-

cate(~~(= Provided, That the employee has obtained no other)~~), but:

(i) The bachelor's or higher level degree was not a requirement of any past or present education certificate or permit ((in which a degree is required)), including the vocational/career and technical education certificate, pursuant to chapter 181-77 or 181-79A WAC; and

(ii) Whose highest placement pursuant to WAC 392-121-270 is as a nondegree certificated instructional employee.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-255 Definition—Academic credits. As used in this chapter, "academic credits" means credits determined as follows:

(1) Credits are earned after the awarding or conferring of the employee's first bachelor's degree;

(2) Credits are earned on or before October 1 of the year for which allocations are being calculated pursuant to this chapter;

(3) Credits are earned from ~~((a regionally))~~ an accredited institution of higher education: Provided, That credits, determined eligible pursuant to subsections (1), (2), (4) and (6) of this section, earned from any other accredited community college, college, or university and reported on Form S-275 on or before December 31, 1992, shall continue to be reported;

(4) Credits are transferrable or applicable to a bachelor's or more advanced degree program: Provided, That for educational courses which are the same or identical no more credits for that educational course than are transferrable or applicable to a bachelor's or more advanced degree program at that institution shall be counted;

(5) Credits earned after September 1, 1995, must satisfy the additional requirements of WAC 392-121-262;

(6) Credits are not counted as in-service credits pursuant to WAC 392-121-257 or nondegree credits pursuant to WAC 392-121-259;

(7) The number of credits equals the number of quarter hours, units or semester hours each converted to quarter hours earned pursuant to this section; and

(8) Accumulate credits rounded to one decimal place.

AMENDATORY SECTION (Amending WSR 07-23-070, filed 11/19/07, effective 12/20/07)

WAC 392-121-280 Placement on LEAP salary allocation documents—Documentation required. School districts shall have documentation on file and available for review which substantiates each certificated instructional employee's placement on LEAP salary allocation documents. The minimum requirements are as follows:

(1) Districts shall document the date of awarding or conferring of the highest degree including the date upon which the degree was awarded or conferred as recorded on the diploma or transcript from the registrar of the ~~((regionally))~~ accredited institution of higher education.

(a) If the highest degree is a master's degree, the district shall also document the date of awarding or conferring of the first bachelor's degree.

(b) If the degree was awarded by an institution which does not confer degrees after each term, and all degree requirements were completed at a time other than the date recorded on the diploma or transcript, a written statement from the registrar of the institution verifying a prior completion date shall be adequate documentation.

(c) If the degree program was completed in a country other than the United States documentation must include a written statement of degree equivalency for the appropriate degree from a foreign credentials' evaluation agency approved by the office of superintendent of public instruction.

(2) Districts shall document academic credits by having on file a transcript from the registrar of the ~~((regionally))~~ accredited institution of higher education granting the credits. For purposes of this subsection:

(a) An academic credit is deemed "earned" at the end of the term for which it appears on the transcript: Provided, That a written statement from the registrar of the institution verifying a prior earned date may establish the date a credit was earned;

(b) Washington state community college credits numbered one hundred and above are deemed transferable for purposes of WAC 392-121-255(4) subject to the limitations of that same subsection;

(c) Credits are not deemed "earned" at an institution of higher education which transfers-in credits. Such credits must be documented using a transcript from the initial granting institution and are subject to all the limitations of WAC 392-121-255;

(d) If the credits were completed in a country other than the United States, documentation must include a written statement of credit equivalency for the appropriate credits from a foreign credentials' evaluation agency approved by the office of superintendent of public instruction; and

(e) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(3) Districts shall document in-service credits;

(a) By having on file a document meeting standards established in WAC 181-85-107; and

(b) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(4) Districts shall document nondegree credits.

(a) For vocational/career and technical education educator training credits pursuant to WAC 392-121-259(3) districts shall have on file a document meeting standards established in WAC 181-85-107 and evidence that the training was authorized pursuant to WAC 181-77-003 (2), (9), or (12).

(b) For credits calculated from converted occupational experience pursuant to WAC 392-121-259(3) districts shall have on file documents which provide:

(i) Evidence that the occupational experience meets the requirements of WAC 181-77-003(7);

(ii) Evidence of the individual's actual number of hours of employment for each year including dates of employment; and

(iii) The district calculation of converted credits pursuant to WAC 392-121-259(3).

(c) For credits earned after September 1, 1995, districts shall document that the course content meets one or more of the criteria of WAC 392-121-262(1). At a minimum, such documentation must include a dated signature of the immediate principal, supervisor, or other authorized school district representative and must be available to the employee's future employers.

(5) Districts shall document certificated years of experience as follows:

(a) For certificated years of experience obtained and reported on Report S-275 prior to the 1994-95 school year districts shall have on file documents that provide evidence of employment including dates of employment.

(b) For certificated years of experience reported on Report S-275 for the first time after the 1993-94 school year districts shall have on file:

(i) The total number of hours, or other unit of measure, per year for an employee working full-time with each employer;

(ii) The number of hours, or other unit of measure (worked by the employee), per year and dates of employment with each employer, including paid leave and excluding unpaid leave: Provided, That documentation of hours in excess of one full-time certificated year of experience in any twelve-month period is not required;

(iii) The quotient of the hours, or other unit of measure, determined in (b)(ii) of this subsection divided by the hours, or other unit of measure, in (b)(i) of this subsection rounded to two decimal places for each year;

(iv) The name and address of the employer;

(v) For those counting out-of-district experience pursuant to WAC 392-121-264 (1)(a), evidence whether or not the position required professional education certification pursuant to WAC 392-121-264 (1)(a)(ii);

(vi) For those counting experience pursuant to WAC 392-121-264 (1)(b), a brief description of the previous employment which documents the school district's decision that the position was comparable to one requiring certification in the Washington school districts;

(vii) For those counting management experience pursuant to WAC 392-121-264 (1)(e), evidence that the experience meets the requirements of WAC 181-77-003(6);

(viii) For those counting experience (for educational staff associates) pursuant to WAC 392-121-264 (1)(f), evidence that the previous employment meets the requirements in the applicable subsections of WAC 392-121-264 (1)(f).

(6) Any documentation required by this section may be original or copies of the original: Provided, That each copy is subject to school district acceptance or rejection.

(7) The falsification or deliberate misrepresentation, including omission of a material fact concerning degrees, credits, or experience by an education practitioner as defined in WAC 181-87-035 shall be deemed an act of unprofessional conduct pursuant to WAC 181-87-050. In such an event the provisions of chapters 181-86 and 181-87 WAC shall apply.

AMENDATORY SECTION (Amending WSR 02-22-065, filed 11/1/02, effective 12/2/02)

WAC 392-121-295 Definition—District average certificated instructional staff mix factor. As used in this chapter, "district average certificated instructional staff mix factor" means the number rounded to five decimal places determined as follows:

(1) Assign a staff mix factor to each certificated instructional employee excluding institutional education employees by placing the employee on the appropriate LEAP salary allocation document pursuant to WAC 392-121-270;

(2) Multiply the result by the full-time equivalency for the time each employee meets the definition of full-time equivalent certificated instructional employee pursuant to WAC 392-121-212 excluding only full-time equivalent institutional education staff;

(3) Sum the results obtained in subsection (2) of this section for all certificated instructional employees of the school district excluding institutional education employees; and

(4) Divide the result by the district's total full-time equivalent certificated instructional staff excluding full-time equivalent institutional education staff.

(5) For the purpose of this section certificated instructional staff are those employed by the school district or a contractor of the school district as of October 1 of the school year as reported to the superintendent of public instruction on Report S-275.

WSR 11-16-010

PROPOSED RULES

BOARD OF INDUSTRIAL INSURANCE APPEALS

[Filed July 22, 2011, 11:05 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Chapter 263-12 WAC, Practice and procedure before the board of industrial insurance appeals.

Hearing Location(s): Board of Industrial Insurance Appeals, Main Conference Room, 2430 Chandler Court S.W., Olympia, WA 98502, on September 7, 2011, at 1:30 p.m.

Date of Intended Adoption: September 9, 2011.

Submit Written Comments to: J. Scott Timmons, P.O. Box 42401, Olympia, WA 98504-2401, e-mail scott.timmons@bii.wa.gov, fax (360) 586-5611, by August 31, 2011.

Assistance for Persons with Disabilities: Contact Donalda Ball by August 24, 2011, (360) 753-6823 ext. 183.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To revise the board's rules of practice and procedure by amending WAC 263-12-050 and 263-12-059, as follows:

WAC 263-12-050, changes are necessary to meet current business needs and to meet the legislative mandate for enacting rules to implement ESSB 5068, 2011 legislative session, effective July 22, 2011. The proposed amendments add language setting forth the procedure for filing a motion to stay abatement in WISHA appeals.

WAC 263-12-059, changes are necessary to meet current business needs and to meet the legislative mandate for enacting rules to implement ESSB 5068, 2011 legislative session, effective July 22, 2011. The proposed amendments add language setting forth the procedure for providing notice in WISHA appeals involving a motion to stay abatement.

Reasons Supporting Proposal: Rules are being modified to meet current business needs and to meet the legislative mandate for enacting rules to implement ESSB 5068, 2011 legislative session, effective July 22, 2011.

Statutory Authority for Adoption: RCW 51.52.020.

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

Name of Proponent: Board of industrial insurance appeals, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: J. Scott Timmons, 2430 Chandler Court S.W., Olympia, WA 98502, (360) 753-6823.

No small business economic impact statement has been prepared under chapter 19.85 RCW. There is no impact on financial issues in the amendments being made. The amendments are to clarify procedural rules relating to administrative hearings.

A cost-benefit analysis is not required under RCW 34.05.328. These rule changes are not legislative; they relate to procedures related to agency hearings.

July 22, 2010 [2011]

J. Scott Timmons

Executive Secretary

AMENDATORY SECTION (Amending WSR 04-16-009, filed 7/22/04, effective 8/22/04)

WAC 263-12-050 Contents of notice of appeal. The board's jurisdiction shall be invoked by filing a written notice of appeal.

(1) **General rule.** In all appeals, the notice of appeal should contain where applicable:

(a) The name and address of the appealing party and of the party's representative, if any;

(b) A statement identifying the date and content of the department order, decision or award being appealed. This requirement may be satisfied by attaching a copy of the order, decision or award;

(c) The reason why the appealing party considers such order, decision or award to be unjust or unlawful;

(d) A statement of facts in full detail in support of each stated reason;

(e) The specific nature and extent of the relief sought;

(f) The place, most convenient to the appealing party and that party's witnesses, where board proceedings are requested to be held;

(g) A statement that the person signing the notice of appeal has read it and that to the best of his or her knowledge the contents are true;

(h) The signature of the appealing party or the party's representative.

(2) **Industrial insurance appeals.** In appeals arising under the Industrial Insurance Act (Title 51 RCW), the notice of appeal should also contain:

(a) The name and address of the injured worker;

(b) The name and address of the worker's employer at the time the injury occurred;

(c) In the case of occupational disease, the name and address of all employers in whose employment the worker was allegedly exposed to conditions that gave rise to the occupational disease;

(d) The nature of the injury or occupational disease;

(e) The time when and the place where the injury occurred or the occupational disease arose.

(3) **Crime Victims' Compensation Act.** In appeals arising under the Crime Victims' Compensation Act (chapter 7.68 RCW), the notice of appeal should also contain:

(a) The time when and the place where the criminal act occurred;

(b) The name and address of the alleged perpetrator of the crime; and

(c) The nature of the injury.

(4) **Assessment appeals.** In appeals from a notice of assessment arising under chapter 51.48 RCW or in cases arising from an assessment under the Worker and Community Right to Know Act (chapter 49.70 RCW), the notice of appeal should also contain:

(a) A statement setting forth with particularity the reason for the appeal; and

(b) The amounts, if any, that the party admits are due.

(5) **LEOFF and public employee death benefit appeals.** In appeals arising under the special death benefit provision of the Law Enforcement Officers' and Firefighters' Retirement System (chapter 41.26 RCW), the notice of appeal should also contain:

(a) The time when and the place where the death occurred; and

(b) The name and address of the decedent's employer at the time the injury occurred.

(6) **Asbestos certification appeals.** In appeals arising under chapter 49.26 RCW concerning the denial, suspension or revocation of certificates involving asbestos projects, the notice of appeal should also contain:

(a) A statement identifying the certification decision appealed from;

(b) The reason why the appealing party considers such certification decision to be incorrect.

(7) **WISHA appeals.** In appeals arising under the Washington Industrial Safety and Health Act (chapter 49.17 RCW), where the employer has moved for a stay of abatement pursuant to RCW 49.17.140, the employer shall, within seven calendar days of the date of the board's notice of filing of appeal, file with the board, the department, and any

affected employees all documents supporting the request for a stay of the abatement of the violation(s). The supporting documents shall conform to rule 56(e) of the Superior Court Civil Rules of the State of Washington and be limited to evidence addressing: (1) whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and (2) whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

If an employer fails to file the supporting documents within seven calendar days of the date of the board's notice of filing of appeal, the request for a stay of the abatement of the violation(s) will be denied. Within fourteen calendar days of the date of the board's notice of filing of appeal, the department of labor and industries and any affected employees shall file all supporting documents opposing the motion to stay the abatement. The supporting documents shall be limited to evidence addressing: (1) whether there is good cause to stay the abatement of the violation(s) set forth in the citation and notice or corrective notice of redetermination; and (2) whether it is more likely than not that a stay of the abatement of the violation(s) would result in death or serious physical harm to a worker.

In appeals arising under the Washington Industrial Safety and Health Act (chapter 49.17 RCW), the appeal should also contain:

- (a) A statement identifying the citation, penalty assessment, or notice of abatement date appealed from;
- (b) The name and address of the representative of any labor union representing any employee who was or who may be affected by the alleged safety violation(s);
- (c) A statement certifying compliance with WAC 263-12-059.

(i) In appeals where the employer has made or renewed its request for a stay of the abatement of the violation(s) alleged in the citation and notice or corrective notice of redetermination, if the employer fails to comply with WAC 263-12-059, the motion for a stay of the abatement of the violation(s) will be denied.

(8) **Other safety appeals.** In appeals arising under chapter 49.22 RCW concerning alleged violations of safety procedures in late night retail establishments, chapter 70.74 RCW concerning alleged violations of the Washington State Explosives Act, or chapter 88.04 RCW concerning alleged violations of the Charter Boat Safety Act, the notice of appeal should also contain:

- (a) A statement identifying the citation, penalty assessment, or notice of abatement date appealed from;
- (b) The name and address of the representative of any labor union representing any employee who was or who may be affected by the alleged safety violation or violations;
- (c) If applicable, a statement certifying compliance with WAC 263-12-059.

AMENDATORY SECTION (Amending WSR 03-02-038, filed 12/24/02, effective 1/24/03)

WAC 263-12-059 Appeals arising under the Washington Industrial Safety and Health Act—Notice to inter-

ested employees. In the case of any appeal by an employer concerning an alleged violation of the Washington Industrial Safety and Health Act, the employer shall give notice of such appeal to its employees by either: (1) Providing copies of the appeal to each employee member of the employer's safety committee; or (2) by posting a copy of the appeal in a conspicuous place at the work site at which the alleged violation occurred. Any posting shall remain during the pendency of the appeal.

The employer shall also provide notice advising interested employees that an appeal has been filed with the board and that any employee or group of employees who wish to participate in the appeal may do so by contacting the board. Such notice shall include the address of the board.

In appeals where the employer has moved for a stay of the abatement of the violation(s) alleged in the citation and notice or corrective notice of redetermination, the employer shall include in the notice of appeal the names and addresses of any unions representing workers for the employer. If the employer fails to provide the names and addresses of union representatives at the time of filing of the notice of appeal, the motion to stay the abatement of the violation(s) will be denied. Additionally, the employer shall include with the notice of appeal a certification that the employer has posted the notice of appeal and the motion to stay the abatement of the violation(s) in a conspicuous place at the work site at which the alleged violation(s) occurred. If the employer fails to file a certification of the posting of the notice of appeal and the motion to stay the abatement of the violation(s), the motion to stay the abatement of the violation(s) will be denied. Any posting shall remain during the pendency of the appeal.

The employer shall file with the board a certificate of proof of compliance with this section within fourteen days of receipt of the board's notice acknowledging receipt of the appeal. If notice as required by this section is not possible the employer shall advise the board or its designee of the reasons why notice cannot be accomplished. If the board, or its designee, accepts the impossibility of the required notice it will prescribe the terms and conditions of a substitute notice procedure reasonably calculated to give notice to affected employees.

WSR 11-16-014

WITHDRAWAL OF PROPOSED RULES

DEPARTMENT OF FISH AND WILDLIFE

[Filed July 22, 2011, 3:32 p.m.]

The Washington department of fish and wildlife is withdrawing WAC 232-12-424 filed as part of WSR 11-03-089 on January 19, 2011. WAC 232-12-424 was later changed to a different (new) number, WAC 232-13-160, and was included in the CR-103 filed as WSR 11-11-013.

Lori Preuss
Rules Coordinator

WSR 11-16-022
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed July 26, 2011, 8:31 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 08-19-073.

Title of Rule and Other Identifying Information: Chapter 296-155 WAC, Safety standards for construction work, this proposal is to address the requirements that employers must follow with regard to inspection, maintenance and operation of cranes used in the construction industry. This phase will also include updates to our current rigging and personnel lifting requirements. RCW 49.17.400 through 49.17.440 requires the department to establish by rule a crane certification program for cranes used in the construction industry and to establish requirements that must be met to be considered a qualified crane operator. This proposal was developed with the assistance of a stakeholder group from the industry. In addition, the Occupational Safety and Health Administration (OSHA) has adopted their final rule and this proposal also includes requirements OSHA has in their rule in order for the division of occupational safety and health (DOSH) to be at-least-as-effective-as the federal rule. References are also being updated throughout other DOSH standards.

Hearing Location(s): DoubleTree by Hilton, Spokane City Center, 322 North Spokane Falls Court, Spokane, WA 99201, on October 5, 2011, at 9:00 a.m.; at the DoubleTree by Hilton, Seattle Airport, 18740 International Boulevard, Seattle, WA 98188, on October 6, 2011, at 1:00 p.m.; and at the Department of Labor and Industries, Tumwater, S117 and S118, 7273 Linderson Way S.W., Tumwater, WA 98501, on October 11, 2011, at 9:00 a.m.

Date of Intended Adoption: November 22, 2011.

Submit Written Comments to: Cindy Ireland, P.O. Box 44620, Olympia, WA 98504, e-mail mooc235@lni.wa.gov, fax (360) 902-5619, by 5 p.m. on October 14, 2011.

Assistance for Persons with Disabilities: Contact Beverly Clark by September 23, 2011, (360) 902-5516 or clah235@lni.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal is to address the requirements that employers must follow with regard to inspection, maintenance and operation of cranes used in the construction industry. This phase will also include updates to our current rigging and personnel lifting requirements. RCW 49.17.400 through 49.17.440 requires the department to establish by rule a crane certification program for cranes used in the construction industry and to establish requirements that must be met to be considered a qualified crane operator. In addition, OSHA has adopted their final rule and this proposal also includes requirements OSHA has in their rule in order for DOSH to be at-least-as-effective-as the federal rule. See Reviser's note below.

Reasons Supporting Proposal: This proposal was developed with the assistance of a stakeholder group from the industry representing business and labor.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.440, and 49.17.060.

Statute Being Implemented: Chapter 49.17 RCW, RCW 49.17.400, 49.17.410, 49.17.420, 49.17.430, and 49.17.440.

Rule is necessary because of federal law, 29 C.F.R. 1926, Subpart CC.

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting: Tracy Spencer, Tumwater, Washington, (360) 902-5530; Implementation and Enforcement: Michael Silverstein, Tumwater, Washington, (360) 902-4805.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

See Reviser's note below.

A copy of the statement may be obtained by contacting Alex (Yuanlong) Ge, P.O. Box 44320, Olympia, WA 98504, phone (360) 902-5139, fax (360) 902-4249, e-mail geay235@lni.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Alex (Yuanlong) Ge, P.O. Box 44320, Olympia, WA 98504, phone (360) 902-5139, fax (360) 902-4249, e-mail geay235@lni.wa.gov.

July 26, 2011

Judy Schurke

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 11-17 issue of the Register.

WSR 11-16-040
PROPOSED RULES
DEPARTMENT OF HEALTH

(Board of Pharmacy)

[Filed July 27, 2011, 2:52 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-12-005.

Title of Rule and Other Identifying Information: WAC 246-887-100, adding synthetic cannabinoids (marijuana) and substituted cathinones to the Schedule I controlled substance list.

Hearing Location(s): Washington State Department of Health, Creekside Three at Centerpoint, Room 1, 20435 72nd Avenue South, Suite 200, Kent, WA 98032, on September 8, 2011, at 3:30 p.m.

Date of Intended Adoption: September 6, 2011.

Submit Written Comments to: Kitty Slater-Einert, P.O. Box 47863, Olympia, WA 98504-7863, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by September 1, 2011.

Assistance for Persons with Disabilities: Contact Kitty Slater-Einert by September 1, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule

adds synthetic cannabinoids and substituted cathinones to Schedule I of the Controlled Substances Act. Synthetic cannabinoids are sold as incense and are most commonly known as Spice. Substituted cathinones are sold as bath salts and are known by names like Ivory Wave and Zoom. The rule will give law enforcement clear authority to prosecute for the sale, possession, manufacture and delivery of these substances.

Reasons Supporting Proposal: The board of pharmacy has identified these substances as having a high potential for abuse with no medical use. Adding these substances to Schedule I will make them illegal and protect the public from potential health risks and harm that can be caused by their use.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 69.50.201 and 69.50.203.

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

Name of Proponent: Washington state board of pharmacy, governmental.

Name of Agency Personnel Responsible for Drafting: Kitty A. Slater, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4861; **Implementation and Enforcement:** Susan T. Boyer, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-4835.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Scope of the Proposed Rule Package: The proposed rule will permanently add synthetic cannabinoids (marijuana) and substituted cathinones (including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation) to Schedule I of the Uniform Controlled Substances Act (UCSA). The proposed rule will make it illegal to sell, possess, manufacture or deliver these substances and will give law enforcement clear authority to prosecute these crimes.

Background and History: The board of pharmacy (board) filed an emergency rule on April 15, 2011, to immediately make synthetic cannabinoids (marijuana) and substituted cathinones (including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation) illegal by placing them into Schedule I. The emergency rule followed a previous emergency rule that had made only synthetic cannabinoids illegal. The board is proposing to permanently add both synthetic cannabinoids (marijuana) and substituted cathinones (including their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation) into the Schedule I list because it has determined these substances have been found to be unsafe and have a high potential for abuse, have no current accepted medical use for treatment in the United States, and potentially serious health and safety risks have been linked to their use.

Synthetic Cannabinoids: Synthetic cannabinoids are psychoactive substances which, when consumed, mimic the

affects of tetrahydrocannabinol (THC), the active ingredient in marijuana. Products containing cannabinoids present a clear and imminent danger to the public. These products also known as Spice, K2 and other names, produce a "marijuana-like" high making them appealing to teens and young adults. Products containing these substances have been marketed as safe, as legal herbal products and are sold as incense to hide their intended purpose. They are available through retail outlets, tobacco/smoke shops, paraphernalia/head shops and over the internet. The federal Drug Administration (DEA) does not approve these substances for human consumption and does not oversee their manufacturing.

Since 2009, the DEA has received an increasing number of reports from poison centers, hospitals and law enforcement regarding these substances. Locally, the Washington State Poison Center (WSPC) reported eight cases of Spice ingestion in the last half of 2009 and sixty-eight cases of Spice ingestion reported in 2010.

On March 1, 2011, the DEA temporarily banned five types of synthetic cannabinoids, placing these into Schedule I of the federal Controlled Substances Act, under the temporary scheduling provision of Title 21 of the United States Code. In addition, several countries, as well as fifteen states, have already taken action to make one or more of these substances illegal.

Substituted Cathinones: Products containing substituted cathinones also present a clear and imminent danger to the public. Marketed as "bath salts" and "pond cleaner" and known by a variety of names, such as Ivory, Purple Wave, Red Dove, Blue Silk, and Zoom, these products are sold legally as synthetic powder both over the internet and in drug paraphernalia stores. Doctors and clinicians at United States poison centers have indicated that ingesting or snorting "bath salts" cause chest pains, increased blood pressure, increased heart rate, agitation, hallucinations, extreme paranoia, and delusions. These effects are similar to the effects of methamphetamine, ecstasy, and cocaine. There have also been reports of self-mutilations, suicides, and homicides linked to the drug.¹

Cathinone and methcathinone have been Schedule I controlled substances since the early 1990's. The substituted cathinones listed in the proposed rule are analogs of cathinone and methcathinone, with minor structural derivative that may only be different by a single element. The Federal Analog Act does not apply to these analogs because they are marketed as "incense" and "bath salts" that are labeled as "not for human consumption."

Data from both national poison centers and the WSPC show increasing ingestion exposures related to "bath salts." Data from 2010 through March 2011 shows that national poison centers are reporting a three-fold increase in cases reported.²

Conclusion: Synthetic cannabinoids are psychoactive substances which, when consumed, mimic the affects of THC, the active ingredient in marijuana. Products containing cannabinoids present a clear and imminent danger to the public.

Substituted cathinones also present a clear and imminent danger to the public. Products that contain substituted cathinones, when consumed, can cause chest pains, increased

blood pressure, increased heart rate, agitation, hallucinations, extreme paranoia, and delusions. These effects are similar to the effects of methamphetamine, ecstasy, and cocaine. There have also been reports of self-mutilations, suicides, and homicides linked to the drug.

All of these substances have high potential for abuse; have no currently accepted medical use in treatment in the United States; and they lack accepted safety for use in treatment under medical supervision. These substances and products containing these substances are labeled as "not for human consumption" and are unsafe.

The proposed rule may affect businesses that sell, possess, manufacture or deliver these substances. This may include retail outlets, tobacco/smoke shops, and paraphernalia/head shops. Adam Eiding, owner of Capitol Hemp, a store in Washington D.C., said that "in the 18 months he has been stocking Spice, the demand has doubled every month and it is now making up a third of his revenue."¹³ However, it is important to note that these substances have high potential for abuse, lack accepted safety for use, and are clearly dangerous to the public.

The board has discussed the proposed rules, and the uses and effects of the substances at open public meetings, in which the public, including small business owners were given the opportunity to provide input. By making it illegal to sell, possess, manufacture or deliver these substances some businesses may lose revenue from future sale of these substances or products containing these substances. Considering the severity of the health hazards of these substances such as self-mutilations, suicides, and homicides, the department and the board have determined that:

- Estimating the revenue losses for sellers/suppliers does not serve any positive social purpose.
- There are no viable methods to reduce the cost or loss of revenue without impacting the health and safety of the people in Washington state.
- Estimating the number of jobs that will be lost as the result of compliance with the proposed rule does not serve any positive social purpose.

The loss of future revenue to businesses from selling socially hazardous products are clearly offset with the benefit of reducing injury, hospitalizations and death associated with the use of these substances. Thus, the total probable benefits of the proposed rule outweigh the total probable costs or loss of revenue.

¹ Anon. Methylendiozypyrovalerone. Drug Enforcement [Enforcement] Administration [Administration]. December 2010.

² National Institute for Drug Abuse - <http://www.drugabuse.gov/about/welcome/MessageBathSalts211.html>.

³ <http://blogcritics.org/politics/article/synthetic-marijuana-sales-soar-as-demand1/#ixzz1QbiiFAVs>.

A copy of the statement may be obtained by contacting Kitty Slater, 310 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4861, fax (360) 236-4901, e-mail kitty.slater@doh.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kitty Slater, 310 Israel Road S.E., Olympia, WA

98501, phone (360) 236-4861, fax (360) 236-4901, e-mail kitty.slater@doh.wa.gov.

July 27, 2011
Susan Teil Boyer
Executive Director
Board of Pharmacy

AMENDATORY SECTION (Amending WSR 01-03-108, filed 1/22/01, effective 1/22/01)

WAC 246-887-100 Schedule I. The board finds that the following substances have high potential for abuse and have no accepted medical use in treatment in the United States or that they lack accepted safety for use in treatment under medical supervision. The board, therefore, places each of the following substances in Schedule I.

(a) The controlled substances listed in this section, by whatever official name, common or usual name, chemical name, or brand name, are included in Schedule I.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of these isomers, esters, ethers, and salts is possible within the specific chemical designation:

- (1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide);
- (2) Acetylmethadol;
- (3) Allylprodine;
- (4) Alphacetylmethadol; (~~(((except for levo-alpha-acetylmethadol - also known as levo-alpha-acetylmethadol, levo-methadyl acetate or LAAM);))~~) (except for levo-alpha-cetylmethadol - Also known as levo-alpha-acetylmethadol, levo-methadyl acetate or LAAM);
- (5) Alphameprodine;
- (6) Alphamethadol;
- (7) Alpha-methylfentanyl (N-[1-alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (8) Benzethidine;
- (9) Betacetylmethadol;
- (10) Betameprodine;
- (11) Betamethadol;
- (12) Betaprodine;
- (13) Clonitazene;
- (14) Dextromoramide;
- (15) Diampromide;
- (16) Diethylthiambutene;
- (17) Difenoxin;
- (18) Dimenoxadol;
- (19) Dimepheptanol;
- (20) Dimethylthiambutene;
- (21) Dioxaphetyl butyrate;
- (22) Dipipanone;
- (23) Ethylmethylthiambutene;
- (24) Etonitazene;
- (25) Etoxidine;
- (26) Furethidine;

- (27) Gamma-hydroxybutyric Acid (other names include: GHB);
- (28) Hydroxypethidine;
- (29) Ketobemidone;
- (30) Levomoramide;
- (31) Levophenacymorphan;
- (32) 3-Methylfentanyl (N-[3-Methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (33) Morpheridine;
- (34) MPPP (1-Methyl-4-phenyl-4-propionoxypiperidine);
- (35) Noracymethadol;
- (36) Norlevorphanol;
- (37) Normethadone;
- (38) Norpipanone;
- (39) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine);
- (40) Phenadoxone;
- (41) Phenampromide;
- (42) Phenomorphan;
- (43) Phenoperidine;
- (44) Piritramide;
- (45) Proheptazine;
- (46) Properidine;
- (47) Propiram;
- (48) Racemoramide;
- (49) Tilidine;
- (50) Trimeperidine.

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, their salts, isomers, and salts of isomers, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (1) Acetorphine;
- (2) Acetyldihydrocodeine;
- (3) Benzylmorphine;
- (4) Codeine methylbromide;
- (5) Codeine-N-Oxide;
- (6) Cyprenorphine;
- (7) Desomorphine;
- (8) Dihydromorphine;
- (9) Drotebanol;
- (10) Etorphine (except hydrochloride salt);
- (11) Heroin;
- (12) Hydromorphanol;
- (13) Methyl-desorphine;
- (14) Methyl-dihydromorphine;
- (15) Morphine methylbromide;
- (16) Morphine methylsulfonate;
- (17) Morphine-N-Oxide;
- (18) Myrophine;
- (19) Nicocodeine;
- (20) Nicomorphan;
- (21) Normorphine;
- (22) Pholcodine;
- (23) Thebacon.

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quan-

tity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of paragraph (d) of this section, only, the term "isomer" includes the optical, position, and geometric isomers):

- (1) 4-bromo-2,5-dimethoxy-amphetamine: Some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA;
- (2) 2,5-dimethoxyamphetamine: Some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA;
- (3) 2,5-dimethoxy-4-ethylamphetamine (DOET)
- (4) 4-methoxyamphetamine: Some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine, PMA;
- (5) 5-methoxy-3,4-methylenedioxy-amphetamine;
- (6) 4-methyl-2,5-dimethoxy-amphetamine: Some trade and other names: 4-methyl-2,5-dimethoxy-a-methylphenethylamine; "DOM"; and "STP";
- (7) 3,4-methylenedioxy amphetamine;
- (8) 3,4-methylenedioxymethamphetamine (MDMA);
- (9) 3,4,5-trimethoxy amphetamine;
- (10) Bufotenine: Some trade or other names: 3-(beta-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine;
- (11) Diethyltryptamine: Some trade or other names: N,N-Diethyltryptamine; DET;
- (12) Dimethyltryptamine: Some trade or other names: DMT;
- (13) Ibogaine: Some trade or other names: 7-Ethyl-6,6 beta,7,8,9,10,12,13,-octahydro-2-methoxy-6,9methano-5H-pyrido (1',2':1,2) azepino (5,4-b) indole; Tabernanthe iboga;
- (14) Lysergic acid diethylamide;
- (15) Marihuana;
- (16) Mescaline;
- (17) Parahexyl-7374; some trade or other names: 3-Hexyl-1-hydroxy-7, 8, 9, 10-tetrahydro-6, 6, 9-trimethyl-6H-dibenzo[b,d]pyran; synhexyl;
- (18) Peyote, meaning all parts of the plant presently classified botanically as *Lophophora Williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds, or extracts; (interprets 21 USC § 812 (c), Schedule I (c)(12))
- (19) N-ethyl-3-piperidyl benzilate;
- (20) N-methyl-3-piperidyl benzilate;
- (21) Psilocybin;
- (22) Psilocyn;
- (23) Any of the following synthetic cannabimimetics, their salts, isomers, and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (i) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not fur-

ther substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, and AM-2201:

(ii) Naphthylmethylindeles: Any compound containing a 1H-indol-3-yl-(1-naphthyl) methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-175, JWH-184, and JWH-199:

(iii) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl) pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-307:

(iv) Naphthylmethylindenes: Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent including, but not limited to, JWH-176:

(v) Phenylacetylindeles: Any compound containing a 3-phenylacetylindele structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, JWH-203, JWH-250, JWH-251, and RCS-8:

(vi) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl) phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not substituted in the cyclohexyl ring to any extent including, but not limited to, Cannabicyclohexanol, and CP 47,497:

(vii) Benzoylindoles: Any compound containing a 3-(benzoyl) indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl) methyl, or 2-(4-morpholinyl) ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent including, but not limited to, AM-694, Pravadoline (WIN 48,098), RCS-4, and AM-1241:

(viii) 2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl) pyrrolo [1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethane: Some trade or other names: WIN 55,212-2.

(24) Tetrahydrocannabinols, synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp., and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

(i) Delta 1 - cis - or transtetrahydrocannabinol, and their optical isomers, excluding tetrahydrocannabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the United States Food and Drug Administration;

(ii) Delta 6 - cis - or transtetrahydrocannabinol, and their optical isomers;

(iii) Delta 3,4 - cis - or transtetrahydrocannabinol, and its optical isomers;

(iv) (6aR,10aR)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10, 10a-tetrahydrobenzo[c]chromen-1-ol: Some trade or other names: HU-210.

(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)

((24)) (25) Ethylamine analog of phencyclidine: Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE;

((25)) (26) Pyrrolidine analog of phencyclidine: Some trade or other names: 1-(1-phenylcyclohexyl)pyrrolidine; PCPy; PHP;

((26)) (27) Thiophene analog of phencyclidine: Some trade or other names: 1-(1-[2-thenyl]-cyclohexyl)-piperidine; 2-thienylanalog of phencyclidine; TPCP; TCP;

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(i) Mecloqualone;

(ii) Methaqualone.

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

((28)) (1) Cathinone (also known as 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone and norephedrone);

((29)) (2) 4-Fluoromethcathinone (Flephedrone);

(3) Beta-keto-N-Methylbenzodioxolylpropylamine (bk-MBDB, Butylone);

(4) 3,4-Methylenedioxymethcathinone (Methylone);

(5) 3,4-Methylenedioxypropylvalerone (MDPV);

(6) 4-Methylmethcathinone (Mephedrone);

(7) Fenethylamine;

((30)) (8) N-ethylamphetamine;

((31)) (9) 4-methylaminorex;

((32)) (10) N,N-dimethylamphetamine.

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

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

WSR 11-16-055
PROPOSED RULES
BELLEVUE COLLEGE

[Filed July 28, 2011, 4:07 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-07-103.

Title of Rule and Other Identifying Information: Parking and traffic rules, Bellevue College.

Hearing Location(s): Library Media Center, D106, Bellevue College, 3000 Landerholm Circle S.E., Bellevue, WA 98007, on September 8, 2011, at 2:00-3:00 p.m.

Date of Intended Adoption: October 12, 2011.

Submit Written Comments to: Deric Gruen, 3000 Landerholm Circle S.E., K100, Bellevue, WA 98007, e-mail deric.gruen@bellevuecollege.edu, fax (425) 564-2261, by September 8, 2011.

Assistance for Persons with Disabilities: Contact Sallee Hibbard by September 1, 2011, TTY (425) 564-4184 or (425) 564-2209.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal will remove the hours of enforcement for parking regulations and refer users to the college policy and procedures as posted on the college's public web site for procedural information. It also requires removes [removing] the exemption for visitors from permit requirements, creates a new section for disability parking and includes language to allow the college to use outside resources to collect on unpaid parking citations. The anticipated effect is that individuals parking on campus will have greater motivation to abide by publicized parking regulations.

Reasons Supporting Proposal: Bellevue College plans to implement a parking fee to support the cost of maintaining parking facilities and to help encourage the use of alternative modes of transportation as part of the commute trip reduction plan. Having the ability to use an outside resource to collect unpaid parking citations will provide greater motivation for users to abide by posted regulations, including the purchase of an appropriate parking permit.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Name of Agency Personnel Responsible for Drafting: Deric Gruen, Bellevue College, K100, (425) 564-2720; Implementation: Rachel Solemsaas, Bellevue College, B202, (425) 564-2446; and Enforcement: Kennedy Conder, Bellevue College, K100, (425) 564-2250.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This policy does not impact small business.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Deric Gruen, Bellevue College, K100, 3000 Lan-

derholm Circle S.E., Bellevue, WA 98007, phone (425) 564-2720, fax (425) 564-2261, e-mail deric.gruen@bellevuecollege.edu.

July 27, 2011

Lucinda A. Taylor
Executive Assistant
to the President

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-310 Objectives of parking and traffic rules and regulations. The objectives of these regulations are:

- (1) To protect and control pedestrian and vehicular traffic on property owned, operated, or maintained by the college district.
- (2) To ~~((assure))~~ ensure access at all times for emergency equipment.
- (3) To minimize traffic disturbances.
- (4) To facilitate the operation of the college by ~~((assuring))~~ providing adequate access to vehicles.
- (5) To allocate limited parking space for the most efficient use.
- (6) To protect state property.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-315 Definitions. For the purpose of this chapter, the following terms and definitions shall apply:

- (1) Board: The board of trustees of Community College District VIII, state of Washington.
- (2) Campus: Any ~~((or))~~ and all real property owned, operated, controlled, or maintained by Community College District VIII, state of Washington.
- (3) Car pool: ~~((Any group of three or more))~~ Faculty, staff, or students who commute to the college in the same vehicle under Bellevue College Policy and Procedure 6200.
- (4) College: Bellevue ~~((Community))~~ College, ((or)) established within Community College District VIII, state of Washington, includes any ((additional community college hereafter established within Community College District VIII, state of Washington, and collectively,)) and all branch or other locations established by Bellevue College, and includes those responsible for its control and operations.
- (5) Faculty members: Any employee of Community College District VIII who is employed ~~((on a))~~ full-time or part-time ((basis)) as a teacher, counselor, librarian or other position for which the training, experience and responsibilities are comparable as determined by the appointing authority, including administrative appointment.
- (6) Foot propelled device: Wheeled devices including but not limited to skateboards, roller skates, roller blades, etc. designed or used for recreation and/or transportation purposes.
- (7) Public safety officers: Employees of the college accountable to the vice-president of administrative services and responsible for campus security, public safety, and parking and traffic control.

(8) Staff: The administrative and classified members employed by the college.

(9) Student: Any person enrolled in ~~((the))~~ classes at Bellevue College.

(10) Vehicle: An automobile, truck, motorcycle, scooter or bicycle, both engine-powered and ~~((nonengine-powered))~~ not.

(11) Visitor(s): Person(s) who come on to campus as guest(s), or who lawfully visit the campus for purposes in keeping with the college's role as an institution of higher learning in the state of Washington and are neither employees nor registered students of the institution.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-320 Applicable parking and traffic rules and regulations. The applicable parking and traffic rules and regulations ~~((upon the campus are))~~ for Bellevue College include:

(1) The motor vehicle and other traffic laws of the state of Washington. Title 46 RCW.

(2) The traffic code of the city of Bellevue.

(3) The Bellevue ~~((Community))~~ College parking and traffic regulations. In case of conflict among the provisions of the motor vehicle and other traffic laws of the state of Washington or the traffic code of the city of Bellevue and Bellevue ~~((Community))~~ College parking and regulations, the provisions of the state of Washington motor vehicle laws shall govern.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-330 Enforcement of parking and traffic rules and regulations. The vice-president of administrative services is responsible for parking and traffic management on campus. Duly appointed public safety officers of Bellevue ~~((Community))~~ College are delegated the authority to enforce all college parking and traffic rules and regulations.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-350 Permits required for vehicles on campus. No person shall park, or leave any vehicle, whether attended or unattended, upon the campus of Bellevue ~~((Community))~~ College ~~((between 6:00 a.m. and 3:00 p.m.))~~ without properly displaying a valid Bellevue College permit ((issued by the public safety or cashing offices)), a disability placard or license plate, or a government agency license plate. Drivers needing to leave vehicles on campus overnight or for an extended period of time must display a special permit under Bellevue College Policy and Procedure 6200.

(1) A valid permit ~~((is))~~ includes:

(a) A current student or faculty/staff permit ~~((displayed in accordance with WAC 132H-116-356)).~~

(b) A temporary permit ~~((authorized by public safety and displayed in accordance with instructions)).~~

(2) The college reserves the right to ~~((refuse to issue))~~ deny a parking permit.

~~((3) Vehicles displaying government agency license plates do not need BCC parking permits.))~~

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-351 Authorization for issuance of permits. ~~((4))~~ The vice-president of administrative services or his or her designee is authorized to issue all parking permits under Bellevue College Policy and Procedure 6200.

~~((Special permits are valid only in the areas specified, on the date(s) specified on the permits, and when displayed on the dashboard of the vehicle. Vehicles operated by students, faculty and staff members must display a regular student or faculty/staff permit in addition to the special permit.~~

(1) Car pool permits may be issued to faculty, staff and students. All members of the carpool must appear in person when applying for the permit. One transferable permit will be issued by the public safety office for each car pool. This permit is transferable only among the registered members of the car pool. This permit must be displayed in accordance with the instructions provided with the permit. Each carpool vehicle must also display a regular student or faculty/staff permit.

(2) Handicapped parking permits. As of Fall 1995, BCC no longer issues special parking permits for disabled students, faculty, or staff. Only vehicles displaying a valid state of Washington placard may park in spaces designated for the disabled.

~~(3) Visitor permits. One day parking permits may be requested from public safety and given to visitors attending conferences, interviews, etc. These permits are valid in faculty/staff lots except E-1.~~

(4) Other special permits. Public safety may issue special permits to faculty members, staff, students, parents of child care or headstart participants, volunteers working in BCC programs, or vendors if issuing such permits enhances the operation of the college.

(5) Temporary permits. Drivers needing to leave vehicles on campus overnight or for extended periods of time (e.g., because the vehicle is inoperable, or because the driver will participate in a field trip) may request temporary parking permits from public safety. Drivers may also request temporary permits if they will be using a borrowed or rented vehicle.

(6) Special events. The public safety office will assist college divisions which sponsor functions such as conferences, seminars, dinners, and similar events, in arranging reserved parking and direction signs as appropriate. Requests for such assistance must be received in public safety at least forty-eight hours in advance.)

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-352 Permit revocations. Parking permits are the property of the college, and may be recalled by the vice-president of administrative services or his or her designee ~~((for any of the following reasons:~~

(1) When the purpose for which the permit was issued no longer exists.

(2) When a permit is used by an unauthorized individual.

(3) Falsification on a parking permit application.

(4) Repeated violation of parking and traffic regulations.

(5) Counterfeiting or altering of permits.

(6) Failure to comply with a final decision of the citation review committee, or institutional hearing officer.

Parking permit revocations may be appealed to the citation review committee and to the institutional hearing officer) under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

WAC 132H-116-353 Right to appeal revocation.

Parking permit revocations under this chapter may be appealed (~~pursuant to the procedures in WAC 132H-120-062~~) under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-354 Transfer of permits. (1) With the exception of carpool permits, parking permits are not transferable. If a vehicle is sold or traded, a replacement permit will be issued to the permit holder (~~if he/she:~~

(a) Records invalid permit number;

(b) Removes invalid permit; and

(c) Brings invalid permit or remnant thereof to public safety. Public safety will then issue a replacement permit and [the] permit holder will then be registered under the new number)) upon notification.

(2) Permits may be reissued as authorized by the director of public safety.

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

WAC 132H-116-355 Responsibility (~~of person to whom permit issued~~) for vehicles. The person to whom a permit is issued is responsible for the vehicle upon which the permit is affixed. He or she shall be held responsible for all violations of these rules and regulations charged to that vehicle. However, the operator of a vehicle will not be relieved of responsibility for violating any rule or regulation of this chapter simply because he or she is not also the holder of the permit.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-356 Display of permits. (~~(1) Student or faculty/staff permits. The vehicle permit issued by the college shall be affixed to the inside of the rear window on the lower left corner. If the vehicle is a convertible or a truck-camper or has no permanently fixed rear window, the permit shall be affixed to the front windshield.~~) The permit issued by the college shall be displayed in accordance with the instructions issued with the permit. Permits not displayed in accordance with the provisions of this section shall not be

valid and vehicles displaying the improperly placed permit shall be subject to citation.

~~((2) Temporary or special permits. The temporary permit shall be displayed on the dashboard of the vehicle in such a way that it is legible from outside the vehicle.))~~

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

WAC 132H-116-357 Parking fees. Parking fees may be adopted by the board of trustees (~~specifying the charge per quarter and year~~).

NEW SECTION

WAC 132H-116-358 Disability parking. Only vehicles displaying a valid state of Washington disability parking placard or license plate may park in spaces designated for the disabled. Vehicles displaying a valid state of Washington disability parking placard or license plate may park in designated parking areas pursuant to Bellevue College Policy and Procedure 6200 and RCW 46.16.381.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-360 Visitors (~~Exemption from permit requirements~~). (~~(1) The director of public safety may allow visitors without permits to drive through the campus without parking.~~

(2) The director of public safety or his or her designee may require visitors to wait at the entrances to the campus during times when pedestrian and/or vehicular traffic congestion is above normal. (See WAC 132H-116-430.)

(3) Guests of the college who are present to attend a conference, interview, etc., may be issued visitor permits valid for faculty/staff parking lots.

(4) Visitors on brief errands to campus may park in any student lot.) Visitors are subject to the visitor parking regulations of Bellevue College under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-405 Allocation of parking spaces. (~~The~~) Parking (space available on the campus) shall be allocated by the vice-president of administrative services or his or her designee (~~in such manner as will best obtain~~) consistent with the objectives of these regulations. (~~The vice-president of administrative services or his or her designee is further authorized to designate and mark the various parking areas on the campus with numbers or titles or both. This includes the authorization to reserve certain areas for vehicles displaying certain special permits.~~)

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-410 Parking within designated spaces. (1) No vehicle shall be parked on the campus except in those areas set aside and designated as parking areas.

(2) No vehicle shall be parked so as to occupy any portion of more than one parking space or stall as designated within the parking area. The fact that other vehicles may have been so parked as to require the vehicle parked to occupy a portion of more than one space or stall shall not constitute an excuse for a violation of this section.

(3) No vehicle shall be parked at any time in campus roadways, fire lanes, bus zones, loading zones, or service driveways; or on sidewalks; or in the landscaping except emergency vehicles and designated service vehicles.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-415 (~~Day and evening~~) Parking by permit type. Students, staff and faculty may obtain (~~day and/or evening~~) parking on campus to the extent spaces are available as follows:

(1) Student (~~daytime~~) parking permit validity is limited to areas designated student parking.

(2) Staff/faculty (~~daytime~~) parking permit validity is limited to areas designated staff/faculty parking.

(3) (~~Evening parking, after 3:00 p.m., for students, staff and faculty is available in all designated parking areas with the exceptions of the parking spaces for the handicapped, the college motor pool, and specifically signed reserved areas. Students may not park in those lots designated as "staff/faculty parking" with signage stating "no student parking any time Mon-Fri."~~) Temporary parking permit validity is limited to the areas designated in the issuance of the permit.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-431 Regulatory signs, markings, barricades, etc. (1) The (~~director of campus operations is~~) vice-president of administrative services and his or her designees are authorized to erect signs, barricades, and other structures and to paint marks and other directions upon the streets and parking areas owned (~~and~~), operated, and maintained by the college. (~~Such signs, barricades, structures, markings, and directions shall be so made and placed as in the opinion of the director of campus operations will best achieve the goals of these regulations.~~)

(2) Drivers of vehicles shall obey the signs, barricades, structures, markings, and directions erected pursuant to this section. Drivers shall also comply with directions given to them by a campus public safety officer or other public safety personnel controlling and regulating traffic or parking.

(3) No person without authorization from the director of campus operations shall move, deface, or in any other way change a sign, barricade, structure, marking or direction so placed, or previously placed, for the purpose of regulating traffic or parking.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-470 Exceptions to parking and traffic restrictions. The regulations governing permits and parking within designated spaces shall not apply to the drivers of state-owned vehicles operated by Bellevue (~~Community~~) College in the performance of assigned functions.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-590 Motorcycles, bicycles, scooters. (1) Motorcycles, bicycles and scooters are for the purpose of these regulations considered to be motor vehicles and are subject to all traffic and parking rules and regulations controlling other motor vehicles and Bellevue College Policy and Procedure 6200.

(2) Motorcycles and motorized scooters (~~may~~) must be parked in designated areas (~~in addition to the regular parking lots~~).

(3) Motorcycles and motorized scooters are not permitted on paths, sidewalks, or authorized bicycle or pedestrian areas or in buildings at any time.

(4) Bicycles shall be parked in designated areas only. Improperly parked bicycles may be impounded and a citation and/or a fine imposed upon the owner.

(5) No bicycles or foot propelled devices shall be operated on or in campus walkways, corridors, hallways or buildings unless their use is required as part of the educational process in an authorized program.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-615 Issuance of traffic citations. Upon (~~probable~~) reasonable cause to believe that a violation of these rules and regulations has occurred, the vice-president of administrative services and/or duly appointed public safety officers may issue citations (~~setting forth the date, the approximate time, the locality, the nature of the violation, the permit number, license number, infraction, officer, and the amount fine(s), by attaching or affixing a copy thereof to the vehicle allegedly involved in such violation, by placing a copy thereof in some prominent place within such vehicle, by mail, or by personal service~~) under Bellevue College Policy and Procedure 6200.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-620 Fines, penalties and impounding. (1) The current schedule and fines for parking and traffic violations shall be published by the college and made available for review in the public safety office.

(2) An individual receiving a parking and traffic citation must pay all fines (~~listed on the citation notice within twenty calendar days after the date on the citation notice unless he/she elects to~~). Any person may file an appeal (~~the~~) for any parking citation under Bellevue College Policy and Pro-

~~cedure 6200. ((Payments should be taken or mailed to the cashiering office.))~~

(3) If any citation remains unpaid after ~~((twenty calendar days from the date of the citation))~~ the deadline issued on the citation or after any appeal, Bellevue ~~((Community))~~ College may take ~~((any of the following))~~ actions including, but not limited to:

(a) Withhold degrees, transcripts, grades, refunds, and/or credits;

(b) Block or delay registration for the following quarter;

(c) Impound the violator's vehicle;

(d) Deny future parking privileges, whether student or faculty/staff;

(e) Refuse to issue keys to students, faculty or staff;

(f) Send the account to collections.

(4) In addition to imposing fines, the vice-president of administrative services and ~~((duly appointed))~~ the director of public safety ~~((officers))~~ are authorized to impound, immobilize and take to such place for storage as the director of public safety selects, any vehicles parked on college property in violation of these regulations with the following stipulations and under Bellevue College Policy and Procedure 6200:

(a) The expenses of such impounding, immobilization and storage shall be charged to the owner or operator of the vehicle and must be paid prior to the vehicle's release.

(b) The college shall not be liable for loss or damage of any kind resulting from such impounding, immobilization or storage.

(c) Impoundment of a vehicle does not remove the obligation for any fines associated with the violation.

~~((d))~~ Grounds for impounding vehicles shall include, but not be limited to the following:

(i) ~~Blocking a roadway so as to impede the flow of traffic;~~

(ii) ~~Blocking a walkway so as to impede the flow of pedestrian traffic;~~

(iii) ~~Blocking a fire hydrant or fire lane;~~

(iv) ~~Creating a safety hazard in the opinion of a public safety officer;~~

(v) ~~Blocking another legally parked vehicle;~~

(vi) ~~Parking in a marked "tow away" zone.~~

(5) An accumulation of traffic violations by a student will be cause for disciplinary action, and the vice-president of administrative services or his or her designee may initiate disciplinary proceedings against such students.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-630 Appeals of fines and penalties.

(1) Right to appeal. Anyone who has received a citation for an alleged violation of these parking and traffic rules has the right to appeal under Bellevue College Policy and Procedure 6200. ~~((Appeals must be made in writing and must be submitted to administrative services within twenty calendar days after the date of the citation. Appeal forms are available from the public safety, cashiering and administrative services offices.~~

If the alleged violator has paid the fine(s) associated with the parking and traffic citation, he/she has forfeited the right to appeal the citation.))

(2) Citation review committee. Appeals shall be considered by the ~~((BCC))~~ Bellevue College citation review committee ~~((, which is made up of two students (one the ASBCC chief justice), a faculty representative and a classified staff representative. The citation review committee shall hold hearings regularly throughout the academic year. The committee shall consider each appeal on its merits based upon these parking and traffic regulations. Appellants shall be notified on the hearing dates so that they may state their cases and present any additional evidence in person. The committee shall decide the cases of appellants who do not attend the hearing in person based on the statements given on the appeal form, with no penalty for nonappearance. Appellants who do not attend the hearing shall be sent written notification of the committee's decision)).~~

The citation review committee may uphold, reduce, or waive the fine(s) associated with the parking and traffic citation. Any fine(s) still levied against the appellant must be paid within ~~((fifteen calendar days after the date of the hearing))~~ the deadline unless the appellant wishes to pursue a second-level appeal under Bellevue College Policy and Procedure 6200. Nonpayment after ~~((fifteen calendar days))~~ the deadline has passed may result in any of the college actions ~~((listed))~~ referred to under WAC 132H-116-620.

(3) Second level appeal. An appellant who is not satisfied with the decision of the citation review committee has the right to a second-level appeal before the institutional hearing officer appointed by the president of Bellevue ~~((Community))~~ College under Bellevue College Policy and Procedure 6200. ~~((The appellant must contact the institutional hearing officer within fifteen calendar days after the citation review committee hearing to request a second-level appeal. The institutional hearing officer shall notify the appellant of his/her decision in writing. The institutional hearing officer's decision is final.))~~

Any appellant who has paid the fine(s) confirmed or set by the citation review committee has forfeited the right to a second-level appeal.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-655 Report of accident and theft.

The operator of any vehicle involved in an accident on campus ~~((resulting in injury to or death of any person or total or claimed damage to either or both vehicles of \$500.))~~ shall within twenty-four hours report such accident to the public safety department under Bellevue College Policy and Procedure 6200. This does not relieve any person so involved in an accident from his or her responsibility to file a state of Washington motor vehicle accident report within twenty-four hours after such accident.

Students, faculty, staff, and visitors should report any theft of or out of vehicles to the public safety department promptly.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-750 Delegation of authority. The authority and powers conferred upon the (~~director of campus operations~~) vice-president of administrative services or the director of public safety by these regulations may be delegated by them to their subordinates.

AMENDATORY SECTION (Amending WSR 04-01-046, filed 12/11/03, effective 1/11/04)

WAC 132H-116-790 Prohibition of literature. Distribution of literature by placing (~~the same~~) unauthorized literature on motor vehicles parked on the premises of Bellevue (~~Community~~) College is hereby prohibited. Literature includes but is not limited to:

- (1) Pamphlets
- (2) Flyers
- (3) Stickers.

AMENDATORY SECTION (Amending Order 115, Resolution No. 206, filed 6/17/92, effective 7/18/92)

WAC 132H-116-791 Enforcement. Parking rules and regulations will be (~~enforced~~) enforceable throughout the calendar year. Parking and traffic rules and regulations are (~~enforced~~) enforceable on a twenty-four hour daily basis.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 132H-116-730 Regulatory signs, markings, barricades, etc.

WSR 11-16-063
PROPOSED RULES
DEPARTMENT OF PERSONNEL

[Filed July 29, 2011, 11:27 a.m.]

Supplemental Notice to WSR 11-14-079.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?, 357-31-150 Can an employee be paid for accrued sick leave?, 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation?, 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?, 357-28-260 At what rate must overtime be compensated?, 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?, 357-31-390 What criteria does an employee have to meet to

be eligible to receive shared leave?, 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?, and 357-28-285 When must compensatory time be paid in cash?

Hearing Location(s): Department of Personnel, 521 Capitol Way South, Olympia, WA, on September 20, 2011, at 8:30 a.m.

Date of Intended Adoption: September 20, 2011.

Submit Written Comments to: Connie Goff, Department of Personnel, P.O. Box 47500, e-mail connieg@dop.wa.gov, fax (360) 586-4694, by September 13, 2011. **FOR DOP TRACKING PURPOSES PLEASE NOTE ON SUBMITTED COMMENTS "FORMAL COMMENT."**

Assistance for Persons with Disabilities: Contact department of personnel by September 13, 2011, TTY (360) 753-4107 or (360) 586-8260.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These changes are a result of the passage of ESSB 5860. This bill requires that during the 2011-13 biennium, base salaries are reduced three percent for all state employees except for elected officials whose salaries are established by the commission on salaries for elected officials; employees at state institutions of higher education; certificated employees of the state School for the Blind and the Center for Childhood Deafness and Hearing Loss; commissioned officers of the state patrol; represented ferry workers of the department of transportation; and employees whose monthly full-time equivalent salary is less than \$2,500 per month. Employees subject to the salary reduction accrue additional temporary salary reduction (TSR) leave of up to 5.2 hours per month. Per language in the bill, amounts paid during the 2011-13 fiscal biennium to state employees who cash-out annual or sick leave at the time of retirement or sick leave in excess of sixty days at any time are not reduced by temporary compensation reductions.

There are provisions in the bill which require us to make changes and additions to the current rules in order to implement the temporary salary reduction and TSR leave as described in the bill.

The difference between this supplemental notice and the original WSR filing (11-14-079) is that we are no longer proposing a change to WAC 357-31-535.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.150.

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

Name of Agency Personnel Responsible for Drafting: Kristie Wilson, 521 Capitol Way South, (360) 664-6408; Implementation and Enforcement: Department of personnel.

No small business economic impact statement has been prepared under chapter 19.85 RCW.

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

July 27, 2011

Eva N. Santos

Director

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-260 At what rate must overtime be compensated? Overtime worked by an overtime eligible employee must be compensated at a rate of one and one-half times the employee's regular rate. Compensation for overtime worked between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-285 When must compensatory time be paid in cash? (1) The accumulation of unused compensatory time of any amount that exceeds two hundred forty hours, or four hundred eighty hours for employees engaged in public safety or emergency response activity, must be paid in cash at the regular rate earned by the employee at the time the employee receives such payment. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

(2) Upon termination of employment, an employee must be paid for unused compensatory time in accordance with applicable state and federal law. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

AMENDATORY SECTION (Amending WSR 09-11-068, filed 5/14/09, effective 6/16/09)

WAC 357-31-150 Can an employee be paid for accrued sick leave? In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary. Monetary compensation for converted hours which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total

unused sick leave accumulation at the rate of twenty-five percent. The employer may deposit equivalent funds for a retiring employee in a medical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. Compensation for unused sick leave which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave? (1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. Payments made between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment((:)); or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

AMENDATORY SECTION (Amending WSR 09-17-062, filed 8/13/09, effective 9/16/09)

WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, recognition leave, temporary salary reduction leave, and holiday pay.

AMENDATORY SECTION (Amending WSR 07-11-093, filed 5/16/07, effective 7/1/07)

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather? When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, accrued temporary salary reduction leave, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

AMENDATORY SECTION (Amending WSR 07-11-096, filed 5/16/07, effective 7/1/07)

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday ~~((or))~~, accrued vacation leave, or accrued temporary salary reduction leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave? An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

- (1) The employee:
 - (a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;
 - (b) The employee has been called to service in the uniformed services;
 - (c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in

responding to the emergency or its aftermath and volunteers their services to either a governmental agency or to a non-profit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(d) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655; or

(e) During the 2009-2011 fiscal biennium only, an employee whose monthly full-time equivalent base salary is two thousand five hundred dollars or less is eligible to use shared leave in lieu of temporary layoff as described in chapter 32, Laws of 2010.

(2) The illness, injury, impairment, condition, call to service, emergency volunteer service, consequence of domestic violence, sexual assault, or stalking, or temporary layoff under chapter 32, Laws of 2010, has caused, or is likely to cause, the employee to:

- (a) Go on leave without pay status; or
- (b) Terminate state employment.
- (3) The employee's absence and the use of shared leave are justified.
- (4) The employee has depleted or will shortly deplete their:

(a) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, accrued temporary salary reduction leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, accrued temporary salary reduction leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued temporary salary reduction leave, and accrued vacation leave if the employee qualifies under (1)(c) or (d) of this section; or

(d) Compensatory time, recognition leave as described in WAC 357-31-565, accrued temporary salary reduction leave, and accrued vacation leave if the employee qualifies under subsection (1)(e) of this section.

(5) The employee has abided by employer rules regarding:

- (a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or
- (b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

AMENDATORY SECTION (Amending WSR 05-21-061, filed 10/13/05, effective 11/15/05)

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours

during the previous twelve-month period. Vacation leave, sick leave, temporary salary reduction leave, the personal holiday, compensatory time off, or shared leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

NEW SECTION

WAC 357-31-740 What is temporary salary reduction (TSR) leave and which employees are eligible to earn TSR leave? Temporary salary reduction (TSR) leave is paid leave prescribed under chapter 39, Laws of 2011. Employees who are subject to the three percent temporary salary reduction under chapter 39, Laws of 2011 may be credited up to a maximum of 5.2 hours of TSR leave per month.

NEW SECTION

WAC 357-31-745 What provisions apply to temporary salary reduction (TSR) leave? (1) Full-time employees whose pay has been reduced in accordance with chapter 39, Laws of 2011 and who have been in pay status for 80 non-overtime hours in a month will accrue 5.2 hours of TSR leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Part-time employees earn TSR leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Employees may use TSR leave as soon as it is accrued.

(4) Employers must identify how employees will request the use of TSR leave.

(5) There is no requirement for TSR leave to be used prior to sick leave or vacation leave unless the employer specifies otherwise.

(6) An employee's request to use TSR leave must be approved under the following conditions:

(a) As a result of the employee's serious health condition.

(b) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.

(c) To care for a minor/dependent child with a health condition that requires treatment or supervision.

(d) For parental leave as provided in WAC 357-31-460.

(e) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(f) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(7) In accordance with the employer's leave policy, approval for the reasons listed in (6)(a) through (f) above may

be subject to verification that the condition or circumstance exists.

(8) TSR leave has no cash value and balances must be used by July 1, 2013; however, employees may carry forward up to 16 hours of TSR leave that must be used prior to September 1, 2013.

(9) TSR leave may not be donated as shared leave.

(10) TSR leave may be approved for any reason vacation leave and sick leave may be approved.

(11) Unused TSR leave transfers with an employee when the employee changes state employers, without a break in service, and moves to a position which earns TSR leave.

(12) Time spent on temporary layoff as provided in WAC 357-46-063 will not impact an employees TSR leave accrual.

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

WSR 11-16-077

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 1, 2011, 1:35 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: WAC 246-809-990 Licensed counselor and associate—Fees and renewal cycle (marriage and family therapist) and 246-834-990 Midwifery fees and renewal cycle.

Hearing Location(s): 310 Israel Road S.E., Room 153, Tumwater, WA 98504, on September 7, 2011, at 1:00 p.m.

Date of Intended Adoption: September 7, 2011.

Submit Written Comments to: Dianna Staley, P.O. Box 47860, Olympia, WA 98504-7860, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by September 7, 2011.

Assistance for Persons with Disabilities: Contact Dianna Staley by August 31, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules establish the HEAL-WA fee as required under SSB 5071 (chapter 35, Laws of 2011) for midwives and marriage and family therapists. The proposed rules also amend the HEAL-WA fee name for mental health counselors and social workers and make general housekeeping edits.

Reasons Supporting Proposal: The 2011 legislature approved allowing the midwifery and marriage and family therapist professions to access evidence-based healthcare information through the University of Washington on-line web portal known as HEAL-WA. The proposed rules establish the fee for these two professions to access the HEAL-WA on-line resources.

Statutory Authority for Adoption: RCW 43.70.110.

Statute Being Implemented: RCW 43.70.110, 43.70.-112.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Dianna Staley, 310 Israel Road S.E., Tumwater, WA, (360) 236-4997; Implementation and Enforcement: Joy King, 310 Israel Road S.E., Tumwater, WA, (360) 236-4936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

August 1, 2011
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 10-19-071, filed 9/16/10, effective 10/15/10)

WAC 246-809-990 Licensed counselor, and associate—Fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2.

(2) Associate licenses are valid for one year and must be renewed every year on the date of issuance. The associate license may be renewed no more than four times.

Table with 2 columns: Title, Fee. Contains fee schedules for marriage and family therapist, mental health counselor, and on-line access fee.

Table with 2 columns: Title, Fee. Contains fee schedules for advanced social worker and independent clinical social worker, marriage and family therapy associates, mental health counselor associates, and advanced social worker associates and independent clinical social worker associates.

AMENDATORY SECTION (Amending WSR 10-19-071, filed 9/16/10, effective 10/15/10)

WAC 246-834-990 Midwifery fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. (The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required pay-

ment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.)

(2) The following fees are nonrefundable:

Title of Fee	Fee
Initial application	\$500.00
National examination administration (initial/retake)	103.00
State examination (initial/retake)	155.00
Renewal	500.00
Late renewal penalty	250.00
Duplicate license	25.00
Certification of license	25.00
Application fee—Midwife-in-training program	978.75
Expired license reissuance	300.00
<u>UW on-line access fee (HEAL-WA)</u>	<u>25.00</u>

WSR 11-16-081
PROPOSED RULES
BUILDING CODE COUNCIL

[Filed August 1, 2011, 4:28 p.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Amend chapters 51-50, 51-51, 51-54 WAC, to modify rules regarding the requirements for installation of carbon monoxide (CO) alarms in residential settings.

Hearing Location(s): Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, WA, on September 9, 2010 [2011], at 10:00 a.m.; and at Shoreline City Hall, 17500 Midvale Avenue North, Council Chambers, Shoreline, WA, on October 14, 2011, at 10:00 a.m.

Date of Intended Adoption: November 18, 2010 [2011].

Submit Written Comments to: Kristyn Clayton, Council Chair, P.O. Box 41011, Olympia, WA 98504-1011, e-mail SBCC@ga.wa.gov, fax (360) 586-0493, by September 6, 2011.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 25, 2011, TTY (360) 753-7427 or (360) 902-7293.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of these rules is to replace existing requirements for the installation of CO alarms in residential settings. The rule will provide for a later implementation date, and will exempt certain categories of residences. WAC 51-50-0908, 51-51-0315, 51-54-0900 (section 908), and 51-54-4600 (section 4603).

Reasons Supporting Proposal: The state building code council assembled a technical advisory group of experts and interested parties to discuss the permanent rules adopted in November 2009 and propose changes. The proposed rules allow for later implementation and some exemptions, in accordance with statute.

Statutory Authority for Adoption: RCW 19.27.074.

Statute Being Implemented: Chapter 19.27 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: Proposed rules will resolve conflict over stakeholder concerns with potential economic impact.

Name of Proponent: State building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Joanne McCaughan, P.O. Box 41011, Olympia, WA 98504-1011, (360) 902-7295; and Enforcement: Local jurisdictions, statewide city and county building officials.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Executive Summary

Impact on Small Business: Permanent rule making for CO alarms will result in some cost outlay for small businesses in the lodging and rental housing industries. These costs will be incurred for the purchase of CO alarms and batteries, and in some cases for installation services. In rental housing, tenants are required to maintain the alarms including battery replacement. There could also be installation costs under certain limited circumstances, for example during new construction or remodeling projects, depending on the needs and desires of a particular business.

The enacting legislation and proposed rules are silent on cost recovery, however, it is assumed that rental property owners and lodging establishments could and would charge fees.

Other small businesses would see an increase in revenue; these include hardware stores and home centers that sell alarms and batteries. The overall impact would be positive; the degree of impact would depend on the number of alarms and batteries sold.

The rules are anticipated to be job neutral, although there would be some temporary work for installation jobs for certain trades people such as maintenance personnel or electricians; these would primarily be for short term contracts for installation or maintenance of CO alarms, and would likely be part of larger remodeling or new construction projects. Businesses that install smoke, fire and burglar alarms might experience increased business revenue if they offer installation services for CO alarms. There is not expected to be a disproportionate impact on smaller versus larger businesses.

Section I: Introduction/Compliance with the Rules

Who Is Required to Comply with the Rules? The proposed rules regarding installation of CO alarms in residential settings will modify the Building Code, Fire Code and Residential Code, as follows:

- Building Code (chapter 51-50 WAC) and Fire Code (chapter 51-54 WAC):
 - o Residential occupancies building owners are required to install CO alarms in all new residential construction, regardless of fuel source.

- o Exceptions are allowed for sleeping or dwelling units in transient residential occupancies (R-1), and permanent residential (R-2) college dorms, hotels, and DSHS licensed boarding homes and residential treatment facilities which do not contain fuel sources or an attached garage but are located in a building that contains such sources.
- o Existing Group R-2 occupancies building owners would be required to install CO alarms when a permit is pulled for alterations, repairs or additions, or when one or more sleeping rooms are added or created.
- o Exceptions are allowed in certain situations related to adjacency to rooms that contain fuel-fired systems, duct work and ventilation shafts; or if a building contains a common area CO alarm system.
- o For existing buildings, certain work is excluded for existing buildings, e.g., replacement of roofing, siding, windows, doors, additions of porches or decks, or electrical permits; installation/repair of noncombustion plumbing or mechanical systems are also exempt.
- Residential Code (chapter 51-51 WAC):
 - o CO alarms are required in all new residential construction.
 - o Alarms would be required in existing dwellings when a permit is pulled for alterations, repairs or additions, or when one or more sleeping rooms are added or created.
 - o Certain work is excluded, e.g., replacement of roofing, siding, windows, doors, additions of porches or decks, or electrical permits; installation/repair of noncombustion plumbing or mechanical systems are also exempt.
 - o These provisions apply regardless of fuel source.

Required implementation dates are as set in the enacting legislation, i.e., January 1, 2011, for new construction and no later than January 1, 2013, for existing dwellings.

To comply with these rules, property owners will need to:

- o Assess how many alarms are needed for each dwelling unit they are renting or leasing to tenants.
- o Determine whether installation should be done by the landlord, the tenant, existing maintenance personnel, or if they will contract with a third party for this task.
- o Analyze whether any of their units meet the exceptions allowed for in the rules.
- o Purchase or order and pay for alarms, keep records, and manage inventory.
- o Budget for the purchase, and potentially the installation, of the alarms.
- o Educate tenants, e.g., about necessary maintenance of the alarm and batteries.

When are Professional Services Required to Comply with the Rule? If and when residential property owners obtain a permit for remodeling, they will be required to install CO alarms. During such a remodel, laborers, carpenters, plumbers, electricians and other professional building trades

would be on-site to complete the renovations required by the project plan documents. In the event that the property owner decides to install hard-wired alarms or an alarm system throughout the residence, an electrician would do the actual installation of the alarms or alarm system. The cost of construction is indeterminate because it is driven by the alarm system chosen, the specific project design, and local market construction industry costs. Estimates for the total cost, including burdened wage rate with benefits, and time and materials range from \$150 to \$250 per alarm, according to the Independent Electrical Contractors Association and the National Electrical Contractors Association; estimates do not include taxes or profit margins.

What Installation Methods Are Used? Most CO alarms are designed and manufactured to be user-friendly and intended to be installed by a homeowner or resident. Some CO alarm installations can be accomplished with basic home repair tools such as a drill, a screwdriver, and a hammer; others would require specialized electrical wiring tools and would be installed by a skilled electrician.

- Battery alarms are available that require no installation at all; these can be placed on a table or desk and will operate once the batteries are inserted. Other battery alarms are meant to be attached to a wall/ceiling bracket that comes with the unit. The bracket is screwed to the wall or ceiling with two screws, like a smoke alarm. The alarm is mounted to the bracket by a twisting motion.
- Plug-in with battery back-up alarms require no installation. Once the batteries are inserted, the alarm is fully functional when plugged into a wall outlet.
- Hard-wire with battery back-up models include a battery, a mounting bracket, and a wiring harness. They connect to the house wiring with a three pin connector in the back of the alarm. They are connected with the house wiring using wire nuts. Once the wiring installation is complete, the alarm is mounted to the bracket, as above.

Section II: Compliance Costs for Washington Businesses

Assumptions: In rental housing, where alarms are required, most if not all landlords and property owners will incur initial costs for the purchase and installation of the alarms; it is assumed that these costs would be passed on to tenants through maintenance fees or rent payments. Hotel and motel owners could also pass the cost on through increased rates. For existing dwellings, where alarms are required, most if not all property owners will choose either battery-powered or plug-in models rather than electrical hard-wired models.

For new construction and potentially for remodeling jobs, many residential designers, housing construction contractors and property owners will choose hard-wired combination smoke alarm/CO alarm models because both smoke and CO alarms are required under the building code. Therefore, no additional installation costs should be incurred beyond what it required for the smoke alarm system installation, unless the combination units are significantly more expensive. It is assumed that any costs incurred for CO

alarms in new construction would be passed on to the home-buyer or property owner.

Average Alarm Cost: Alarm costs range from an average of \$30 to \$51 per alarm, depending on the model and manufacturer chosen, and not including cost of taxes, batteries, or installation. Taking into account the cost of batteries and installation, the cost range shifts to \$38 to \$84 per alarm.

- **EQUIPMENT:** CO alarms; conduit and wire for hard-wired systems.
- **SUPPLIES:** Batteries (replacement batteries will be furnished by the tenant, per statute).
- **MATERIAL:** Information regarding CO poisoning and the function of the alarms is contained in the product packaging.
- **LABOR:** Optional expense, depending on the type of alarm system chosen and whether it is installed by a

property owner or tenant directly, or will be installed by a professional electrician.

- **PROFESSIONAL SERVICES:** Some property owners may choose to have an alarm company install, monitor and maintain their CO alarm systems.
- **ADMINISTRATIVE COSTS:** Inventory management, dependent on the number of housing units and the type of alarms chosen.

Impact on Sales or Revenue: There will be a positive impact on home improvement stores and hardware stores as sales of the alarms and batteries will increase.

There will be a positive impact on smoke and fire alarm companies as they will perform more alarm system installations.

Section III: Analysis of Proportionate Impact on Small Businesses

TABLE ONE: Small Businesses Impacted by CO Alarm Rules				
Type of Business	NAICS CODE #	# IN STATE (UP TO 49 Employees)	# IN STATE (50 OR MORE Employees)	ANTICIPATED IMPACTS
Hardware stores	#444130	308	9	Positive: Due to sales on alarm systems and batteries.
Home centers	#444110	20	2	Positive: Due to sales on alarm systems and batteries.
Homes for the elderly (licensed adult family homes)	#623312	1103	61	Neutral: Depending on the specifics of a given facility, many units in this category of housing will be exempt from the requirements of the rule.
Hotels and motels	#721110	906	71	Negative: Costs will be incurred for alarm purchase, installation and maintenance. Some costs may be recovered.
Rental housing	#531110	1609	46	Neutral: Initial cost of alarms, batteries and installation may be recovered from tenants.
Real estate agents and brokers	#531210	1977	96	Neutral: The rules do not contain requirements for real estate agents. Statute requires seller's disclosure form.
Alarm systems - electric/installation	#238210	1992	59	Positive: Due to contracts for installation of alarms in new construction or remodels.

The Impact on Small Businesses Compared to the Largest Businesses in the State Will Not Be Disproportionate.

- Smaller hardware stores and home centers will experience increased revenues for the sale of alarms and batteries. Larger stores will likely have a larger volume of sales, thus, they may experience greater revenue increases. In addition, larger stores may be able to sell the alarms at a lower price due to economies of scale, and thus would increase their profit margin compared to smaller businesses.

- Licensed adult family homes which do not contain a fuel source will not be required to install the alarms unless their units are adjacent to units which do contain a fuel source. Residents of these facilities are closely monitored and would be unable to bring in any fuel-burning devices. Thus many will be exempt from the rule requirements, regardless of the size of the business.
- Lodging industry requirements are identical to those in licensed adult family homes, thus many will be exempt. Small and large lodging businesses and large businesses will all have the same requirements, though

larger hotel/motel facilities are more likely than smaller facilities to have on-site full time personnel available for installation and maintenance of the alarm systems. There would be no disproportionate impact as any additional costs could be passed on to lodging customers.

- The impact on the real estate industry will be neutral. When homes are sold the seller's disclosure form will be required to specify if a CO alarm has been installed. Realtors are not required to supply homes with the alarms.

Section IV: Small Business Involvement and Impact Reduction Efforts

Actions Taken to Reduce the Impact of the Rule on Small Businesses: The proposed rules are written to allow exceptions under the Building Code and Fire Code which limit the placement of alarms in certain situations. The alarms would not be required in sleeping units or dwelling units in R-1 occupancies, and R-2 college dormitories, hotels, DSHS licensed boarding home and residential treatment facility occupancies that do not themselves contain fuel-burning appliances, or a fuel-burning fireplace, or have an attached garage, but that are located in a building which contains such a fuel source.

Another mitigating factor which reduces the impact of the rules on small businesses is the delay of the implementation date for existing dwellings until January 1, 2013. When the rules were initially drafted and adopted, that implementation date was set for July 1, 2011. In response to concerns from the rental housing community and the lodging industry about potential economic impacts imposed by that short time-frame, the council adopted emergency rules in December 2010 changing the date to the statutory deadline of January 1, 2013; that change is retained in these proposed permanent rules.

Involvement of Small Business in the Development of the Proposed Rules: A special technical advisory group (TAG) was developed to address permanent rule-making issues on CO alarms. Several TAG members represented the interests of small business, as follows:

- Rental Housing Association of Washington (Julie Johnson) NAICS #53111
- Washington Multi-Family Housing Association (Joe Puckett) NAICS #53111
- Washington Lodging Association (Rodney Schauf) NAICS #721110
- Aging Services of Washington (Julie Martin) NAICS #623312
- Washington Realtors Association (Annie Fitzsimmons) NAICS #531210

Other TAG members brought expertise in epidemiology, building design, fire and emergency response, and the alarm industry and other fields, as well as poisoning victims' families. The group met four times to consider a number of proposed changes. Ultimately, after a great deal of debate and collaboration, the group voted to propose permanent rules to the council that would require the alarms in residential settings, regardless of the fuel source or presence of an attached

garage; their proposal did allow for certain exceptions within Group R occupancies.

Section V: Number of Affected Businesses in Washington:

- Hardware Stores (NAICS Code #444130) = 308 (50 ees or less) or 9 (50+ ees)
- Home Centers (NAICS Code #444110) = 20 (50 ees or less) or 2 (50+ ees)
- Homes for the Elderly (Licensed Adult Family Homes) (NAICS Code #623312) = 1103 (50 ees or less) or 61 (50+ ees)
- Hotels and Motels (NAICS Code #721110) = 906 (50 ees or less) or 71 (50+ ees)
- Rental Housing (NAICS Code #531110) = Lessors of Residential Buildings and Dwellings - 1609 (50 ees or less) or 46 (50+ ees)
- Real Estate Agents and Brokers (NAICS Code #531210) = 1,977 (50 ees or less) or 96 (50+ ees)
- Alarm Systems, Electric, Installation Only (NAICS Code #238210) = 1992 (50 ees or less) or 59 (50+ ees)

Section VI: Jobs Created or Lost as a Result of These Rules:

These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. Initially, some job gains may be anticipated in the short term, but these would be of a temporary nature.

- The types of jobs that might be likely to increase temporarily in the short term would be for alarm installation businesses and/or electrical contractors working on new residential construction or on remodeling projects for existing residences to install hard-wired alarm systems. This would not have a significant impact on the industry and would not affect employment rates in the construction industry.
- In terms of sales jobs for hardware stores and home centers, no additional hiring is anticipated as a result of these rules, and no jobs would be lost.
- In terms of the lodging industry and the rental housing industry, it is likely that some businesses would hire contractors on a temporary basis for installation of the battery or plug-in alarms, but that would be on a case-by-case basis depending on the needs of an individual business.

APPENDIX 1: Estimated Economic Impact for CO Alarms per Dwelling Unit (based on installation method)

Type of alarm and assumptions*	Type of dwelling unit	Time to install	Installation costs (hourly rates)			Total cost per chosen installation method
			Maintenance personnel (if chosen)	Homeowner	Contractor**	
All battery powered:.* • Average cost per alarm including batteries is \$31.86 plus tax • May be installed by property owner at no cost, or • If installed by maintenance personnel, assume burdened wage @ \$22.40 per hour**	1-2 bedroom apartment, one level, adjacent bedrooms	20 minutes	\$7.50	NA	NA	\$39.36
	Multi-level townhouse, two bedrooms on two levels	40 minutes	\$15.00	NA	NA	\$78.72
	Single-family home, one level, three bedrooms separated throughout the house	One hour	\$22.40	NA	NA	\$117.98
	Dormitory room, i.e., one sleeping room	20 minutes	\$7.50	NA	NA	\$39.36
Plug-in with battery back-up:.* • Average cost per alarm including battery is \$45.18 plus tax • Installed by property owner at no cost, or • If installed by maintenance personnel, assume burdened wage @ \$22.40 per hour**	1-2 bedroom apartment, one level, adjacent bedrooms	10 minutes	\$3.75	NA	NA	\$48.93
	Multi-level townhouse, two bedrooms on two levels	20 minutes	\$7.50	NA	NA	\$97.86
	Single-family home, one level, three bedrooms separated throughout the house	30 minutes	\$11.20	NA	NA	\$146.74
	Dormitory room, i.e., one sleeping room	10 minutes	\$3.75	NA	NA	\$48.93
Hard-wired with battery back-up:*** • Average cost of installation, including conduit, wire and labor is \$150 - \$250 per unit**** • May be installed by a property owner or a qualified maintenance employee; for new construction and major remodeling projects, a licensed electrical contractor is required	1-2 bedroom apartment, one level, adjacent bedrooms	1 hour	NA	NA	\$150 - \$250	\$150 - \$250
	Multi-level townhouse, two bedrooms on two levels	2 hours	NA	NA	\$300 - \$500	\$300 - \$500
	Single-family home, one level, three bedrooms separated throughout the house	3 hours	NA	NA	\$450 - \$750	\$450 - \$750
	Dormitory room, i.e., one sleeping room	1 hour	NA	NA	\$150 - \$250	\$150 - \$250

*Battery powered and plug-in units can be readily installed with ordinary household tools by home owners, and by building maintenance personnel in rental housing, hotels and motels, etc.

**Fully burdened wage rate for maintenance staff based on estimates from the Aging Services of Washington/Economic Impact Worksheet submitted to SBCC in September 2010.

***Hardwired models may be installed by a property owner or a qualified maintenance employee; installation by a licensed electrical contractor required in new construction and major remodeling contracts. The fully burdened wage for a journeyman Electrical Technician ranges from \$24.15 to \$34.71 per hour according to the National Electrical Contractors' Association.

****Rate estimates based on information from the Puget Sound Chapter of the Independent Electrical Contractors' Association and the National Electrical Contractors' Association including project materials and fully burdened wage rates (profit margin not included).

A copy of the statement may be obtained by contacting Joanne McCaughan, P.O. Box 41011, Olympia, WA 98504-1011, phone (360) 902-7295, fax (360) 586-0493, e-mail joanne.mccaughan@ga.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. The state building code council is not listed in this section as one of the agencies required to comply with this statute.

August 2 [1], 2011
 Kristyn Clayton, Chair
 Building Code Council

NEW SECTION

WAC 51-50-0908 Section 908—Emergency alarm systems.

[F] 908.7 Carbon monoxide alarms. Group R occupancies shall be provided with carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

EXCEPTION: Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, or a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:

- 1. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
3. The building is provided with a common area carbon monoxide alarm system.
4. An open parking garage, as defined in the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be deemed to be an attached garage.

908.7.1 Carbon monoxide detection systems. Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

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

AMENDATORY SECTION (Amending WSR 10-03-098, filed 1/20/10, effective 7/1/10)

WAC 51-51-0315 Section R315—Carbon monoxide alarms.

R315.1 Carbon Monoxide Alarms. For new construction, an approved carbon monoxide alarm shall be installed ((by January 1, 2011,)) outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units((~~In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries~~)) and on each level of the dwelling and in accordance with the manufacturer's recommendations.

R315.2 Existing Dwellings. Existing dwellings shall be equipped with carbon monoxide alarms ((by July 1, 2011)) when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created.

EXCEPTIONS: ((Owner-occupied detached one-family dwellings legally occupied prior to July 1, 2010.)) 1. Work involving the exterior surfaces of dwellings, such as the

replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits, are exempt from the requirements of this section.
2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section.

R315.3 Alarm Requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.

AMENDATORY SECTION (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

WAC 51-54-0900 Chapter 9—Fire protection systems.

902.1 Definitions.

ALERT SIGNAL. See Section 402.1.

ALERTING SYSTEM. See Section 402.1.

PORTABLE SCHOOL CLASSROOM. A structure, transportable in one or more sections, which requires a chassis to be transported, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be trailerable and capable of being demounted and relocated to other locations as needs arise.

903.2.1.6 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.

903.2.3 Group E. An automatic sprinkler system shall be provided for Group E Occupancies.

- EXCEPTIONS: 1. Portable school classrooms, provided aggregate area of any cluster or portion of a cluster of portable school classrooms does not exceed 5,000 square feet (1465 m²); and clusters of portable school classrooms shall be separated as required by the building code.
2. Group E Occupancies with an occupant load of 50 or less, calculated in accordance with Table 1004.1.1.

903.2.7 Group M. An automatic sprinkler system shall be provided throughout buildings containing a Group M occupancy, where one of the following conditions exists:

- 1. A Group M fire area exceeds 12,000 square feet (1115 m²).
2. A Group M fire area is located more than three stories above grade plane.
3. The combined area of all Group M fire areas on all floors, including any mezzanines, exceeds 24,000 square feet (2230 m²).
4. Where a Group M occupancy that is used for the display and sale of upholstered furniture or mattresses exceeds 5000 square feet (464 m²).

903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

- EXCEPTION: Group R-1 if all of the following conditions apply:
1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.

3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand held (portable) fire extinguisher is in every Group R fire area.

SECTION 906—PORTABLE FIRE EXTINGUISHERS

906.1 Where required. Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.
2. Within 30 feet (9144 mm) of commercial cooking equipment.
3. In areas where flammable or combustible liquids are stored, used or dispensed.
4. On each floor of structures under construction, except Group R-3 occupancies, in accordance with Section 1415.1.
5. Where required by the sections indicated in Table 906.1.
6. Special-hazard areas, including, but not limited to, laboratories, computer rooms and generator rooms, where required by the fire code official.

SECTION 907—FIRE ALARM AND DETECTION SYSTEMS

~~([F] 907.2.8 Group R-1. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-1 occupancies as required in this section and Section 907.2.8.4.~~

~~[F] 907.2.8.4. Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in sleeping units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~[F] 907.2.8.4.1 Existing sleeping units. Existing sleeping units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~[F] 907.2.8.4.2 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.~~

~~[F] 907.2.9 Group R-2. Fire alarm systems, smoke alarms and carbon monoxide alarms shall be installed in Group R-2 occupancies as required in Sections 907.2.9.1 through 907.2.9.3.)~~

[F] 907.2.9.1.1 Group R-2 boarding homes. A manual fire alarm system shall be installed in Group R-2 occupancies where the building contains a boarding home licensed by the state of Washington.

EXCEPTION: In boarding homes licensed by the state of Washington, manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all constantly attended staff locations, provided such staff locations are visible, continuously accessible, located on each floor, and positioned so no portion of the story exceeds a horizontal travel distance of 200 feet to a manual fire alarm box.

~~([F] 907.2.9.3 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~[F] 907.2.9.3.1 Existing dwelling units. Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

~~[F] 907.2.10 Group R-3. Carbon monoxide alarms shall be installed in Group R-3 occupancies as required in Sections 907.2.10.1 through 907.2.10.3.~~

~~[F] 907.2.10.1 Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm shall be installed by January 1, 2011, outside of each separate sleeping area in the immediate vicinity of the bedroom in dwelling units. In a building where a tenancy exists, the tenant shall maintain the CO alarm as specified by the manufacturer including replacement of the batteries.~~

~~[F] 907.2.10.2 Existing dwelling units. Existing dwelling units shall be equipped with carbon monoxide alarms by July 1, 2011.~~

EXCEPTION: Owner-occupied Group R-3 residences legally occupied prior to July 1, 2010.

~~[F] 907.2.10.3 Alarm requirements. Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code and the manufacturer's installation instructions.)~~

SECTION 908—EMERGENCY ALARM SYSTEMS

908.7 Carbon monoxide alarms. Group R occupancies shall be provided with carbon monoxide alarms. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

EXCEPTION: Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, or a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:

1. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
2. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
3. The building is provided with a common area carbon monoxide alarm system.
4. An open parking garage, as defined in the *International Building Code*, or enclosed parking garage ventilated in accordance with Section 404 of the *International Mechanical Code* shall not be deemed to be an attached garage.

908.7.1 Carbon monoxide detection systems. Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

909.6.3 Elevator shaft pressurization. Where elevator shaft pressurization is required to comply with Exception 6 of IBC Section 708.14.1, the pressurization system shall comply with and be maintained in accordance with IBC 708.14.2.

909.6.3.1 Activation. The elevator shaft pressurization system shall be activated by a fire alarm system which shall include smoke detectors or other approved detectors located near the elevator shaft on each floor as approved by the building official and fire code official. If the building has a fire alarm panel, detectors shall be connected to, with power supplied by, the fire alarm panel.

909.6.3.2 Power system. The power source for the fire alarm system and the elevator shaft pressurization system shall be in accordance with Section 909.11.

SECTION 915 ALERTING SYSTEMS

915.1 General. An approved alerting system shall be provided in buildings and structures as required in chapter 4 and this section, unless other requirements are provided by another section of this code.

EXCEPTION: Approved alerting systems in existing buildings, structures or occupancies.

915.2 Power source. Alerting systems shall be provided with power supplies in accordance with Section 4.4.1 of NFPA 72 and circuit disconnecting means identified as "EMERGENCY ALERTING SYSTEM."

EXCEPTION: Systems which do not require electrical power to operate.

915.3 Duration of Operation. The alerting system shall be capable of operating under nonalarm condition (quiescent load) for a minimum of 24 hours and then shall be capable of operating during an emergency condition for a period of 15 minutes at maximum connected load.

915.4 Combination system. Alerting system components and equipment shall be allowed to be used for other purposes.

915.4.1 System priority. The alerting system use shall take precedence over any other use.

915.4.2 Fire alarm system. Fire alarm systems sharing components and equipment with alerting systems must be in accordance with Section 6.8.4 of NFPA 72.

915.4.2.1 Signal priority. Recorded or live alert signals generated by an alerting system that shares components with a fire alarm system shall, when actuated, take priority over fire alarm messages and signals.

915.4.2.2 Temporary deactivation. Should the fire alarm system be in the alarm mode when such an alerting system is actuated, it shall temporarily cause deactivation of all fire alarm-initiated audible messages or signals during the time period required to transmit the alert signal.

915.4.2.3 Supervisory signal. Deactivation of fire alarm audible and visual notification signals shall cause a supervisory signal for each notification zone affected in the fire alarm system.

915.5 Audibility. Audible characteristics of the alert signal shall be in accordance with Section 7.4.1 of NFPA 72 throughout the area served by the alerting system.

EXCEPTION: Areas served by approved visual or textual notification, where the visible notification appliances are not also used as a fire alarm signal, are not required to be provided with audibility complying with Section 915.6.

915.6 Visibility. Visible and textual notification appliances shall be permitted in addition to alert signal audibility.

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

AMENDATORY SECTION (Amending WSR 10-24-059, filed 11/29/10, effective 7/1/11)

WAC 51-54-4600 Chapter 46—Existing buildings.

CHAPTER 46 CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS

SECTION 4601 GENERAL

4601.1 Scope. The provisions of this chapter shall apply to existing buildings constructed prior to the adoption of this Code.

4601.2 Intent. The intent of this chapter is to provide a minimum degree of fire and life safety to persons occupying buildings by providing for alterations to such existing buildings that do not comply with the minimum requirements of the International Building Code.

4601.3 Permits. Permits shall be required as set forth in Section 105.7 and the International Building Code and this Code.

4601.4 Owner notification. Where a building is found to be in noncompliance, the fire code official shall duly notify the owner of the building. Upon receipt of such notice, the owner shall, subject to the following time limits, take necessary actions to comply with the provisions of this chapter.

4601.4.1 Construction documents. Construction documents for the necessary alterations shall be completed within a time schedule approved by the fire code official.

4601.4.2 Completion of work. Work on the required alterations to the building shall be completed within a time schedule approved by the fire code official.

4601.4.3 Extension of time. The fire code official is authorized to grant necessary extensions of time when it can be shown that the specified time periods are not physically practical or pose an undue hardship. The granting of an extension of time for compliance shall be based on the showing of good cause and subject to the filing of an acceptable systematic plan of correction with the fire code official.

SECTION 4602 DEFINITIONS

4602.1 Definitions. The following word and term shall, for the purpose of this chapter and as used elsewhere in this Code, have the meaning shown herein.

EXISTING. Buildings, facilities or conditions that are already in existence, constructed or officially authorized prior to the adoption of this Code.

SECTION 4603 FIRE SAFETY REQUIREMENTS FOR EXISTING BUILDINGS

4603.1 Required construction. Existing buildings shall comply with not less than the minimum provisions specified in Table 4603.1 and as further enumerated in Sections 4603.2 through 4603.7.3.

The provisions of this chapter shall not be construed to allow the elimination of fire protection systems or a reduction in the level of fire safety provided in buildings constructed in accordance with previously adopted codes.

EXCEPTION: Group U occupancies.

4603.2 Elevator operation. Existing elevators with a travel distance of 25 feet (7620 mm) or more above or below the main floor or other level of a building and intended to serve the needs of emergency personnel for firefighting or rescue purposes shall be provided with emergency operation in accordance with ASME A17.3.

4603.3 Vertical openings. Interior vertical shafts, including, but not limited to, stairways, elevator hoistways, service and

utility shafts, that connect two or more stories of a building, shall be enclosed or protected as specified in Sections 4603.3.1 through 4603.3.7.

4603.3.1 Group I occupancies. In Group I occupancies, interior vertical openings connecting two or more stories shall be protected with 1-hour fire-resistance-rated construction.

4603.3.2 Three to five stories. In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
 1. Vertical opening protection is not required for Group R-3 occupancies.
 2. Vertical opening protection is not required for open parking garages and ramps.
 3. Vertical opening protection is not required for escalators.

4603.3.3 More than five stories. In other than Group I occupancies, interior vertical openings connecting more than five stories shall be protected by 1-hour fire-resistance-rated construction.

EXCEPTIONS:
 1. Vertical opening protection is not required for Group R-3 occupancies.
 2. Vertical opening protection is not required for open parking garages and ramps.
 3. Vertical opening protection is not required for escalators.

**TABLE 4603.1
 OCCUPANCY AND USE REQUIREMENTS**

SECTION	USE			OCCUPANCY CLASSIFICATION																			
	High Rise	Atrium and covered mall	Underground building	A	B	E	F	H-1	H-2	H-3	H-4	H-5	I-1	I-2	I-3	I-4	M	R-1	R-2	R-3	R-4	S	
4603.2	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R
4603.3.1	R		R											R	R	R							
4603.3.2	R		R	R	R	R	R	R	R	R	R	R					R	R	R			R	R
4603.3.3	R		R	R	R	R	R	R	R	R	R	R					R	R	R			R	R
4603.3.4		R																					
4603.3.5					R												R						
4603.3.6				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R	R
4603.3.7				R		R	R	R	R	R	R	R	R	R	R	R		R	R	R	R	R	R
4603.4				R			R		R	R							R						
4603.5	R		R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R			R	R
4603.6.1						R																	
4603.6.2													R										
4603.6.3														R									
4603.6.4															R								
4603.6.5																	R						
4603.6.6																		R					
4603.6.7																						R	
4603.7																		R	R	R	R	R	R
4604.4	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R	R

R = The building is required to comply.

4603.3.4 Atriums and covered malls. In other than Group I occupancies, interior vertical openings in a covered mall building or a building with an atrium shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTIONS:
 1. Vertical opening protection is not required for Group R-3 occupancies.
 2. Vertical opening protection is not required for open parking garages and ramps.

4603.3.5 Escalators in Group B and M occupancies. Escalators creating vertical openings connecting any number of stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic fire sprinkler system in accordance with Section 903.3.1.1 installed throughout the building, with a draft curtain and closely spaced sprinklers around the escalator opening.

4603.3.6 Escalators connecting four or fewer stories. In other than Group B and M occupancies, escalators creating

vertical openings connecting four or fewer stories shall be protected by either 1-hour fire-resistance-rated construction or an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2 shall be installed throughout the building, and a draft curtain with closely spaced sprinklers shall be installed around the escalator opening.

4603.3.7 Escalators connecting more than four stories. In other than Group B and M occupancies, escalators creating vertical openings connecting five or more stories shall be protected by 1-hour fire-resistance-rated construction.

4603.4 Sprinkler systems. An automatic sprinkler system shall be provided in all existing buildings in accordance with Sections 4603.4.1 and 4603.4.2.

4603.4.1 Pyroxylin plastics. An automatic sprinkler system shall be provided throughout existing buildings where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds (45 kg). Vaults located within buildings for the storage of raw pyroxylin shall be protected with an approved automatic sprinkler system capable of discharging 1.66 gallons per minute per square foot (68 L/min/m²) over the area of the vault.

4603.4.2 Group I-2. An automatic sprinkler system shall be provided throughout existing Group I-2 fire areas. The sprinkler system shall be provided throughout the floor where the Group I-2 occupancy is located, and in all floors between the Group I-2 occupancy and the level of exit discharge.

4603.4.3 Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

4603.5 Standpipes. Existing structures with occupied floors located more than 50 feet (15,240 mm) above or below the lowest level of fire department vehicle access shall be equipped with standpipes installed in accordance with Section 905. The standpipes shall have an approved fire department connection with hose connections at each floor level above or below the lowest level of fire department access. The fire code official is authorized to approve the installation of manual standpipe systems to achieve compliance with this section where the responding fire department is capable of providing the required hose flow at the highest standpipe outlet.

4603.6 Fire alarm systems. An approved fire alarm system shall be installed in existing buildings and structures in accordance with Sections 4603.6.1 through 4603.6.7 and provide occupant notification in accordance with Section 907.6 unless other requirements are provided by other sections of this code.

EXCEPTION: Occupancies with an existing, previously approved fire alarm system.

4603.6.1 Group E. A fire alarm system shall be installed in existing Group E occupancies in accordance with Section 907.2.3.

EXCEPTIONS: 1. A manual fire alarm system is not required in a building with a maximum area of 1,000 square feet

(93 m²) that contains a single classroom and is located no closer than 50 feet (15,240 mm) from another building.

2. A manual fire alarm system is not required in Group E occupancies with an occupant load less than 50.

4603.6.2 Group I-1. An automatic fire alarm system shall be installed in existing Group I-1 residential care/assisted living facilities in accordance with Section 907.2.6.1.

EXCEPTIONS: 1. Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2 are not exceeded.
2. Where each sleeping room has a means of egress door opening directly to an exterior egress balcony that leads directly to the exits in accordance with WAC 51-50-1019, and the building is not more than three stories in height.

4603.6.3 Group I-2. An automatic fire alarm system shall be installed in existing Group I-2 occupancies in accordance with Section 907.2.6.2.

EXCEPTION: Manual fire alarm boxes in resident or patient sleeping areas shall not be required at exits if located at all nurses' control stations or other constantly attended staff locations, provided such stations are visible and continuously accessible and that travel distances required in Section 907.5.2.1 are not exceeded.

4603.6.4 Group I-3. An automatic and manual fire alarm system shall be installed in existing Group I-3 occupancies in accordance with Section 907.2.6.3.

4603.6.5 Group R-1. A fire alarm system and smoke alarms shall be installed in existing Group R-1 occupancies in accordance with Sections 4603.6.5.1 through 4603.6.5.2.1.

4603.6.5.1 Group R-1 hotel and motel manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels more than three stories or with more than 20 sleeping units.

EXCEPTIONS: 1. Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.
2. Manual fire alarm boxes are not required throughout the building when the following conditions are met:
2.1. The building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2;
2.2. The notification appliances will activate upon sprinkler water flow; and
2.3. At least one manual fire alarm box is installed at an approved location.

4603.6.5.1.1 Group R-1 hotel and motel automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 hotels and motels throughout all interior corridors serving sleeping rooms not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: An automatic smoke detection system is not required in buildings that do not have interior corridors serving

sleeping units and where each sleeping unit has a means of egress door opening directly to an exit or to an exterior exit access that leads directly to an exit.

4603.6.5.2 Group R-1 boarding and rooming houses manual fire alarm system. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses.

EXCEPTION: Buildings less than two stories in height where all sleeping units, attics and crawl spaces are separated by 1-hour fire-resistance-rated construction and each sleeping unit has direct access to a public way, exit court or yard.

4603.6.5.2.1 Group R-1 boarding and rooming houses automatic smoke detection system. An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-1 boarding and rooming houses throughout all interior corridors serving sleeping units not equipped with an approved, supervised sprinkler system installed in accordance with WAC 51-50-0903.

EXCEPTION: Buildings equipped with single-station smoke alarms meeting or exceeding the requirements of Section 907.2.10.1 and where the fire alarm system includes at least one manual fire alarm box per floor arranged to initiate the alarm.

4603.6.6 Group R-2. An automatic or manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in existing Group R-2 occupancies more than three stories in height or with more than 16 dwelling or sleeping units.

EXCEPTIONS:

1. Where each living unit is separated from other contiguous living units by fire barriers having a fire-resistance rating of not less than 0.75 hour, and where each living unit has either its own independent exit or its own independent stairway or ramp discharging at grade.
2. A separate fire alarm system is not required in buildings that are equipped throughout with an approved supervised automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2 and having a local alarm to notify all occupants.
3. A fire alarm system is not required in buildings that do not have interior corridors serving dwelling units and are protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, provided that dwelling units either have a means of egress door opening directly to an exterior exit access that leads directly to the exits or are served by open-ended corridors designed in accordance with Section 1023.6, Exception 4.

4603.6.7 Group R-4. This section not adopted.

EXCEPTIONS:

1. Where there are interconnected smoke alarms meeting the requirements of Section 907.2.11 and there is at least one manual fire alarm box per floor arranged to continuously sound the smoke alarms.
2. Other manually activated, continuously sounding alarms approved by the fire code official.

4603.7 Single and multiple-station smoke alarms. Single and multiple-station smoke alarms shall be installed in existing Group R occupancies and in dwellings not classified as

Group R occupancies in accordance with Sections 4603.7.1 through 4603.7.3.

4603.7.1 Where required. Existing Group R occupancies and dwellings not classified as Group R occupancies not already provided with single-station smoke alarms shall be provided with single-station smoke alarms. Installation shall be in accordance with Section 907.2.10, except as provided in Sections 4603.7.2 and 4603.7.3.

4603.7.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

EXCEPTIONS:

1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

4603.7.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

EXCEPTIONS:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for building wiring without the removal of interior finishes.

4603.8 Carbon monoxide alarms. Existing Group R occupancies shall be provided with carbon monoxide alarms. R-2 occupancies not already equipped with a carbon monoxide alarm system shall be provided with a carbon monoxide alarm system when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions.

EXCEPTIONS:

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits.

2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems.

3. Sleeping units or dwelling units in R-1 occupancies and R-2 college dormitories, hotel, and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, but which are located in a building with a fuel-burning appliance, a fuel-burning fireplace, or an attached garage, need not be provided with carbon monoxide alarms provided that:

a. The sleeping units or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and

b. The sleeping units or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and

c. The building is provided with a common area carbon monoxide alarm system.

d. An open parking garage, as defined in the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be deemed to be an attached garage.

SECTION 4604 MEANS OF EGRESS FOR EXISTING BUILDINGS

4604.1 General. Means of egress in existing buildings shall comply with Section 1030 and 4604.2 through 4604.23.

EXCEPTION: Means of egress conforming to the requirements of the building code under which they were constructed and Section 1030 shall not be required to comply with 4604.2 through 4604.21.

4604.1.1 Evaluation. Existing buildings that were not required to comply with a building code at the time of construction, and that constitute a distinct hazard to life as determined by the fire official, shall comply with the minimum egress requirements when specified in Table 4603.1 as further enumerated in Sections 4604.2 through 4604.23. The fire official shall notify the building owner in writing of the distinct hazard and, in addition shall have the authority to require a life safety evaluation be prepared, consistent with the requirements of Section 104.7.2. The life safety evaluation shall identify any changes to the means of egress that are necessary to provide safe egress to occupants and shall be subject to review and approval by the fire and building code officials. The building shall be modified to comply with the recommendations set forth in the approved evaluation.

4604.2 Elevators, escalators and moving walks. Elevators, escalators and moving walks shall not be used as a component of a required means of egress.

EXCEPTIONS:

1. Elevators used as an accessible means of egress where allowed by Section 1007.4.
2. Previously approved escalators and moving walks in existing buildings.

4604.3 Exit sign illumination. Exit signs shall be internally or externally illuminated. The face of an exit sign illuminated from an external source shall have an intensity of not less than 5 foot-candles (54 lux). Internally illuminated signs shall provide equivalent luminance and be listed for the purpose.

EXCEPTION: Approved self-luminous signs that provide evenly illuminated letters shall have a minimum luminance of 0.06 foot-lamberts (0.21 cd/m²).

4604.4 Power source. Where emergency illumination is required in Section 4604.5, exit signs shall be visible under emergency illumination conditions.

EXCEPTION: Approved signs that provide continuous illumination independent of external power sources are not required to be connected to an emergency electrical system.

4604.5 Illumination emergency power. The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, illumination shall be automatically provided from an emergency system for the following occupancies where such occupancies require two or more means of egress:

1. Group A having 50 or more occupants.

EXCEPTION: Assembly occupancies used exclusively as a place of worship and having an occupant load of less than 300.

2. Group B buildings three or more stories in height, buildings with 100 or more occupants above or below a level of exit discharge serving the occupants or buildings with 1,000 or more total occupants.

3. Group E in interior stairs, corridors, windowless areas with student occupancy, shops and laboratories.

4. Group F having more than 100 occupants.

EXCEPTION: Buildings used only during daylight hours which are provided with windows for natural light in accordance with the International Building Code.

5. Group I.

6. Group M.

EXCEPTION: Buildings less than 3,000 square feet (279 m²) in gross sales area on one story only, excluding mezzanines.

7. Group R-1.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at grade.

8. Group R-2.

EXCEPTION: Where each dwelling unit or sleeping unit has direct access to the outside of the building at grade.

9. Group R-4.

EXCEPTION: Where each sleeping unit has direct access to the outside of the building at ground level.

4604.5.1 Emergency power duration and installation. In other than Group I-2, the emergency power system shall provide power for not less than 60 minutes and consist of storage batteries, unit equipment or an on-site generator. In Group I-2, the emergency power system shall provide power for not less than 90 minutes and consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 4604.

4604.6 Guards. Guards complying with this section shall be provided at the open sides of means of egress that are more than 30 inches (762 mm) above the floor or grade below.

4604.6.1 Height of guards. Guards shall form a protective barrier not less than 42 inches (1067 mm) high.

EXCEPTIONS:

1. Existing guards on the open side of stairs shall be not less than 30 inches (760 mm) high.

- 2. Existing guards within dwelling units shall be not less than 36 inches (910 mm) high.
- 3. Existing guards in assembly seating areas.

- 3. Approved existing open guards.

4604.6.2 Opening limitations. Open guards shall have balusters or ornamental patterns such that a 6-inch-diameter (152 mm) sphere cannot pass through any opening up to a height of 34 inches (864 mm).

- EXCEPTIONS:
- 1. At elevated walking surfaces for access to, and use of, electrical, mechanical or plumbing systems or equipment, guards shall have balusters or be of solid materials such that a sphere with a diameter of 21 inches (533 mm) cannot pass through any opening.
 - 2. In occupancies in Group I-3, F, H or S, the clear distance between intermediate rails measured at right angles to the rails shall not exceed 21 inches (533 mm).

4604.7 Minimum required egress width. The means of egress width shall not be less than as required by the code under which constructed but not less than as required by this section. The total width of means of egress in inches (mm) shall not be less than the total occupant load served by the means of egress multiplied by the factors in Table 4604.7 and not less than specified elsewhere in this section. Multiple means of egress shall be sized such that the loss of any one means of egress shall not reduce the available capacity to less than 50 percent of the required capacity. The maximum capacity required from any story of a building shall be maintained to the termination of the means of egress.

**TABLE 4604.7
EGRESS WIDTH PER OCCUPANT SERVED**

OCCUPANCY	WITHOUT SPRINKLER SYSTEM		WITH SPRINKLER SYSTEM ^a	
	Stairways (inches per occupant)	Other egress components (inches per occupant)	Stairways (inches per occupant)	Other egress components (inches per occupant)
Occupancies other than those listed below	0.3	0.2	0.2	0.15
Hazardous: H-1, H-2, H-3 and H-4	Not permitted	Not permitted	0.3	0.2
Institutional: I-2	Not permitted	Not permitted	0.3	0.2

For SI: 1 inch = 25.4 mm.

a. Buildings equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

4604.8 Size of doors. The minimum width of each door opening shall be sufficient for the occupant load thereof and shall provide a clear width of not less than 28 inches (711 mm). Where this section requires a minimum clear width of 28 inches (711 mm) and a door opening includes two door leaves without a mullion, one leaf shall provide a clear opening width of 28 inches (711 mm). The maximum width of a swinging door leaf shall be 48 inches (1219 mm) nominal. Means of egress doors in an occupancy in Group I-2 used for the movement of beds shall provide a clear width not less than 41.5 inches (1054 mm). The height of doors shall not be less than 80 inches (2032 mm).

- EXCEPTIONS:
- 1. The minimum and maximum width shall not apply to door openings that are not part of the required means of egress in occupancies in Groups R-2 and R-3.
 - 2. Door openings to storage closets less than 10 square feet (0.93 m²) in area shall not be limited by the minimum width.
 - 3. Width of door leaves in revolving doors that comply with Section 1008.1.4.1 shall not be limited.
 - 4. Door openings within a dwelling unit shall not be less than 78 inches (1981 mm) in height.
 - 5. Exterior door openings in dwelling units, other than the required exit door, shall not be less than 76 inches (1930 mm) in height.
 - 6. Exit access doors serving a room not larger than 70 square feet (6.5 m²) shall be not less than 24 inches (610 mm) in door width.

4604.9 Opening force for doors. The opening force for interior side-swinging doors without closers shall not exceed a 5-pound (22 N) force. For other side-swinging, sliding and folding doors, the door latch shall release when subjected to a force of not more than 15 pounds (66 N). The door shall be set in motion when subjected to a force not exceeding 30 pounds (133 N). The door shall swing to a full open position when subjected to a force of not more than 50 pounds (222 N). Forces shall be applied to the latch side.

4604.10 Revolving doors. Revolving doors shall comply with the following:

- 1. A revolving door shall not be located within 10 feet (3048 mm) of the foot or top of stairs or escalators. A dispersal area shall be provided between the stairs or escalators and the revolving doors.
- 2. The revolutions per minute for a revolving door shall not exceed those shown in Table 4604.10.
- 3. Each revolving door shall have a conforming side-hinged swinging door in the same wall as the revolving door and within 10 feet (3048 mm).

- EXCEPTIONS:
- 1. A revolving door is permitted to be used without an adjacent swinging door for street-floor elevator lobbies provided a stairway, escalator or door from other parts of the building does not discharge through the lobby and the lobby does not have any occupancy or use other than as a means of travel between elevators and a street.

2. Existing revolving doors where the number of revolving doors does not exceed the number of swinging doors within 20 feet (6096 mm).

4604.10.1 Egress component. A revolving door used as a component of a means of egress shall comply with Section 4604.10 and all of the following conditions:

1. Revolving doors shall not be given credit for more than 50 percent of the required egress capacity.
2. Each revolving door shall be credited with not more than a 50-person capacity.
3. Revolving doors shall be capable of being collapsed when a force of not more than 130 pounds (578 N) is applied within 3 inches (76 mm) of the outer edge of a wing.

4604.11 Stair dimensions for existing stairs. Existing stairs in buildings shall be permitted to remain if the rise does not exceed 8 1/4 inches (210 mm) and the run is not less than 9 inches (229 mm). Existing stairs can be rebuilt.

EXCEPTION: Other stairs approved by the fire code official.

**TABLE 4604.10
REVOLVING DOOR SPEEDS**

INSIDE DIAMETER	POWER-DRIVEN-TYPE SPEED CONTROL (RPM)	MANUAL-TYPE SPEED CONTROL (RPM)
6' 6"	11	12
7' 0"	10	11
7' 6"	9	11
8' 0"	9	10
8' 6"	8	9
9' 0"	8	9
9' 6"	7	8
10' 0"	7	8

For SI: 1 inch = 25.4 mm, 1 foot = 304.8 mm.

4604.11.1 Dimensions for replacement stairs. The replacement of an existing stairway in a structure shall not be required to comply with the new stairway requirements of WAC 51-11-1009 where the existing space and construction will not allow a reduction in pitch or slope.

4604.12 Winders. Existing winders shall be allowed to remain in use if they have a minimum tread depth of 6 inches (152 mm) and a minimum tread depth of 9 inches (229 mm) at a point 12 inches (305 mm) from the narrowest edge.

4604.13 Circular stairways. Existing circular stairs shall be allowed to continue in use provided the minimum depth of tread is 10 inches (254 mm) and the smallest radius shall not be less than twice the width of the stairway.

4604.14 Stairway handrails. Stairways shall have handrails on at least one side. Handrails shall be located so that all portions of the stairway width required for egress capacity are within 44 inches (1118 mm) of a handrail.

EXCEPTION: Aisle stairs provided with a center handrail are not required to have additional handrails.

4604.14.1 Height. Handrail height, measured above stair tread nosings, shall be uniform, not less than 30 inches (762 mm) and not more than 42 inches (1067 mm).

4604.15 Slope of ramps. Ramp runs utilized as part of a means of egress shall have a running slope not steeper than one unit vertical in 10 units horizontal (10 percent slope). The slope of other ramps shall not be steeper than one unit vertical in 8 units horizontal (12.5 percent slope).

4604.16 Width of ramps. Existing ramps are permitted to have a minimum width of 30 inches (762 mm) but not less than the width required for the number of occupants served as determined by Section 1005.1.

4604.17 Fire escape stairs. Fire escape stairs shall comply with Sections 4604.17.1 through 4604.17.7.

4604.17.1 Existing means of egress. Fire escape stairs shall be permitted in existing buildings but shall not constitute more than 50 percent of the required exit capacity.

4604.17.2 Protection of openings. Openings within 10 feet (3048 mm) of fire escape stairs shall be protected by fire door assemblies having a minimum 3/4-hour fire-resistance rating.

EXCEPTION: In buildings equipped throughout with an approved automatic sprinkler system, opening protection is not required.

4604.17.3 Dimensions. Fire escape stairs shall meet the minimum width, capacity, riser height and tread depth as specified in Section 4604.10.

4604.17.4 Access. Access to a fire escape from a corridor shall not be through an intervening room. Access to a fire escape stair shall be from a door or window meeting the criteria of Section 1005.1. Access to a fire escape stair shall be directly to a balcony, landing or platform. These shall be no higher than the floor or window sill level and no lower than 8 inches (203 mm) below the floor level or 18 inches (457 mm) below the window sill.

4604.17.5 Materials and strength. Components of fire escape stairs shall be constructed of noncombustible materials. Fire escape stairs and balconies shall support the dead load plus a live load of not less than 100 pounds per square foot (4.78 kN/m²). Fire escape stairs and balconies shall be provided with a top and intermediate handrail on each side. The fire code official is authorized to require testing or other satisfactory evidence that an existing fire escape stair meets the requirements of this section.

4604.17.6 Termination. The lowest balcony shall not be more than 18 feet (5486 mm) from the ground. Fire escape stairs shall extend to the ground or be provided with counter-balanced stairs reaching the ground.

EXCEPTION: For fire escape stairs serving 10 or fewer occupants, an approved fire escape ladder is allowed to serve as the termination.

4604.17.7 Maintenance. Fire escapes shall be kept clear and unobstructed at all times and shall be maintained in good working order.

4604.18 Corridors. Corridors serving an occupant load greater than 30 and the openings therein shall provide an

effective barrier to resist the movement of smoke. Transoms, louvers, doors and other openings shall be kept closed or self-closing.

- EXCEPTIONS:
1. Corridors in occupancies other than in Group H, which are equipped throughout with an approved automatic sprinkler system.
 2. Patient room doors in corridors in occupancies in Group I-2 where smoke barriers are provided in accordance with the International Building Code.
 3. Corridors in occupancies in Group E where each room utilized for instruction or assembly has at least one-half of the required means of egress doors opening directly to the exterior of the building at ground level.
 4. Corridors that are in accordance with the International Building Code.

4604.18.1 Corridor openings. Openings in corridor walls shall comply with the requirements of the International Building Code.

- EXCEPTIONS:
1. Where 20-minute fire door assemblies are required, solid wood doors at least 1.75 inches (44 mm) thick or insulated steel doors are allowed.
 2. Openings protected with fixed wire glass set in steel frames.
 3. Openings covered with 0.5-inch (12.7 mm) gypsum wallboard or 0.75-inch (19.1 mm) plywood on the room side.
 4. Opening protection is not required when the building is equipped throughout with an approved automatic sprinkler system.

4604.18.2 Dead ends. Where more than one exit or exit access doorway is required, the exit access shall be arranged such that dead ends do not exceed the limits specified in Table 4604.17.2.

- EXCEPTION:
- A dead-end passageway or corridor shall not be limited in length where the length of the dead-end passageway or corridor is less than 2.5 times the least width of the dead-end passageway or corridor.

4604.18.3 Exit access travel distance. Exits shall be located so that the maximum length of exit access travel, measured from the most remote point to an approved exit along the natural and unobstructed path of egress travel, does not exceed the distances given in Table 4604.17.2.

4604.18.4 Common path of egress travel. The common path of egress travel shall not exceed the distances given in Table 4604.18.2.

4604.19 Stairway discharge identification. A stairway in an exit enclosure which continues below its level of exit discharge shall be arranged and marked to make the direction of egress to a public way readily identifiable.

- EXCEPTION:
- Stairs that continue one-half story beyond their levels of exit discharge need not be provided with barriers where the exit discharge is obvious.

4604.20 Exterior stairway protection. Exterior exit stairs shall be separated from the interior of the building as required in Section 1026.6. Openings shall be limited to those necessary for egress from normally occupied spaces.

- EXCEPTIONS:
1. Separation from the interior of the building is not required for buildings that are two stories or less above grade where the level of exit discharge serving such occupancies is the first story above grade.
 2. Separation from the interior of the building is not required where the exterior stairway is served by an exterior balcony that connects two remote exterior stairways or other approved exits, with a perimeter that is not less than 50 percent open. To be considered open, the opening shall be a minimum of 50 percent of the height of the enclosing wall, with the top of the opening not less than 7 feet (2134 mm) above the top of the balcony.
 3. Separation from the interior of the building is not required for an exterior stairway located in a building or structure that is permitted to have unenclosed interior stairways in accordance with Section 1022.
 4. Separation from the interior of the building is not required for exterior stairways connected to open-ended corridors, provided that:
 - 4.1. The building, including corridors and stairs, is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.
 - 4.2. The open-ended corridors comply with Section 1018.
 - 4.3. The open-ended corridors are connected on each end to an exterior exit stairway complying with Section 1026.
 - 4.4. At any location in an open-ended corridor where a change of direction exceeding 45 degrees occurs, a clear opening of not less than 35 square feet (3 m²) or an exterior stairway shall be provided. Where clear openings are provided, they shall be located so as to minimize the accumulation of smoke or toxic gases.

**TABLE 4604.18.2
COMMON PATH, DEAD-END AND TRAVEL DISTANCE LIMITS (by occupancy)**

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group A	20/75 ^a	20/75 ^a	20 ^b	20 ^b	200	250
Group B	75	100	50	50	200	250
Group E	75	75	20	50	200	250
Group F-1, S-1 ^d	75	100	50	50	200	250
Group F-2, S-2 ^d	75	100	50	50	300	400
Group H-1	25	25	0	0	75	75
Group H-2	50	100	0	0	75	100
Group H-3	50	100	20	20	100	150
Group H-4	75	75	20	20	150	175

OCCUPANCY	COMMON PATH LIMIT		DEAD-END LIMIT		TRAVEL DISTANCE LIMIT	
	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)	Unsprinklered (feet)	Sprinklered (feet)
Group H-5	75	75	20	20	150	200
Group I-1	75	75	20	50	200	250
Group I-2 (Health Care)	NR ^e	NR ^e	NR	NR	150	200 ^c
Group I-3 (Detention and Correctional—Use Conditions II, III, IV, V)	100	100	NR	NR	150 ^c	200 ^c
Group I-4 (Day Care Centers)	NR	NR	20	20	200	250
Group M (Covered Mall)	75	100	50	50	200	400
Group M (Mercantile)	75	100	50	50	200	250
Group R-1 (Hotels)	75	75	50	50	200	250
Group R-2 (Apartments)	75	75	50	50	200	250
Group R-3 (One- and Two-Family)	NR	NR	NR	NR	NR	NR
Group R-4 (Residential Care/Assisted Living)	NR	NR	NR	NR	NR	NR
Group U	75	75	20	50	200	250

For SI: 1 foot = 304.8 mm.

- a. 20 feet for common path serving 50 or more persons; 75 feet for common path serving less than 50 persons.
 - b. See Section 1028.9.5 for dead-end aisles in Group A occupancies.
 - c. This dimension is for the total travel distance, assuming incremental portions have fully utilized their allowable maximums. For travel distance within the room, and from the room exit access door to the exit, see the appropriate occupancy chapter.
 - d. See the International Building Code for special requirements on spacing of doors in aircraft hangars.
 - e. Any patient sleeping room, or any suite that includes patient sleeping rooms, of more than 1,000 square feet (93 m²) shall have at least two exit access doors placed a distance apart equal to not less than one-third of the length of the maximum overall diagonal dimension of the patient sleeping room or suite to be served, measured in a straight line between exit access doors.
- NR = No requirements.

4604.21 Minimum aisle width. The minimum clear width of aisles shall be:

1. Forty-two inches (1067 mm) for aisle stairs having seating on each side.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

2. Thirty-six inches (914 mm) for stepped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

3. Twenty inches (508 mm) between a stepped aisle handrail or guard and seating when the aisle is subdivided by the handrail.

4. Forty-two inches (1067 mm) for level or ramped aisles having seating on both sides.

EXCEPTION: Thirty-six inches (914 mm) where the aisle serves less than 50 seats.

5. Thirty-six inches (914 mm) for level or ramped aisles having seating on only one side.

EXCEPTION: Thirty inches (760 mm) for catchment areas serving not more than 60 seats.

6. Twenty-three inches (584 mm) between a stepped stair handrail and seating where an aisle does not serve more than five rows on one side.

4604.22 Stairway floor number signs. Existing stairs shall be marked in accordance with Section 1022.8.

4604.23 Egress path markings. Existing buildings of Group A, B, E, I, M and R-1 having occupied floors located more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be provided with luminous egress path markings in accordance with Section 1024.

EXCEPTION: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program.

SECTION 4605 REQUIREMENTS FOR OUTDOOR OPERATIONS

4605.1 Tire storage yards. Existing tire storage yards shall be provided with fire apparatus access roads in accordance with Sections 4605.1.1 and 4605.1.2.

4605.1.1 Access to piles. Access roadways shall be within 150 feet (45,720 mm) of any point in the storage yard where storage piles are located, at least 20 feet (6096 mm) from any storage pile.

4605.1.2 Location within piles. Fire apparatus access roads shall be located within all pile clearances identified in Section 2505.4 and within all fire breaks required in Section 2505.5.

**WSR 11-16-082
PROPOSED RULES
BUILDING CODE COUNCIL**

[Filed August 1, 2011, 4:34 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-09-070.

Title of Rule and Other Identifying Information: Amending WAC 51-11-0101, Washington State Energy Code requirements for duct testing in existing dwellings.

Hearing Location(s): Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, WA, on September 9, 2011, at 10:00 a.m.; and at the Shoreline City Hall, 17500 Midvale Avenue North, Shoreline, WA, on October 14, 2011, at 10:00 a.m.

Date of Intended Adoption: November 18, 2011.

Submit Written Comments to: Kristyn Clayton, Council Chair, P.O. Box 41011, Olympia, WA 98504-1011, e-mail sbcc@ga.wa.gov, fax (360) 586-0493, by October 14, 2011.

Assistance for Persons with Disabilities: Contact Peggy Bryden by September 6, 2011, TTY (360) 753-7427 or (360) 725-2966.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The state building code council is considering permanent language to supersede the emergency rule adopted under WSR 11-10-039 and 11-01-084, and also found as a part of WSR 10-13-114 and 10-22-055. The permanent language under consideration is the same as that of WSR 11-10-039 and 11-01-084 and eliminates the requirement in Section 101.3.2.6 for sealing of heating ducts when a system is repaired or replaced.

Reasons Supporting Proposal: RCW 19.27A.025 and 19.27A.045.

Statutory Authority for Adoption: RCW 19.27A.025, 19.27A.045.

Statute Being Implemented: Chapters 19.27, 19.27A, and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The council is seeking comments on the issue proposed in the rule shown below.

Name of Proponent: Washington state building code council, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, P.O. Box 41011, Olympia, WA 98504-1011, (360) 902-7290; and Enforcement: Local jurisdictions.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

Small Business Economic Impact Statement

Executive Summary

Impact on Small Business: Permanent rule making regarding requirements for duct testing when existing residential furnaces are replaced or repaired will result in some cost outlay for small businesses, which will be offset by the additional revenue provided through the required testing. A number of these businesses will be purchasing, or already have purchased, the necessary equipment in order to comply with the requirements for duct testing for new residential construction. Instruction on the requirements and testing methodology is being provided free of cost by Washington State University's extension energy program.

While this proposed rule may pose a financial impact on small business to purchase the equipment, the cost for the

equipment is offset by the additional revenue coming in from the testing itself, resulting in an overall neutral to positive impact. This impact is also a mitigated impact over the previously adopted rule, which required both testing and sealing of ducts. At the same time, the proposed rule provides a benefit to homeowners, who will ultimately bear the majority of the cost, in education and a potential for significant energy savings.

The proposed rule is anticipated to be job neutral. There are jobs anticipated to be gained for testing personnel, these gains would most likely be more closely associated with the testing requirements for new construction, which would be the driving factor. There are also potential job gains in any duct sealing work generated by the testing results. There has also been testimony provided that homeowners may elect to not replace or repair existing heating equipment, resulting in a loss of business for the installer.

Section I: Introduction/Compliance with the Rules:

Background: The proposed rule modifies requirements in the 2009 Washington State Energy Code (chapter 51-11 WAC). The rule as originally adopted required that when a heating system was altered or replaced the duct systems attached to the equipment be tested for leaks and sealed. Prior to being implemented, businesses impacted by this rule petitioned the council to rescind or modify these requirements. HVAC installers testified that they were unable to provide accurate estimates to customers seeking to replace their furnaces. While the cost for the furnace, the labor to install the furnace, and the duct testing were all known costs, the costs for sealing of the duct system could not be estimated until the ducts were tested and examined.

The council established an emergency rule to help mitigate costs for replacement furnaces by requiring that the existing ducts be tested but not sealed. The sealing could be performed at the discretion of the homeowner. This allowed the testing, which has an easily estimated cost, to be performed while the sealing, where the costs could vary greatly based on the length of installed ductwork and accessibility of the ducts, could be treated as a separate job. This emergency rule has been in place since the 2009 Washington State Energy Code was implemented on January 1, 2011.

Who is Required to Comply with the Rules? When an existing residential furnace is replaced or repaired, the duct system for that piece of equipment must be tested for leakage. This is already a requirement for new construction. HVAC installers who already own the equipment can perform the test themselves or they can contract with a secondary firm to provide the service. Some houses are exempt from these requirements. If a house has any of the following, the ducts do not have to be tested:

- All of the ductwork is contained inside your house or less than 40 linear feet is outside of the conditioned space.
- The ducts have been previously tested and sealed.
- The ducts contain asbestos.

Section II: Compliance Costs for Washington Businesses:

Assumptions: Since the testing is required to be performed when a furnace is being replaced or repaired, these costs would be passed on to the homeowner along with the

cost of the furnace rather than fall to the installer/business owner. While installers may need to purchase duct testing equipment and train personnel to perform the test, they could contract the testing out to a third party. The initial cost of the equipment is approximately \$1,900¹. Training is currently provided by WSU at no cost. Testimony provided by the Washington HVAC Association reported that their members do not see a hardship in purchasing equipment; most have already made the investment in the equipment to comply with the requirements for new construction and feel this will have little impact. The average price being charged by installers to perform the testing is \$200.

Leaky duct systems typically contribute to twenty to forty² percent of a home's heating and cooling costs. Duct sealing can increase a heating and/or cooling system's efficiency to a greater degree than upgrading to a high-efficiency furnace and with less of an investment. Estimated average energy savings are 1200 kilowatt hours per year in Climate Zone 1 and 2029 kilowatt hours in Climate Zone 2². The percent saved is about fourteen to twenty-eight³ percent of total space heating energy use.

Average Testing Cost: Industry experts estimate the cost for the testing at an average of \$200 per system. The homeowner can then decide if they want to take the additional step of sealing existing ductwork to increase the energy performance of the system.

Many local utilities provide rebates when the testing is done in conjunction with duct sealing. Specific information on available rebates was provided by the energy policy office of the department of commerce. That data can be found in Appendix 1.

Impact on Sales or Revenue: There may be a negative impact on the sales and installation of replacement furnaces. Some homeowners may choose to install a cheaper model to mitigate the increased installation costs associated with testing or elect to not replace the furnace.

Section III: Analysis of Proportionate Impact on Small Businesses:

Small businesses affected by the proposed rule are shown in Table One.

TABLE ONE: Small Businesses Impacted By Proposed Rule				
Type of business	NAICS CODE	# IN STATE (50 Employees or less)	# IN STATE (More than 50 Employees)	ANTICIPATED IMPACTS
Residential remodelers	236118	1,854	52	Neutral to positive - costs will be incurred for purchase of testing equipment or contract negotiations but will be offset by fees for required duct testing.
Plumbing, heating, and air-conditioning contractors	238220	2,006	2	Neutral to positive - costs will be incurred for purchase of testing equipment or contract negotiations but will be offset by fees for required duct testing.
Other building equipment contractors	238290	190	6	Positive - there may be a minor positive impact on the duct insulation industry if the homeowner decides to seal the ducts in response to test results. It is anticipated that this will also be the category for independent testers who will gain jobs through contracts with installers and remodelers, as noted above.
Heating and air-conditioning equipment and supplies, wholesale	423730	41	3	Neutral - the number of wholesale units sold is not expected to increase or decrease due to the proposed rule.

The Impact on Small Businesses Compared to the Largest Businesses in the State Will Not Be Disproportionate: Permanent rule making regarding requirements for duct testing when existing residential furnaces are replaced or repaired will result in some cost outlay for all businesses. However, a number of these businesses will be purchasing, or already have purchased, the necessary equipment in order to comply with the requirements for duct testing for new residential construction. In addition, the additional revenue provided through the required testing will further offset this outlay. There are also potential job and revenue gains in any

duct sealing work the homeowner elects to move forward with based on the test results.

Instruction on the requirements and testing methodology is being provided free of cost by Washington State University's extension energy program.

While this proposed rule does pose a financial impact on small business, it is a mitigated impact over the previously adopted rule requiring both testing and sealing of ducts. It is also mitigated by the additional \$200 fee for testing associated with the installation of each furnace or heating system.

Section IV: Small Business Involvement and Impact Reduction Efforts:

Actions Taken to Reduce the Impact of the Rule on Small Businesses: The proposed rules are written in response to public comment to mitigate the effects of the required testing and sealing in the previously adopted rule and its unintended consequences during this economic downturn. The council solicited testimony and worked with industry and trade associations to draft a proposed rule that is acceptable to the industry while also allows for the opportunity to reduce residential energy consumption.

Involvement of Small Business in the Development of the Proposed Rules: The council held a number of public hearings and heard from a variety of industry and trade representatives at meetings across the state, including the following individuals:

- Washington HVAC Contractions - NAICS Code 238220
Larry Andrews, Andrews Mechanical
Jeff Demillia, Olsen Energy Source
Mike Frickberg, Washington HVAC Association
Jeff Holgate, Washington Energy Services
James King, Washington HVAC Association
Dan Schmause, Air Conditioning Contractors Association
Craig Williamson, MM Comfort Systems
- Washington Residential Remodelers - NAICS Code 236118
Adam Gloss, BelRed Energy Solutions
Garrett Huffman, Master Builders Association of King and Snohomish County
Derek Philips, BelRed Energy Solutions

In addition, the council's energy code technical advisory group (TAG) reviewed the current emergency rule, the language adopted in the 2009 Washington State Energy Code, and proposed language submitted from one of the industry stakeholders noted above. The members of that TAG represent stakeholders from the construction industry, local government and the enforcement community. These members recommended the council retain the current emergency rule as permanently adopted language.

Section V: Number of Affected Businesses in Washington:

- Residential Remodelers 2,008 (NAICS Code 236118)
- Plumbing, Heating, and Air-Conditioning . . . 1,906 Contractors (NAICS Code 238220)
- Other Building Equipment Contractors 196 (NAICS Code 238290)
- Heating and Air-Conditioning Equipment and . . 44 Supplies, Wholesale (NAICS Code 423730)

Section VI: Jobs Created or Lost as a Result of These Rules: This proposed rule is anticipated to be job neutral, i.e., they will not result in any job gains or losses.

There are jobs anticipated to be gained for testing personnel, these gains would most likely be more closely associ-

ated with the testing requirements for new construction, which would be the driving factor.

There may be some jobs lost if homeowners are unable to finance the additional costs associated with the testing when replacing or repairing an existing furnace.

¹ See report from Chuck Murray, Dept. of Commerce Energy Policy, on Existing Home Duct Sealing Cost/Savings, dated May 26, 2011. Report is available appended to <https://fortress.wa.gov/ga/apps/sbcc/File.ashx?cid=1406>.

² Northwest Power and Conservation Council, Regional Technical Forum (RTF) Residential: Heating/Cooling - PTCS Duct Sealing SF <http://www.nwcouncil.org/energy/rtf/measures/measure.asp?id=138>.

³ Bob Davis, Dave Baylon, others, Duct Sealing Pilot Project: Program Results For Puget Sound Energy, Ecotope, 1999.

A copy of the statement may be obtained by contacting Krista Braaksma, P.O. Box 41011, Olympia, WA 98504-1011, phone (360) 902-7290, fax (360) 586-0493, e-mail sbcc@ga.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. The state building code council is not a listed agency under RCW 34.05.328 (5)(a)(i).

June 17, 2011
Kristyn Clayton
Council Chair

AMENDATORY SECTION (Amending WSR 10-03-115, 10-13-113 and 10-22-056, filed 1/20/10, 6/21/10 and 10/28/10, effective 1/1/11)

WAC 51-11-0101 Section 101—Scope and general requirements.

101.1 Title: Chapters 1 through 10 of this Code shall be known as the "Washington State Single-Family Residential Energy Code" and may be cited as such; and will be referred to herein as "this Code."

101.2 Purpose and Intent: The purpose of this Code is to provide minimum standards for new or altered buildings and structures or portions thereof to achieve efficient use and conservation of energy.

The purpose of this Code is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefitted by the terms of this Code.

It is intended that these provisions provide flexibility to permit the use of innovative approaches and techniques to achieve efficient use and conservation of energy. These provisions are structured to permit compliance with the intent of this Code by any one of the following three paths of design:

1. A systems analysis approach for the entire building and its energy-using sub-systems which may utilize renewable energy sources, Chapters 4 and 9.
2. A component performance approach for various building elements and mechanical systems and components, Chapters 5 and 9.
3. A prescriptive requirements approach, Chapters 6 and 9.

Compliance with any one of these approaches meets the intent of this Code. This Code is not intended to abridge any safety or health requirements required under any other applicable codes or ordinances.

The provisions of this Code do not consider the efficiency of various energy forms as they are delivered to the building envelope. A determination of delivered energy efficiencies in conjunction with this Code will provide the most efficient use of available energy in new building construction.

101.3 Scope: This Code sets forth minimum requirements for the design of new buildings and structures that provide facilities or shelter for residential occupancies by regulating their exterior envelopes and the selection of their mechanical systems, domestic water systems, electrical distribution and illuminating systems, and equipment for efficient use and conservation of energy.

Buildings shall be designed to comply with the requirements of either Chapter 4, 5, or 6 of this Code and the additional energy efficiency requirements included in Chapter 9 of this Code.

Spaces within the scope of Section R101.2 of the International Residential Code shall comply with Chapters 1 through 10 of this Code. All other spaces, including other Group R Occupancies, shall comply with Chapters 11 through 20 of this Code. Chapter 2 (Definitions), Chapter 7 (Standards), and Chapter 10 (default heat loss coefficients), are applicable to all building types.

101.3.1 Exempt Buildings: Buildings and structures or portions thereof meeting any of the following criteria shall be exempt from the building envelope requirements of Sections 502 and 602, but shall comply with all other requirements for mechanical systems and domestic water systems.

101.3.1.1: Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four tenths (3.4) Btu/h per square foot or one point zero (1.0) watt per square foot of floor area for space conditioning requirements.

101.3.1.2: Buildings and structures or portions thereof which are neither heated according to the definition of heated space in Chapter 2, nor cooled by a nonrenewable energy source, provided that the nonrenewable energy use for space conditioning complies with requirements of Section 101.3.1.1.

101.3.1.3: Greenhouses isolated from any conditioned space and not intended for occupancy.

101.3.1.4: The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary,

seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

101.3.2 Application to Existing Buildings: Additions, historic buildings, changes of occupancy or use, and alterations or repairs shall comply with the requirements in the subsections below.

EXCEPTION: The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this Code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

In no case, shall building envelope requirements or mechanical system requirements be less than those requirements in effect at the time of the initial construction of the building.

101.3.2.1 Additions to Existing Buildings: Additions to existing buildings or structures may be made to such buildings or structures without making the entire building or structure comply, provided that the new additions shall conform to the provisions of this Code.

EXCEPTION: New additions which do not fully comply with the requirements of this Code and which have a floor area which is less than seven hundred fifty square feet shall be approved provided that improvements are made to the existing occupancy to compensate for any deficiencies in the new addition. Compliance shall be demonstrated by either systems analysis or component performance calculations. The nonconforming addition and upgraded, existing occupancy shall have an energy budget or Target UA which is less than or equal to the unimproved existing building (minus any elements which are no longer part of the building envelope once the addition is added), with the addition designed to comply with this Code.

101.3.2.2 Historic Buildings: The building official may modify the specific requirements of this Code for historic buildings and require in lieu thereof alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings which have been specifically designated as historically significant by the state or local governing body, or listed in The National Register of Historic Places or which have been determined to be eligible for listing.

101.3.2.3 Change of Occupancy or Use:

Any space not within the scope of Section 101.3 which is converted to space that is within the scope of Section 101.3 shall be brought into full compliance with this Code.

101.3.2.4 Alterations and Repairs: All alterations and repairs to buildings or portions thereof originally constructed subject to the requirements of this Code shall conform to the provisions of this Code without exception. For all other existing buildings, initial tenant alterations shall comply with the new construction requirements of this Code. Other alterations and repairs may be made to existing buildings and moved buildings without making the entire building comply with all of the requirements of this Code for new buildings,

provided the requirements of Sections 101.3.2.5 through 101.3.2.8 are met.

101.3.2.5 Building Envelope: The result of the alterations or repairs both:

1. Improves the energy efficiency of the building, and

2. Complies with the overall average thermal transmittance values of the elements of the exterior building envelope in Table 5-1 of Chapter 5 or the nominal R-values and glazing requirements of the reference case in Tables 6-1 and 6-2.

EXCEPTIONS:

1. Untested storm windows may be installed over existing glazing for an assumed U-factor of 0.90, however, where glass and sash are being replaced, glazing shall comply with the appropriate reference case in Tables 6-1 and 6-2.
2. Where the structural elements of the altered portions of roof/ceiling, wall or floor are not being replaced, these elements shall be deemed to comply with this Code if all existing framing cavities which are exposed during construction are filled to the full depth with batt insulation or insulation having an equivalent nominal R-value. 2x4 framed walls shall be insulated to a minimum of R-15 and 2x6 framed walls shall be insulated to a minimum of R-21. Roof/ceiling assemblies shall maintain the required space for ventilation. Existing walls and floors without framing cavities need not be insulated. Existing roofs shall be insulated to the requirements of this Code if
 - a. The roof is uninsulated or insulation is removed to the level of the sheathing, or
 - b. All insulation in the roof/ceiling was previously installed exterior to the sheathing or nonexistent.

101.3.2.6 Mechanical Systems: Those parts of systems which are altered or replaced shall comply with Section 503 of this Code. When a space-conditioning system is altered by the installation or replacement of space-conditioning equipment (including replacement of the air handler, outdoor condensing unit of a split system air conditioner or heat pump, cooling or heating coil, or the furnace heat exchanger), the duct system that is connected to the new or replacement space-conditioning equipment shall be (~~sealed, as confirmed through field verification and diagnostic testing in accordance with procedures for duct sealing of existing duct systems~~) tested as specified in RS-33. The test results shall (~~confirm at least one of the following performance requirements:~~

~~1. The measured total duct leakage shall be less than or equal to 8 percent of the conditioned floor area, measured in CFM @ 25 Pascals; or~~

~~2. The measured duct leakage to outside shall be less than 6 percent of the conditioned floor area, measured in CFM @ 25 Pascals; or~~

~~3. The measured duct leakage shall be reduced by more than 50 percent relative to the measured leakage prior to the installation or replacement of the space conditioning equipment and a visual inspection including a smoke test shall demonstrate that all accessible leaks have been sealed; or~~

~~4. If it is not possible to meet the duct requirements of 1, 2 or 3, all accessible leaks shall be sealed and verified through a visual inspection and through a smoke test by a cer-~~

~~tified third party)) be provided to the building official and the homeowner.~~

EXCEPTIONS:

1. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in RS-33.
2. Ducts with less than 40 linear feet in unconditioned spaces.
3. Existing duct systems constructed, insulated or sealed with asbestos.

101.3.2.7 Domestic Water Systems: Those parts of systems which are altered or replaced shall comply with section 504.

101.3.2.8 Lighting: Alterations shall comply with Sections 505 and 1132.3.

101.3.3 Mixed Occupancy: When a building houses more than one occupancy, each portion of the building shall conform to the requirements for the occupancy housed therein. Where approved by the building official, where minor accessory uses do not occupy more than ten percent of the area of any floor of a building, the major use may be considered the building occupancy.

101.4 Amendments by Local Government: Except as provided in RCW 19.27A.020(7), this Code shall be the maximum and minimum energy code for single-family residential in each town, city and county.

WSR 11-16-084
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES

[Filed August 2, 2011, 8:35 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 10-12-088.

Title of Rule and Other Identifying Information: Chapter 296-05 WAC, Apprenticeship rules.

Hearing Location(s): Department of Labor and Industries, Tukwila Service Location, 12806 Gateway Drive, Tukwila, WA 98168, on September 13, 2011, at 9:00 a.m.; and at the Department of Labor and Industries, Spokane Service Location, 901 North Monroe Street, Suite 100, Spokane, WA 99201, on September 15, 2011, at 9:00 a.m.

Date of Intended Adoption: November 1, 2011.

Submit Written Comments to: Sally Elliott, P.O. Box 44400, Olympia, WA 98504-4400, e-mail yous235@lni.wa.gov, fax (360) 902-5292, by September 15, 2011.

Assistance for Persons with Disabilities: Contact Sally Elliott by August 31, 2011, at yous235@lni.wa.gov or (360) 902-6411.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: ESSB 5873, which passed the 2009 legislature, requires the apprenticeship program to adopt rules regarding penalties for contractors found to be working apprentices out of ratio, with inappropriate supervision, or outside their work process scope of

the approved apprenticeship program standards. Contractors who are found out of compliance in any of these areas by the Washington state apprenticeship and training council may have their responsible bidder status revoked for the first violation and be barred from bidding on any public works contract for five years upon the second violation. Rules are necessary to implement the legislation and provide due process protections for all parties.

This rule making meets the exemption in Executive Order 10-06 that allows rules that are required by federal or state law or required to maintain federally delegated or authorized programs.

Reasons Supporting Proposal: Not applicable.

Statutory Authority for Adoption: Chapter 49.04 RCW, RCW 19.285.040, and chapter 197, Laws of 2009 (ESSB 5873).

Statute Being Implemented: Chapter 49.04 RCW, RCW 19.285.040, and chapter 197, Laws of 2009 (ESSB 5873).

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

Name of Proponent: Department of labor and industries, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Jose Rodriquez, Olympia, Washington, (360) 902-6348.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department did not prepare a small business economic impact statement since the rules do not impose new costs to the affected small businesses.

A cost-benefit analysis is not required under RCW 34.05.328. The department did not prepare a cost-benefit analysis since the rules do not impose new costs to the affected businesses.

August 2, 2011

Judy Schurke

Director

NEW SECTION

WAC 296-05-015 Decisions against training agent for violating ratio, supervision and/or approved work process requirements. Based on a complaint, compliance review, or other reason, the supervisor may investigate, in accordance with the rules in this chapter, whether a training agent is in compliance with the program standards relating to the ratio, supervision, or approved work processes requirements for purposes of responsible bidder status for public works under RCW 39.04.350 (1)(e), or for purposes of prohibitions on bidding on public works contracts under RCW 39.12.055(3).

(1) The supervisor shall notify the training agent and the program sponsor that an investigation has commenced.

(2) The supervisor shall prepare a report identifying the results of the investigation. If the results indicate that the training agent is not operating as required by the program standards, the supervisor will notify the training agent and program sponsor in writing of the results, with a copy of the report to the WSATC. Additionally:

(a) The supervisor will make a reasonable effort to secure compliance on the part of the training agent by requiring the training agent to submit to the supervisor a proposed corrective action plan identifying remedial steps to be taken within thirty, sixty, and ninety days of implementation of the corrective action plan. The supervisor shall review the proposed corrective action plan and approve it, or work with the training agent to modify it, before its implementation. The program sponsor shall assist the training agent in developing a proposed corrective action plan and shall assist the supervisor in monitoring the training agent's compliance with the terms of the approved corrective action plan.

(b) If the training agent fails to comply with the approved corrective action plan as described in (a) of this subsection or is found by the supervisor to have not operated as required by the program standards as a result of an additional inspection within one year of the initial inspection, the supervisor shall impose a corrective action plan identifying steps of the supervisor's choosing that must be taken by the training agent within thirty, sixty, and ninety days. The program sponsor shall assist the supervisor in monitoring the training agent's compliance with the terms of the corrective action plan imposed by the supervisor.

(c) If the supervisor is unable to obtain compliance from the training agent under (a) and (b) of this subsection, or if a third investigation within two years of the initial inspection reveals the training agent is not operating as required by the program standards, the supervisor shall refer the matter to the WSATC for action.

(3) The WSATC will take action upon the supervisor's referral under subsection (2)(c) of this section at its next regularly scheduled quarterly meeting. After a hearing, the WSATC will decide by a majority vote of the members present whether to issue a determination under RCW 39.04.350 (1)(e) and 39.12.055(3) that the training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements.

(4) A determination by the WSATC that a training agent is out of compliance with program standards relating to the ratio, supervision, or approved work processes requirements shall be stated in writing, along with the reasons supporting it, and shall be served upon the training agent, program sponsor, and supervisor as provided by RCW 34.05.010(19). Judicial review of the WSATC's written decision under this section shall be as provided in chapter 34.05 RCW.

(5) The supervisor shall place WSATC determinations under this section on file for public review. The supervisor shall maintain a list of all training agents who, as a result of a determination they are out of compliance pursuant to RCW 39.04.350 (1)(e) and 39.12.055(3), are ineligible to bid on a public works contract, or to have a bid accepted. The supervisor shall make the list available to the public upon request.

WSR 11-16-086
PROPOSED RULES
PUGET SOUND
CLEAN AIR AGENCY
 [Filed August 2, 2011, 9:38 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information: Amend Regulation I, Section 3.11 (Civil Penalties) and Section 3.25 (Federal Regulation Reference Date).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on September 22, 2011, at 8:45 a.m.

Date of Intended Adoption: September 22, 2011.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, #105, Seattle, WA 98101, e-mail robs@pscleanair.org, fax (206) 343-7522, by September 21, 2011.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by September 15, 2011, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To adjust the maximum civil penalty amount for inflation and update the federal regulation reference date.

Reasons Supporting Proposal: Without the adjustment for inflation, the maximum civil penalty amount would effectively decrease each year. The federal regulation reference date needs to be kept current.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052; Implementation and Enforcement: Laurie Halvorson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act.

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 70.94.141.

August 2, 2011
 Craig Kenworthy
 Executive Director

AMENDATORY SECTION
REGULATION I SECTION 3.11 CIVIL PENALTIES

(a) Any person who violates any of the provisions of chapter 70.94 RCW or any of the rules or regulations in force pursuant thereto, may incur a civil penalty in an amount not to exceed (~~(\$16,609.00)~~) \$17,057.00, per day for each violation.

(b) Any person who fails to take action as specified by an order issued pursuant to chapter 70.94 RCW or Regulations I, II, and III of the Puget Sound Clean Air Agency shall be liable for a civil penalty of not more than (~~(\$16,609.00)~~) \$17,057.00, for each day of continued noncompliance.

(c) Within 30 days of the date of receipt of a Notice and Order of Civil Penalty, the person incurring the penalty may apply in writing to the Control Officer for the remission or mitigation of the penalty. To be considered timely, a mitigation request must be actually received by the Agency, during regular office hours, within 30 days of the date of receipt of a Notice and Order of Civil Penalty. This time period shall be calculated by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or legal holiday, and then it is excluded and the next succeeding day that is not a Saturday, Sunday, or legal holiday is included. The date stamped by the Agency on the mitigation request is prima facie evidence of the date the Agency received the request.

(d) A mitigation request must contain the following:

(1) The name, mailing address, telephone number, and telefacsimile number (if available) of the party requesting mitigation;

(2) A copy of the Notice and Order of Civil Penalty involved;

(3) A short and plain statement showing the grounds upon which the party requesting mitigation considers such order to be unjust or unlawful;

(4) A clear and concise statement of facts upon which the party requesting mitigation relies to sustain his or her grounds for mitigation;

(5) The relief sought, including the specific nature and extent; and

(6) A statement that the party requesting mitigation has read the mitigation request and believes the contents to be true, followed by the party's signature.

The Control Officer shall remit or mitigate the penalty only upon a demonstration by the requestor of extraordinary circumstances such as the presence of information or factors not considered in setting the original penalty.

(e) Any civil penalty may also be appealed to the Pollution Control Hearings Board pursuant to chapter 43.21B RCW and chapter 371-08 WAC. An appeal must be filed with the Hearings Board and served on the Agency within 30 days of the date of receipt of the Notice and Order of Civil Penalty or the notice of disposition on the application for relief from penalty.

(f) A civil penalty shall become due and payable on the later of:

(1) 30 days after receipt of the notice imposing the penalty;

(2) 30 days after receipt of the notice of disposition on application for relief from penalty, if such application is made; or

(3) 30 days after receipt of the notice of decision of the Hearings Board if the penalty is appealed.

(g) If the amount of the civil penalty is not paid to the Agency within 30 days after it becomes due and payable, the Agency may bring action to recover the penalty in King County Superior Court or in the superior court of any county in which the violator does business. In these actions, the pro-

cedures and rules of evidence shall be the same as in an ordinary civil action.

(h) Civil penalties incurred but not paid shall accrue interest beginning on the 91st day following the date that the penalty becomes due and payable, at the highest rate allowed by RCW 19.52.020 on the date that the penalty becomes due and payable. If violations or penalties are appealed, interest shall not begin to accrue until the 31st day following final resolution of the appeal.

(i) To secure the penalty incurred under this section, the Agency shall have a lien on any vessel used or operated in violation of Regulations I, II, and III which shall be enforced as provided in RCW 60.36.050.

AMENDATORY SECTION

REGULATION I SECTION 3.25 FEDERAL REGULATION REFERENCE DATE

Whenever federal regulations are referenced in Regulation I, II, or III, the effective date shall be July 1, ~~((2010))~~ 2011.

WSR 11-16-090

PROPOSED RULES

PUGET SOUND

CLEAN AIR AGENCY

[Filed August 2, 2011, 10:39 a.m.]

Original Notice.

Proposal is exempt under RCW 70.94.141(1).

Title of Rule and Other Identifying Information:

Amend: Regulation I, Sections 6.01 (Components of New Source Review Program), 6.03 (Notice of Construction), and 6.04 (Notice of Construction Fees).

Hearing Location(s): Puget Sound Clean Air Agency, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, on September 22, 2011, on 8:45 a.m.

Date of Intended Adoption: September 22, 2011.

Submit Written Comments to: Rob Switalski, Puget Sound Clean Air Agency, 1904 3rd Avenue, #105, Seattle, WA 98101, e-mail robs@pscleanair.org, fax (206) 343-7522, by September 21, 2011.

Assistance for Persons with Disabilities: Contact agency receptionist, (206) 689-4010, by September 15, 2011, TTY (800) 833-6388 or (800) 833-6385 (Braille).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update our adoption reference; to clarify notification applicability terms and exemptions; and to correct an inaccurate reference.

Reasons Supporting Proposal: To be consistent with ecology rules and to clarify terms and correct inaccuracies.

Statutory Authority for Adoption: Chapter 70.94 RCW.

Statute Being Implemented: RCW 70.94.141.

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

Name of Proponent: Puget Sound Clean Air Agency, governmental.

Name of Agency Personnel Responsible for Drafting: Steve Van Slyke, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4052; Implementation and Enforcement: Laurie Halvorson, 1904 3rd Avenue, Suite 105, Seattle, WA 98101, (206) 689-4030.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This agency is not subject to the small business economic impact provision of the Administrative Procedures [Procedure] Act.

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 70.94.141.

August 2, 2011

Craig Kenworthy

Executive Director

AMENDATORY SECTION

REGULATION I, SECTION 6.01 COMPONENTS OF NEW SOURCE REVIEW PROGRAM

(a) In addition to the provisions of this regulation, the Agency adopts by reference and enforces the following provisions of the new source review program established by the Washington State Department of Ecology:

- | | |
|------------------------|---|
| WAC 173-400-030 | Definitions. (effective ((6/08/07)) <u>4/01/11</u>) |
| WAC 173-400-081 | Startup and shutdown. (effective ((9/20/93)) <u>4/01/11</u>) |
| WAC 173-400-110 | New source review (NSR) <u>for sources and portable sources.</u> (effective ((6/20/09)) <u>4/01/11</u>) ((3)) <u>(1)(c)(i), (1)(d) and ((6-10)) (1)(e)</u> |
| <u>WAC 173-400-111</u> | <u>Processing notice of construction applications for sources, stationary sources and portable sources.</u> (effective <u>4/01/11</u>) |
| WAC 173-400-112 | Requirements for new sources in nonattainment areas. (effective ((2/10/05)) <u>4/01/11</u>) |
| WAC 173-400-113 | Requirements for new sources in attainment or unclassifiable areas. (effective ((2/10/05)) <u>4/01/11</u>) |
| WAC 173-400-114 | Requirements for replacement or substantial alteration of emission control technology at an existing stationary source. (effective <u>9/15/01</u>) |
| WAC 173-400-117 | Special protection requirements for federal Class I areas. (effective <u>2/10/05</u>) |
| WAC 173-400-171 | Public ((involvement, excluding references to chapter 173-460-WAC)) <u>notice.</u> (effective ((6/08/07)) <u>04/01/11</u>) |

WAC 173-400-200	Creditable stack height and dispersion techniques. (effective 2/10/05)	WAC 173-460-090	Second tier review. (effective 6/20/09)
WAC 173-400-560	General order of approval. (effective ((2/10/05)) 4/01/11)	WAC 173-460-100	Third tier review. (effective 6/20/09)
WAC 173-400-700	Review of major stationary sources of air pollution. (effective ((2/10/05)) 4/01/11)	WAC 173-460-150	Table of ASIL, SQER and de minimis emission values. - excluding references to de minimis emission values (effective 6/20/09)
WAC 173-400-710	Definitions. (effective 6/08/07)		
WAC 173-400-720	Prevention of significant deterioration (PSD). (effective ((6/08/07)) 04/01/11)		(b) The Washington State Department of Ecology is the permitting agency for the Prevention of Significant Deterioration (PSD) program under WAC 173-400-700 through WAC 173-400-750 (as delegated by agreement with the US Environmental Protection Agency, Region 10), and for primary aluminum smelters, kraft pulp mills, and sulfite pulp mills.
WAC 173-400-730	Prevention of significant deterioration application processing procedures. (effective ((2/10/05)) 4/01/11)		(c) The Washington State Department of Health is the permitting agency for radionuclides under chapter 246-247 WAC.
WAC 173-400-740	PSD permitting public involvement requirements. (effective 2/10/05)		(d) The Energy Facility Site Evaluation Council (EFSEC) is the permitting agency for large natural gas and oil pipelines, electric power plants above 350 megawatts, new oil refineries or large expansions of existing facilities, and underground natural gas storage fields under chapter 463-78 WAC.
WAC 173-400-750	Revisions to PSD permits. (effective ((2/10/05)) 4/01/11)		
<u>WAC 173-400-800</u>	<u>Major stationary source and major modification in a nonattainment area.</u> (effective 4/01/11)		
<u>WAC 173-400-810</u>	<u>Major stationary source and major modification definitions.</u> (effective 4/01/11)		
<u>WAC 173-400-820</u>	<u>Determining if a new stationary source or modification to a stationary source is subject to these requirements.</u> (effective 4/01/11)		
<u>WAC 173-400-830</u>	<u>Permitting requirements.</u> (effective 4/01/11)		
<u>WAC 173-400-840</u>	<u>Emission offset requirements.</u> (effective 4/01/11)		
<u>WAC 173-400-850</u>	<u>Actual emissions plantwide applicability limitation (PAL).</u> (effective 4/01/11)		
<u>WAC 173-400-860</u>	<u>Public involvement procedures.</u> (effective 4/01/11)		
WAC 173-460-020	Definitions. (effective 6/20/09)		
WAC 173-460-030	Applicability. (effective 6/20/09)		
WAC 173-460-040	New source review. (effective 6/20/09) (2)-(3)		
WAC 173-460-050	Requirement to quantify emissions. (effective 6/20/09)		
WAC 173-460-060	Control technology requirements. (effective 6/20/09) (1)		
WAC 173-460-070	Ambient impact requirement. (effective 6/20/09)		
WAC 173-460-071	Voluntary limits on emissions. (effective 6/20/09)		
WAC 173-460-080	First tier review. (effective 6/20/09) (2)-(4)		

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

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), and Subpart IIII pertaining to owners and operators of emergency stationary compression ignition internal combustion engines; and for relocation of affected facilities under Subpart I (Hot Mix Asphalt Facilities) and Subpart OOO (Nonmetallic Mineral Processing Plants) 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 Semicheical 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 WWWW (Hospitals: Ethylene Oxide Sterilizers), Subpart CCCCC (Gasoline Dispensing Facilities), Subpart HHHHHH (Paint Stripping and Miscellaneous Surface Coating Operations), Subpart WWW-WWW (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 (~~following~~) new sources identified in this section, provided that a complete notification is filed with the Agency. (~~prior to initial startup~~) 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 $\geq 1,001$ (~~(+19,999)~~) 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 $\geq 40,000$ 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, rock (or concrete) crushers, 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 equipment that is equipped with refrigerated condensers to recover the cleaning solvent.

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 $\leq 6\%$ VOC by volume or $\leq 8.5\%$ if refrigerated to $< 60^\circ\text{F}$, and cleaning solvents with a vapor pressure $\leq 25\text{mm Hg}$ or a VOC content $\leq 30\%$ 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.*

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(~~s~~) 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 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 oxygen/gaseous fuel cutting equipment.

(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 boric, formic, acetic, phosphoric, sulfuric, or ≤12% hydrochloric; and

(C) May contain alkaline oxidizing agents, hydrogen peroxide, salt solutions, sodium 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) Extrusion equipment used exclusively for extruding rubber or plastics where no organic plasticizer is present, or for pelletizing polystyrene foam scrap.

(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 $\leq 400^\circ\text{F}$.

(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) 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. This exemption also applies to laser cutting, drilling, and machining of metals.

(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, hoppers), 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 $\geq 66\%$ 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 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 $\leq 5\%$ by weight perchloroethylene, methylene chloride, carbon tetra-chloride, chloroform, 1,1,1-trichloroethane, trichloroethylene, or any combination thereof;

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

(C) With a remote reservoir and using a solvent containing $\leq 5\%$ 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 $\leq 1\%$ 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 strippers 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 $> 100^\circ\text{F}$.

(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 roofing plant, asphalt processing plant, hot mix asphalt plants, or petroleum refinery;

(C) Any liquids (other than asphalt) that also have a rated capacity $\leq 1,000$ 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 $\geq 40,000$ gallons;

(G) Sulfuric acid or phosphoric acid with an acid strength $\leq 99\%$ by weight;

(H) Nitric acid with an acid strength $\leq 70\%$ by weight;

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

(J) Aqueous solutions of sodium hydroxide, sodium hypochlorite, or salts, PROVIDED THAT the surface of the solution contains $\leq 1\%$ 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 $\leq 5\%$ 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 $\geq 90\%$ 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, 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, 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) Brewing operations at facilities producing <3 million gallons per year of beer.

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

(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 sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤150 tons per hour.

(113) Fixed sand and gravel plants and crushed stone plants with a cumulative rated capacity of all initial crushers ≤25 tons per hour.

(114) Common clay plants and pumice plants with a cumulative rated capacity of all initial crushers of ≤10 tons per hour.

(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) 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.

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.

AMENDATORY SECTION

SECTION 6.04 NOTICE OF CONSTRUCTION FEES

(a) A Notice of Construction application is incomplete until the Agency has received fees as shown below:

Filing Fee (for each application, to be paid prior to any review)	\$1,000
Coffee Roaster (less than 40 pounds/batch, with thermal oxidizer)	\$500
Hot Mix Asphalt Batch Plant	\$7,000
Soil Thermal Desorption Unit	\$5,000
Electric Generation Project: (combined heat input capacity)	
10 - 100 million Btu/hr	\$5,000
101 - 250 million Btu/hr	\$10,000
> 250 million Btu/hr	\$25,000
Composting Facility	\$10,000
Commercial Solid Waste Handling Facility	\$10,000
Landfill Gas System	\$2,500
Refuse Burning Equipment: (rated charging capacity)	
≤ 12 tons per day	\$5,000
> 12 tons and ≤ 250 tons per day	\$20,000
> 250 tons per day	\$50,000
Other (not listed above) for each Piece of Equipment and Control Equipment	\$500
Additional Charges (for each application):	
SEPA Threshold Determination	\$700
(DNS, under Regulation I, Section 2.04)	

SEPA Threshold Determination	\$1,500
(MDNS, under Regulation I, Section 2.07)	
Public Notice	\$500
(under WAC 173-400-171)	(+publication costs)
Public Hearing	\$500
(under WAC 173-400-171)	(+publication costs, if separate public notice)
NSPS or NESHAP	\$1,000
(per subpart of 40 CFR Parts 60, 61, and 63)	
Refined Dispersion Modeling Analysis	\$700
(under Regulation III, Section 2.07 (c)(2)(1)(C))	
Major Source, Major Modification, or Emission Increases Greater than Prevention of Significant Deterioration (PSD) Thresholds	\$5,000
((under WAC 173-400-112 or WAC 173-400-113)))	(+Ecology fees)
An Agency request for an Inapplicability Determination for PSD Program Requiring Written Applicability Determination from Ecology	\$5,000
Construction or Reconstruction of a Major Source of Hazardous Air Pollutants (see 40 CFR 63.2)	\$2,500
Tier II Air Toxics Review	\$5,000
(under WAC 173-460-090)	(+Ecology fees)
Opacity/Grain Loading Correlation	\$5,000

(b) A notification under Section 6.03 (b)(1) through Section 6.03 (b)(9) and 6.03 (b)(11) of this regulation is incomplete until the Agency has received a fee of \$100. An application processed as a Notice of Construction exemption under Section 6.03 (b)(10) requires payment of the Notice of Construction filing fee only. An application for coverage under a general order of approval issued by this Agency is not subject to the fees in Section 6.04(a) and instead requires payment of a \$500 fee, which is due prior to any review of the application.

(c) The Control Officer is authorized to enter into a written cost-reimbursement agreement with an applicant as provided in RCW 70.94.085.

(d) Additional Fee for Service – Second Incomplete Application

Upon receipt of a second incomplete Notice of Construction application from the same applicant for the same project, the Control Officer may cease review of the application and provide written notification of that determination. The Control Officer may resume review of the application if, within

30 days of the date of the notification describing the Agency's receipt of the second incomplete Notice of Construction application, the applicant has deposited \$1,000 with the Agency, and executed a fee-for-service agreement with the Agency that allows the Agency to recover the reasonable direct and indirect costs that arise from processing the Notice of Construction application, including the requirements of other relevant laws such as the Washington State Environmental Policy Act (SEPA).

The agreement shall require that the applicant assume full responsibility for paying the Agency for the costs incurred under the fee-for-service agreement. The Agency shall credit the \$1,000 deposit made by the applicant towards the costs required by a fee-for-service agreement. The fee-for-service agreement may require the applicant to make progress payments during the application review period. The \$1,000 deposit referred to in this section and the costs provided for in a fee-for-service agreement are in addition to the fees required in Section 6.04(a).

If the applicant has not made a \$1,000 deposit and executed such a fee-for-service agreement within 30 days of the date of the notification from the Agency describing its receipt of a second incomplete application, the Agency may issue an Intent to Disapprove an Application.

The \$1,000 deposit required under this section is not refundable. In addition, any payments made to the Agency under a fee-for-service agreement are not refundable.

(e) Additional Fee - Revised Application

The Control Officer may assess an additional fee for processing a Notice of Construction application when a subsequent significantly revised application is submitted after the original application was determined to be complete and prior to the Agency issuing an Order of Approval or Intent to Disapprove an Application regarding the original application. The revision fee shall be the amount of the fee that was charged for the original Notice of Construction application, including the filing fee. The resulting total fee is the fee for the original Notice of Construction application plus the revision fee.

WSR 11-16-094

PROPOSED RULES

**SUPERINTENDENT OF
PUBLIC INSTRUCTION**

[Filed August 2, 2011, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-10-041.

Title of Rule and Other Identifying Information: WAC 392-501-201 Eligibility and 392-501-310 Eligibility.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Wanamaker Conference Room, 600 Washington Street, Olympia, WA 98504-7200, on September 6, 2011, at 10:00 a.m.

Date of Intended Adoption: September 6, 2011.

Submit Written Comments to: Dan Newell, Assistant Superintendent, Secondary Education and School Improve-

ment, OSPI, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Dan.newell@k12.wa.us, fax (360) 753-1953, by September 5, 2011.

Assistance for Persons with Disabilities: Contact Carrie Hert, executive assistant to Dan Newell, by September 5, 2011, TTY (360) 664-3631 or (360) 725-4960.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2010 (ESSB 6604) was adopted making it necessary to update WAC 392-501-201 and 392-501-310. The language shown below will remove references to student learning plans, which were removed for all grades except grade 8 (WAC 392-501-201 and 392-501-310).

Reasons Supporting Proposal: The changes were mandated by statute and need to be updated in chapter 392-501 WAC.

Statutory Authority for Adoption: RCW 28A.300.040.

Statute Being Implemented: RCW 28A.665.061 (2010-ESSB 6604).

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency recommends adoption of the proposed changes to WAC 392-501-201 and 392-501-310.

Name of Proponent: OSPI, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Dan Newell and Robin Munson, 600 Washington Street S.E., P.O. Box 47200, Olympia, 98504-7200, (360) 725-4954.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

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

August 2, 2011

Randy Dorn

Superintendent of
Public Instruction

AMENDATORY SECTION (Amending WSR 07-13-035, filed 6/13/07, effective 7/22/07)

WAC 392-501-201 Eligibility. A student is eligible for the (~~(WASL/grades)~~) GPA comparison option if the student meets the following conditions:

(1) The student has taken the applicable component of the (~~(Washington)~~) state high school assessment (~~(of student learning (WASL))~~) at least once and has not met the standard for which the student is applying to use this option. To meet these criteria, a student must have sat for and generated a valid scale score during the administration of the (~~(WASL)~~) state high school assessment.

(2) (~~The student has met any applicable attendance and remediation or supplemental instruction requirements contained in the student's student learning plan developed under RCW 28A.655.061. The principal of the student's school may waive the attendance and/or remediation criteria for special, unavoidable circumstances.~~

(3) ~~The student is in the twelfth grade.~~

(4) ~~The student has a cumulative grade point average of 3.2 or higher when the application is filed.)~~ The student is in the twelfth grade.

(3) The student has a cumulative grade point average of 3.2 or higher when the application is filed.

AMENDATORY SECTION (Amending WSR 08-10-015, filed 4/25/08, effective 5/26/08)

WAC 392-501-310 Eligibility. A student who has taken the ~~((Washington assessment of student learning (WASL)))~~ state high school assessment at least once and has not met standard in one or more of the content areas is eligible to submit a collection for each content area in which they have not met standard as an alternative assessment ~~((to the WASL))~~ if:

~~((+))~~ The student has sat for and generated a valid scale score during the administration of the ~~((WASL~~

~~(2) The student has met any applicable attendance and remediation or supplemental instruction requirements contained in the student's student learning plan developed under RCW 28A.655.061, unless such attendance and/or remediation criteria have been waived by a school district representative for special unavoidable circumstances))~~ state high school assessment.

WSR 11-16-100
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed August 3, 2011, 9:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-08-071.

Title of Rule and Other Identifying Information: The department is proposing to amend WAC 388-450-0015 What types of income does the department not use to figure out my benefits?, 388-455-0005 How do lump sum payments affect benefits?, 388-470-0045 How do my resources count toward the resource limits for cash assistance and family medical programs?, 388-470-0055 How do my resources count towards the resource limit for Basic Food?, 388-475-0550 SSI related medical—All other excluded resources, and 388-475-0860 SSI related medical—Income exclusions under federal statute [statute] or other state laws.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on September 27, 2011, at 10:00 a.m.

Date of Intended Adoption: Not earlier than September 28, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on September 27, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by September 6, 2011,

TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsj14@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to disregard federal income tax refunds received after December 31, 2009, as income in the month received and as a resource for twelve months when determining eligibility for any program that is funded in whole or part with federal funds.

The proposal will impact clients who receive any type of public assistance funded in whole or part with federal funds including: Such as temporary assistance for needy families (TANF), supplemental nutrition assistance program (SNAP), and medicaid.

Reasons Supporting Proposal: The proposed amendments are necessary to comply with [a] federal regulations announcement dated December 17, 2010, which requires states to disregard federal income tax refunds received after December 31, 2009, as income in the month received, and as a resource for twelve months when determining eligibility for any program that is funded in whole or part with federal funds, such as TANF, SNAP, and medicaid.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, and 74.08A.210(4).

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, and 74.08.090.

Rule is necessary because of federal law, and state court decision, Section 728 of Tax relief, Unemployment Insurance reauthorization, and Job Creation Act of 2010 (P.L. 111-312).

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kerry Judge, P.O. Box 45470, Olympia, WA 98504-5470, (360) 725-4630.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not have an economic impact on small businesses. The proposed rule is necessary to comply with a federal regulations announcement dated December 17, 2010, which requires states to disregard federal income tax refunds received after December 31, 2009, as income in the month received and as a resource for twelve months when determining eligibility for any program that is funded in whole or part with federal funds.

A cost-benefit analysis is not required under RCW 34.05.328. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in-part, "[t]his 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." The proposed rule disregards federal income tax refunds as income in the month received and as a resource for twelve months when determining eligibility for any program that is funded in whole or part with federal funds.

July 29, 2011

Katherine I. Vasquez
Rules Coordinator

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 11-17 issue of the Register.

WSR 11-16-101
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES

[Filed August 3, 2011, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-08-066.

Title of Rule and Other Identifying Information: WAC 388-438-0125 State-funded long-term care services program.

Hearing Location(s): Office Building 2, Auditorium, DSHS Headquarters, 1115 Washington, Olympia, WA 98504 (public parking at 11th and Jefferson. A map is available at <http://www1.dshs.wa.gov/msa/rpau/RPAU-OB-2directions.html> or by calling (360) 664-6094), on September 6, 2011, at 10:00 a.m.

Date of Intended Adoption: Not sooner than September 7, 2011.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504-5850, delivery 1115 Washington Street S.E., Olympia, WA 98504, e-mail DSHSRPAURulesCoordinator@dshs.wa.gov, fax (360) 664-6185, by 5 p.m. on September 6, 2011.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by August 23, 2011, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at jennisha.johnson@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington state legislature enacted ESHB 1086 on February 18, 2011, which states "the department is authorized to place long-term care clients residing in nursing homes and paid for with state only funds into less restrictive community care settings while continuing to meet the client's care needs."

The state provides nursing facility care for approximately forty-five state-only alien medical clients who are discharged from hospitals with acute/long-term medical conditions. Of the forty-five state-only funded nursing home slots, forty will be moved into adult family homes. The proposed rules define where long-term care services may be provided to be eligible for department reimbursement and expand the availability of care for these clients.

Reasons Supporting Proposal: These rules are necessary to follow ESHB 1086. These rules will allow the department to continue to provide medical coverage to maintain current levels of medical care and a consistent level of services for these clients.

Statutory Authority for Adoption: RCW 74.04.057, 74.08.090, and 74.09.510.

Statute Being Implemented: RCW 74.08.090.

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

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting: Jason R. P. Crabbe, P.O. Box 45504, Olympia, WA 98504-5504, (360) 725-1346; Implementation and Enforcement: Lori Rolley, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2271.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule does not impact small businesses or small nonprofits.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b), rules with content dictated by statute do not require a cost-benefit analysis.

July 29, 2011

Katherine I. Vasquez
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-19-085, filed 9/17/10, effective 10/18/10)

WAC 388-438-0125 (~~Alien nursing facility~~) State-funded long-term care services program (~~((state-funded))~~)). (1) The state-funded (~~alien nursing facility~~) long-term care services program is subject to caseload limits determined by legislative funding. Services cannot be authorized for eligible persons prior to a determination by the aging and disability services administration (ADSA) that caseload limits will not be exceeded as a result of the authorization.

(2) Long-term care services are defined in this section as services provided in one of the following settings:

(a) In a person's own home, as described in WAC 388-106-0010;

(b) Nursing facility, as defined in WAC 388-97-0001;

(c) Adult family home, as defined in RCW 70.128.010;

(d) Assisted living facility, as described in WAC 388-513-1301;

(e) Enhanced adult residential care facility, as described in WAC 388-513-1301;

(f) Adult residential care facility, as described in WAC 388-513-1301.

(3) Long-term care services will be provided in one of the facilities listed in subsection (2)(b) through (2)(f) of this section unless nursing facility care is required to sustain life.

(4) To be eligible for the state-funded (~~alien nursing facility~~) long-term care services program described in this section, an adult nineteen years of age or older must meet all of the following conditions:

(a) Meet the general eligibility requirements for medical programs described in WAC 388-503-0505 (2) and (3)(a), (3)(b), (3)(e), and (3)(f);

(b) Reside in (~~a nursing facility as defined in WAC 388-97-0001~~) one of the settings described in subsection (2) of this section;

(c) Attain institutional status as described in WAC 388-513-1320;

(d) Meet the functional eligibility described in WAC 388-106-0355 for nursing facility level of care;

(e) Not have a penalty period due to a transfer of assets as described in WAC 388-513-1363, 388-513-1364, 388-513-1365, and 388-513-1366;

(f) Not have equity interest in a primary residence (~~(of)~~) more than (~~(five hundred thousand dollars as)~~) the amount described in WAC 388-513-1350 (7)(a)(ii); and

(g) Any annuities owned by the adult or spouse must meet the requirements described in chapter 388-561 WAC.

~~((3))~~ (5) An adult who is related to the supplemental security income (SSI) program as described in WAC 388-475-0050 (1), (2), and (3) must meet the financial requirements described in WAC 388-513-1325, 388-513-1330, and 388-513-1350.

~~((4))~~ (6) An adult who does not meet the SSI-related criteria in subsection (2) of this section may be eligible under the family institutional medical program rules described in WAC 388-505-0250 or 388-505-0255.

~~((5))~~ (7) An adult who is not eligible for the state-funded ~~((alien nursing facility))~~ long-term care services program under categorically needy (CN) rules may qualify under medically needy (MN) rules described in:

(a) WAC 388-513-1395 for adults related to SSI; or

(b) WAC 388-505-0255 for adults related to family institutional medical.

~~((6))~~ (8) All adults qualifying for the state-funded ~~((alien nursing facility))~~ long-term care services program will receive CN scope of medical coverage described in WAC 388-501-0060.

~~((7))~~ (9) The department determines how much an individual is required to pay toward the cost of care using the following rules:

(a) For an SSI-related individual residing in a nursing home, see rules described in WAC 388-513-1380.

(b) For an SSI-related individual residing in one of the other settings described in subsection (2) of this section, see rules described in WAC 388-515-1505.

(c) For an individual eligible under the family institutional program, see WAC 388-505-0265.

~~((8))~~ (10) A person is not eligible for state-funded ~~((nursing facility))~~ long-term care services if that person entered the state specifically to obtain medical care.

~~((9))~~ (11) A person eligible for the state-funded ~~((alien nursing facility))~~ long-term care services program is certified for a twelve month period.

924-990 Psychology fees and renewal cycle, 246-939-990 Surgical technologists—Fees and renewal cycle, 246-933-990 Veterinarian fees and renewal cycle, 246-937-990 Veterinary medication clerk fees and renewal cycle, 246-935-990 Veterinary technician fees and renewal cycle, and 246-933-590 Humane society and animal control agency (entity) fees and renewal cycle.

Hearing Location(s): 310 Israel Road S.E., Room 152/153, Tumwater, WA 98504, on September 7, 2011, at 2:00 p.m.

Date of Intended Adoption: September 8, 2011.

Submit Written Comments to: Dianna Staley, P.O. Box 47860, Olympia, WA 98504-7860, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-4626, by September 7, 2011.

Assistance for Persons with Disabilities: Contact Dianna Staley by August 31, 2011, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules increase fees, make general housekeeping edits, and complete language clean-up for the health care professions listed above. The legislature approved the proposed fee increases as part of the budget (2ESHB 1087, chapter 50, Laws of 2011 1st sp. sess. PV). The proposed rules raise fees to a level necessary to administer each profession.

Reasons Supporting Proposal: RCW 43.70.250 requires that each health care profession is self-supporting and directs the department to collect fees to pay the costs to regulate the profession. The costs to regulate and administer health care professions are about \$37 million each year. Changes in administrative and regulatory activities based upon credentialing, legislation, and disciplinary actions make it necessary for the department to increase fees. These fees are critical to maintain and improve service for licensees and the public, meet the costs of conducting business, and promote patient safety.

Statutory Authority for Adoption: RCW 43.70.250, 43.70.110.

Statute Being Implemented: RCW 43.70.250, 43.70-110.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting: Dianna Staley, 310 Israel Road S.E., Tumwater, WA, (360) 236-4997; Implementation and Enforcement: Joy King, 310 Israel Road S.E., Tumwater, WA, (360) 236-4936.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(f), a small business economic impact statement is not required for proposed rules that set or adjust fees or rates pursuant to legislative standards.

A cost-benefit analysis is not required under RCW 34.05.328. The agency did not complete a cost-benefit analysis under RCW 34.05.328. RCW 34.05.328 (5)(b)(vi)

WSR 11-16-107

PROPOSED RULES

DEPARTMENT OF HEALTH

[Filed August 3, 2011, 11:41 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under RCW 34.05.310(4).

Title of Rule and Other Identifying Information: Title 246 WAC, fees for health professions licensed by the department of health.

WAC 246-808-990 Chiropractic fees and renewal cycle, 246-822-990 Dietitian and nutritionist fees and renewal cycle, 246-826-990 Health care assistant fees and renewal cycle, 246-828-990 Hearing instrument fitter/dispenser, audiologist, speech language pathologist, and speech-language pathology assistant fees and renewal cycle, 246-810-990 Counselors fees and renewal cycle (registered hypnotherapist), 246-843-990 Nursing home administrator fees and renewal cycle, 246-847-990 Occupational therapy fees and renewal cycle, 246-850-990 Orthotic and prosthetic fees, 246-907-030 Pharmaceutical licensing periods and fees, 246-

exempts rules that set or adjust fees or rates pursuant to legislative standards.

August 3, 2011
 Gregg L. Grunenfelder
 Deputy Secretary
 for Mary C. Selecky
 Secretary

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-808-990 Chiropractic fees and renewal cycle. (1) Licenses and registrations must be renewed on the practitioner's birthday every year as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged for chiropractic license:

Title of Fee	Fee
Application/full examination or reexamination	\$(575.00) <u>630.00</u>
Temporary permit application	((150.00)) <u>205.00</u>
Temporary practice permit	((50.00)) <u>105.00</u>
Preceptorship	((100.00)) <u>155.00</u>
License renewal	((520.00)) <u>582.00</u>
Late renewal penalty	((260.00)) <u>302.00</u>
Expired license reissuance	((260.00)) <u>302.00</u>
Inactive license renewal	((200.00)) <u>257.00</u>
Expired inactive license reissuance	((100.00)) <u>157.00</u>
Duplicate license	((15.00)) <u>30.00</u>
Certification of license	((25.00)) <u>30.00</u>
UW ((library)) on-line access fee <u>(HEAL-WA)</u>	25.00

(3) The following nonrefundable fees will be charged for chiropractic X-ray technician registration:

Title of Fee	Fee
Application	((35.00)) <u>47.00</u>
Original registration	((35.00)) <u>47.00</u>
Renewal	((50.00)) <u>62.00</u>
Late renewal penalty	((50.00)) <u>62.00</u>
Expired registration reissuance	((50.00)) <u>62.00</u>
Duplicate registration	((15.00)) <u>30.00</u>
Certification of registration	((25.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 09-15-041, filed 7/8/09, effective 7/8/09)

WAC 246-810-990 Counselors fees and renewal cycle. (1) Under chapter 246-12 WAC, Part 2, a counselor must renew his or her credential every year on the practitioner's birthday.

(2) Any separate examination fees are the responsibility of the applicant.

Title	Fee
(3) ((The following nonrefundable fees will be charged for registered counselor through 6/30/2010:))	
Renewal	\$117.00
Late renewal penalty	58.50
Expired registration reissuance	65.00
Duplicate registration	15.00
Certification of registration	15.00

(4)) The following nonrefundable fees will be charged for registered hypnotherapist:

Application and registration	((95.00)) <u>155.00</u>
Renewal	((130.00)) <u>80.00</u>
Late renewal penalty	((65.00)) <u>75.00</u>
Expired registration reissuance	((65.00)) <u>75.00</u>
Duplicate registration	((15.00)) <u>30.00</u>
Certification of registration	((15.00)) <u>30.00</u>

~~((5))~~ (4) The following nonrefundable fees will be charged for certified counselor:

Application and certification	110.00
Examination or reexamination	85.00

Title	Fee
Renewal	90.00
Late renewal penalty	50.00
Expired credential reissuance	50.00
Duplicate credential	15.00
Certification of credential	15.00
((6)) The following nonrefundable fees will be charged for certified adviser:	
Application and certification	80.00
Examination or reexamination	85.00
Renewal	65.00
Late renewal penalty	50.00
Expired credential reissuance	50.00
Duplicate credential	15.00
Certification of credential	15.00
((7)) The following nonrefundable fees will be charged for registered agency affiliated counselor:	
Application and registration	50.00
Renewal	40.00
Late renewal penalty	40.00
Expired registration reissuance	40.00
Duplicate registration	15.00
Certification of registration	15.00

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-822-990 Dietitian and nutritionist fees and renewal cycle. (1) Certificates must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title	Fee
Application	\$(75.00) <u>100.00</u>
Renewal	((45.00)) <u>70.00</u>
Late renewal penalty	((45.00)) <u>50.00</u>
Expired certificate reissuance	((45.00)) <u>50.00</u>
Duplicate certificate	((15.00)) <u>30.00</u>

Title	Fee
Certification of certificate	((25.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-826-990 Health care assistant fees and renewal cycle. (1) Certificates must be renewed every two years as provided in WAC 246-826-050 and chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) If a health care assistant who holds a current active credential leaves employment with a facility or practitioner and returns to employment with a facility or practitioner that previously employed the health care assistant, and more than two years has passed since that health care assistant's employment with the previous facility or practitioner ended, the health care assistant must complete a new credential application and pay the application fee. However, that health care assistant is not required to pay the late renewal penalty and the expired credential reissuance fee.

(3) The following nonrefundable fees will be charged:

Title of Fee	Fee
Initial certification	\$(405.00) <u>113.00</u>
Renewal	((405.00)) <u>113.00</u>
Expired credential reissuance	((52.50)) <u>55.00</u>
Recertification	((400.00)) <u>108.00</u>
Late renewal penalty	((52.50)) <u>55.00</u>
Duplicate <u>certificate</u>	((15.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 10-15-093, filed 7/20/10, effective 7/26/10)

WAC 246-828-990 Hearing instrument fitter/dispenser, audiologist, speech language pathologist, and ~~((speech language))~~ speech language pathology assistant fees and renewal cycle. (1) Credentials must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount~~

necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.)

(2) Practitioners must pay the following nonrefundable fees:

Audiologist(~~(/Speech Language)) or Speech Language Pathologist~~

Fee Type:	Fee
Interim permit	
Application	\$(125.00) <u>165.00</u>
Permit	((100.00)) <u>140.00</u>
Initial license	
Application	((125.00)) <u>165.00</u>
License	((100.00)) <u>140.00</u>
Renewal	((200.00)) <u>110.00</u>
Inactive license	((75.00)) <u>60.00</u>
Late renewal penalty	((100.00)) <u>90.00</u>
Expired license reissuance	((100.00)) <u>140.00</u>
Expired inactive license reissuance	((50.00)) <u>90.00</u>
<u>Certification of license ((verification</u>	<u>15.00)</u> <u>30.00</u>
Duplicate license	((15.00)) <u>30.00</u>

Hearing Instrument Fitter/Dispenser

Fee Type:	Fee
License application	\$(125.00) <u>165.00</u>
Initial license	((100.00)) <u>140.00</u>
Renewal	((200.00)) <u>110.00</u>
Inactive license	((75.00)) <u>56.00</u>
Late renewal penalty	((100.00)) <u>90.00</u>
Expired license reissuance	((100.00)) <u>136.00</u>
Expired inactive license reissuance	((50.00)) <u>86.00</u>

Hearing Instrument Fitter/Dispenser

Fee Type:	Fee
<u>Certification of license ((verification</u>	<u>15.00)</u> <u>30.00</u>
Duplicate license	((15.00)) <u>30.00</u>

~~(/Speech Language)) Speech Language Pathology Assistant~~

Fee Type:	Fee
Application	\$125.00
Renewal	70.00
Inactive credential	50.00
Late renewal penalty	50.00
Expired credential reissuance	50.00
Expired inactive credential reissuance	50.00
<u>Certification of credential ((verification))</u>	<u>15.00</u>
Duplicate credential	15.00

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-843-990 Nursing home administrator fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application - Original license	\$(275.00) <u>410.00</u>
Administrator-in-training	((150.00)) <u>285.00</u>
Application - Endorsement	((375.00)) <u>510.00</u>
Temporary permit	((190.00)) <u>325.00</u>
Renewal	((360.00)) <u>495.00</u>
Inactive license renewal	((180.00)) <u>315.00</u>
Late renewal penalty	((180.00)) <u>315.00</u>
Expired license reissuance	((147.50)) <u>285.00</u>

Title of Fee	Fee
Late renewal penalty - inactive	((90.00)) <u>255.00</u>
Expired inactive license reissuance	((55.00)) <u>190.00</u>
Duplicate license	((15.00)) <u>30.00</u>
Certification of license	((15.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-847-990 Occupational therapy fees and renewal cycle. (1) Licenses must be renewed every two years on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged for occupational therapist:

Title of Fee	Fee
Application and initial license fee	\$((160.00)) <u>175.00</u>
License renewal	((130.00)) <u>145.00</u>
Limited permit fee	((40.00)) <u>55.00</u>
Late renewal fee	((65.00)) <u>80.00</u>
Expired license reissuance	((65.00)) <u>80.00</u>
Inactive license	((10.00)) <u>15.00</u>
Expired inactive license reissuance	((10.00)) <u>15.00</u>
Duplicate <u>license</u>	((15.00)) <u>30.00</u>
Certification of license	((25.00)) <u>30.00</u>

(3) The following nonrefundable fees will be charged for ~~((occupational))~~ occupational therapy assistant:

Title of Fee	Fee
Application and initial license fee	((160.00)) <u>175.00</u>

Title of Fee	Fee
License renewal	((140.00)) <u>125.00</u>
Late renewal fee	((55.00)) <u>70.00</u>
Expired license reissuance	((55.00)) <u>70.00</u>
Inactive license	((40.00)) <u>15.00</u>
Expired inactive license reissuance	((40.00)) <u>15.00</u>
Limited permit fee	((40.00)) <u>45.00</u>
Duplicate <u>license</u>	((15.00)) <u>30.00</u>
Certification of license	((25.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-850-990 Orthotic and prosthetic fees. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Orthotic application	\$((250.00)) <u>395.00</u>
Prosthetic application	((250.00)) <u>395.00</u>
Orthotic renewal	((150.00)) <u>190.00</u>
Prosthetic renewal	((150.00)) <u>190.00</u>
Late renewal penalty fee	((75.00)) <u>190.00</u>
Expired credential reissuance fee	((75.00)) <u>190.00</u>
Inactive credential renewal fee	((125.00)) <u>135.00</u>
Late inactive renewal fee	((62.50)) <u>135.00</u>
Retired active credential renewal fee	((125.00)) <u>135.00</u>

Title of Fee	Fee		
Late retired active credential renewal fee	((62.50))	Renewal fee, active and inactive license	((170.00))
	<u>135.00</u>		<u>190.00</u>
Duplicate credential ((or wall certificate	15.00))	Renewal fee, retired license	((20.00))
	<u>30.00</u>		<u>25.00</u>
Certification <u>of credential</u>	((25.00))	Penalty fee	((85.00))
	<u>30.00</u>		<u>100.00</u>

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-907-030 Pharmaceutical licensing periods and fees—Fees and renewal cycle. (1) Pharmacist, pharmacy technician, and pharmacy intern licenses must be renewed every year on the practitioner’s birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) Pharmacy location, controlled substance registration (pharmacy), pharmacy technician utilization, and shopkeepers differential hours licenses will expire on June 1 of each year.

(3) All other licenses, including health care entity licenses, registrations, permits, or certifications will expire on October 1 of each year.

(4) The following nonrefundable fees will be charged for pharmacy location:

Title of fee	Fee
Original pharmacy fee	\$(365.00))
	<u>370.00</u>
Original pharmacy technician utilization fee	65.00
Renewal pharmacy fee	((400.00))
	<u>405.00</u>
Renewal pharmacy technician utilization fee	75.00
Penalty pharmacy fee	((200.00))
	<u>205.00</u>

(5) The following nonrefundable fees will be charged for vendor:

Original fee	75.00
Renewal fee	75.00
Penalty fee	50.00

(6) The following nonrefundable fees will be charged for pharmacist:

Original license fee	((130.00))
	<u>145.00</u>

	((170.00))
	<u>190.00</u>
	((20.00))
	<u>25.00</u>
	((85.00))
	<u>100.00</u>
Expired license reissuance (active and inactive)	((85.00))
	<u>90.00</u>
Reciprocity fee	((330.00))
	<u>335.00</u>
Certification of license status to other states	((20.00))
	<u>30.00</u>
Retired license	((20.00))
	<u>25.00</u>
Temporary permit	65.00

(7) The following nonrefundable fees will be charged for shopkeeper:

Original fee	((35.00))
	<u>40.00</u>
Renewal fee	((35.00))
	<u>40.00</u>
Penalty fee	((35.00))
	<u>40.00</u>

Shopkeeper - with differential hours:

Original fee	35.00
Renewal fee	35.00
Penalty fee	35.00

(8) The following nonrefundable fees will be charged for drug manufacturer:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(9) The following nonrefundable fees will be charged for drug wholesaler - Full line:

Original fee	590.00
Renewal fee	590.00
Penalty fee	295.00

(10) The following nonrefundable fees will be charged for drug wholesaler - OTC only:

Original fee	330.00
Renewal fee	330.00
Penalty fee	165.00

(11) The following nonrefundable fees will be charged for drug wholesaler - Export:

Original fee	590.00
Renewal fee	590.00
Penalty	295.00

(12) The following nonrefundable fees will be charged for drug wholesaler - Export nonprofit humanitarian organization.

Original fee	25.00
Renewal fee	25.00
Penalty	25.00

(13) The following nonrefundable fees will be charged for pharmacy technician:

Original fee	((50.00)) <u>60.00</u>
Renewal fee	((40.00)) <u>50.00</u>
Penalty fee	((40.00)) <u>50.00</u>
Expired license reissuance	((40.00)) <u>50.00</u>

(14) The following nonrefundable fees will be charged for pharmacy intern:

Original registration fee	((20.00)) <u>30.00</u>
Renewal registration fee	((20.00)) <u>30.00</u>

(15) The following nonrefundable fees will be charged for Controlled Substances Act (CSA):

Registrations	
Dispensing registration fee (i.e. pharmacies and health care entities)	80.00
Dispensing renewal fee (i.e. pharmacies and health care entities)	65.00
Distributors registration fee (i.e. wholesalers)	115.00
Distributors renewal fee (i.e. wholesalers)	115.00
Manufacturers registration fee	115.00
Manufacturers renewal fee	115.00
Sodium pentobarbital for animal euthanization registration fee	40.00
Sodium pentobarbital for animal euthanization renewal fee	40.00
Other CSA registrations	40.00

(16) The following nonrefundable fees will be charged for legend drug sample - Distributor:

Registration fees	
Original fee	365.00
Renewal fee	265.00
Penalty fee	((132.50)) <u>135.00</u>

(17) The following nonrefundable fees will be charged for poison manufacturer/seller - License fees:

Original fee	40.00
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Renewal fee	40.00
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(18) The following nonrefundable fees will be charged for facility inspection fee:

200.00

(19) The following nonrefundable fees will be charged for precursor control permit:

Original fee	65.00
Renewal fee	65.00

(20) The following nonrefundable fees will be charged for license reissue:

Reissue fee	((15.00)) <u>30.00</u>
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(21) The following nonrefundable fees will be charged for health care entity:

Original fee	365.00
Renewal	265.00
Penalty	((132.50)) <u>135.00</u>

AMENDATORY SECTION (Amending WSR 08-15-014, filed 7/7/08, effective 7/7/08)

WAC 246-924-990 Psychology fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Application	\$((260.00)) <u>275.00</u>
Renewal	((285.00)) <u>300.00</u>
Renewal retired active	((100.00)) <u>105.00</u>
Late renewal penalty	((142.50)) <u>155.00</u>
Expired license reissuance	((142.50)) <u>155.00</u>
Duplicate license	((25.00)) <u>30.00</u>
Certification of license	((25.00)) <u>30.00</u>

Title of Fee	Fee
Amendment of certificate of qualification	((30.00)) <u>35.00</u>
UW ((library)) on-line access fee (HEAL-WA)	25.00

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-933-590 Humane society and animal care and control agency (entity) fees and renewal cycle. (1) Registrations must be renewed every year on August 1 as provided in chapter 246-12 WAC, Part 3. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The nonrefundable fees are:

Title of Fee	Fee
Entity registration	\$((400.00)) <u>120.00</u>
Entity renewal	((75.00)) <u>100.00</u>
Late renewal penalty	((50.00)) <u>80.00</u>
Expired registration reissuance	((50.00)) <u>80.00</u>

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-933-990 Veterinarian fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
State examination (initial/retake)	\$((425.00)) <u>210.00</u>
Initial state license	((415.00)) <u>160.00</u>

Title of Fee	Fee
Specialty licensure	((415.00)) <u>155.00</u>
Impaired veterinarian assessment	10.00
Temporary permit	((200.00)) <u>235.00</u>
State or specialty license renewal	((420.00)) <u>175.00</u>
Retired active license and renewal	((55.00)) <u>85.00</u>
Late renewal penalty (state and specialty license)	((60.00)) <u>95.00</u>
Expired license reissuance	((60.00)) <u>90.00</u>
Late renewal penalty (retired active license)	((50.00)) <u>90.00</u>
Duplicate license	((45.00)) <u>30.00</u>
Certification of license	((45.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 08-10-095, filed 5/7/08, effective 6/7/08)

WAC 246-935-990 Veterinary technician fees and renewal cycle. (1) Licenses must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
State examination (initial/retake)	\$((400.00)) <u>160.00</u>
Initial license	((75.00)) <u>110.00</u>
Renewal	((65.00)) <u>75.00</u>
Late renewal penalty	((50.00)) <u>80.00</u>
Expired license reissuance	((50.00)) <u>80.00</u>
Duplicate license	((45.00)) <u>30.00</u>
Certification of license	((45.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-937-990 Veterinary medication clerk fees and renewal cycle. (1) Registrations must be renewed every year on the practitioner's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged:

Title of Fee	Fee
Initial registration	\$ ((30.00)) <u>65.00</u>
Renewal	((30.00)) <u>55.00</u>
Late renewal penalty	((30.00)) <u>55.00</u>
Expired registration reissuance	((30.00)) <u>60.00</u>
Duplicate registration	((15.00)) <u>30.00</u>

AMENDATORY SECTION (Amending WSR 05-12-012, filed 5/20/05, effective 7/1/05)

WAC 246-939-990 Surgical technologists—Fees and renewal cycle. (1) Registration must be renewed every year on registrant's birthday as provided in chapter 246-12 WAC, Part 2. ~~((The secretary may require payment of renewal fees less than those established in this section if the current level of fees is likely to result in a surplus of funds. Surplus funds are those in excess of the amount necessary to pay for the costs of administering the program and to maintain a reasonable reserve. Notice of any adjustment in the required payment will be provided to practitioners. The adjustment in the required payment shall remain in place for the duration of a renewal cycle to assure practitioners an equal benefit from the adjustment.))~~

(2) The following nonrefundable fees will be charged for registration:

Title of Fee	Fee
Application for registration	\$ ((50.00)) <u>70.00</u>
Renewal of registration	((125.00)) <u>65.00</u>
Registration late fee	((62.50)) <u>60.00</u>
Duplicate registration	((10.00)) <u>30.00</u>

Title of Fee	Fee
Expired registration reissuance	((62.50)) <u>40.00</u>
<u>Certification of registration</u> ((issuance))	((25.00)) <u>30.00</u>