

WSR 12-09-071
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services)
[Filed April 17, 2012, 2:12 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-088.

Title of Rule and Other Identifying Information: The department intends to amend WAC 388-76-10025 License annual fee, 388-76-10146 Qualifications—Training and home care aide certification, 388-76-10160 Background check—General, 388-76-10161 Background check—Washington state—Who is required to have, 388-76-10163 Background check—Process, 388-76-10164 Background check—Results, 388-76-10165 Background check—Valid for two years, 388-76-10175 Background check—Employment—Conditional hire—Pending results, 388-76-10180 Background checks—Employment—Disqualifying information, 388-76-10200 Adult family home—Staff—Availability—Contact information, and 388-76-10955 Remedies—Department must impose remedies.

The department intends to repeal WAC 388-76-10162 Background check—National fingerprint checks—Who is required to have.

The department intends to add new sections WAC 388-76-101631 Background checks—Process—Washington state name and date of birth background check, 388-76-101632 Background checks—Process—National fingerprint background check, 388-76-10166 Background checks—Household members, noncaregiving and unpaid staff—Unsupervised access, 388-76-10176 Background checks—Employment—Provisional hire—Pending results of national fingerprint background check, and 388-76-10181 Background checks—Employment—Nondisqualifying information.

Hearing Location(s): Office Building 2, Lookout Room, 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 June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 6, 2012.

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 June 5, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 22, 2012, TTY (360) 664-6178 or (360) 664-6094 or by e-mail at johnsjl4@dshs.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is amending these rules to comply with and be consistent with Initiative 1163, ESHB 1277 as codified in chapter 70.128 RCW, and ESHB 2314. In addition to implementing Initiative 1163, ESHB 1277 and 2314 the department is going to

clarify the provision related to disqualifying crimes related to drugs.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 70.128.040.

Statute Being Implemented: Chapter 70.128 RCW.

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: Mike Tornquist, P.O. Box 45600, Olympia, WA 98513, (360) 725-3204; Implementation and Enforcement: Lori Melchiori, P.O. Box 45600, Olympia, WA 98513, (360) 725-2404.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 (3), a small business economic impact statement is not required for rules adopting or incorporating, by reference without material change, Washington state statutes or federal statutes or regulations.

A cost-benefit analysis is not required under RCW 34.05.328. Under RCW 34.05.328 (5)(b), a cost-benefit analysis is not required for rules that are explicitly dictated in statute and that only correct typographical errors, make address changes, or clarify language of rule without changing its effect.

April 16, 2012

Katherine I. Vasquez

Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10025 License annual fee. (1) The adult family home must pay ~~((an annual))~~ the license fee ~~((as))~~ that is established in the state's ~~((omnibus appropriations act and any amendment or additions made to that act))~~ operating budget, as described in RCW 70.128.060.

(2) ~~((The home must send))~~ Each year, the home's annual license fee ((to the department upon receipt of notice of fee due)) is due during the same month in which the home was initially licensed. For example, if the home was licensed in June, 2010, then the annual licensing fee will be due in June of each year.

(3) ~~((#))~~ The home must ensure that the department receives the annual license fee when it is due.

(4) If the home does not pay the fee when it is due, the department will impose remedies.

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10120 License—Must be denied. The adult family home license will not be granted if:

(1) The applicant has not successfully completed a department-approved forty-eight hour adult family home administration and business planning class except as provided in WAC 388-76-10064.

(2) It has been less than twenty years since the applicant surrendered or relinquished an adult family home license

after receiving notice ~~((that))~~ of the department's ~~((intended to deny, suspend, not renew or revoke))~~ initiation of a denial, suspension, nonrenewal or revocation of the license.

(3) The applicant or the applicant's spouse, domestic partner, or any partner, officer, director, managerial employee or majority owner of the applying entity:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has prior violations of federal or state laws or regulations relating to residential care facilities resulting in revocation, suspension, or nonrenewal of a license or contract with the department within the past ten years;

(c) Has been convicted of a crime in federal court or in any other state, and the department determines that the crime is equivalent to a crime under subsections (3)(c), (d), (e), (f), or (g) below;

(d) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(e) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;

(f) Has been convicted of the manufacture, delivery, or possession with intent to manufacture or deliver drugs under one of the following laws:

(i) Violation of the Imitation Controlled Substance Act (VICSA);

(ii) Violation of the Uniform Controlled Substances Act (VUCSA);

(iii) Violation of the Uniform Legend Drug Act (VULDA); or

(iv) Violation of the Uniform Precursor Drug Act (VUPDA).

(g) Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(h) Has been convicted of criminal mistreatment;

(i) Has been found to have abused, neglected, exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;

(j) Has a finding of abuse or neglect of a child that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998.

(k) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

(i) Listed on any registry, including the department's registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for adult protective services findings made before October, 2003.

AMENDATORY SECTION (Amending WSR 12-01-004, filed 12/7/11, effective 1/7/12)

WAC 388-76-10146 Qualifications—Training and home care aide certification. (1) The adult family home must ensure staff persons hired before January 7, 2012 meet training requirements in effect on the date hired, including requirements in chapter 388-112 WAC.

(2) The adult family home must ensure all adult family home caregivers, entity representatives, and resident managers hired on or after January 7, 2012, meet the long-term care worker training requirements of chapter 388-112 WAC, including but not limited to:

(a) Orientation and safety;

(b) Basic;

(c) Specialty for dementia, mental illness and/or developmental disabilities when serving residents with any of those primary special needs;

(d) Cardiopulmonary resuscitation and first aid; and

(e) Continuing education.

(3) All persons listed in subsection (1) of this section, must obtain the home-care aide certification if required by chapter 246-980 WAC.

(4) All adult family home applicants on or after January 7, 2012, must meet the long-term care worker training requirements of chapter 388-112 WAC and obtain the home-care aide certification if required by chapter 246-980 WAC.

(5) Under RCW 18.88B.040 and chapter 246-980 WAC, certain persons including registered nurses, licensed practical nurses, certified nursing assistants or persons who are in an approved certified nursing assistant program are exempt from home-care aide certification and long-term care worker training requirements. Continuing education requirements still apply as outlined in chapter 388-112 WAC.

(6) The adult family home must ensure that all staff receive the orientation and training necessary to perform their job duties.

~~((7) The adult family home must ensure that a qualified caregiver is on-site whenever a resident is at the adult family home. For purposes of this subsection, a qualified caregiver means someone who has successfully completed orientation and basic training.))~~

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10160 Background checks—General. (1) Background checks conducted by the department and required in this chapter include but are not limited to:

~~((1))~~ (a) Washington state name and date of birth background checks ~~((including:~~

~~(a) Department and department of health findings; and~~

~~(b) Criminal background check information from the Washington state patrol and the Washington state courts.))~~; and

~~((2))~~ (b) After ~~(January 1, 2012))~~ January 7, 2012, a national fingerprint ~~((based))~~ background check in accordance with RCW ~~((74.39A.055))~~ 74.39A.056.

~~((3))~~ (2) Nothing in this ~~((section))~~ chapter should be interpreted as requiring the employment of any person against the better judgment of the adult family home.

~~((4))~~ (3) In addition to chapter 70.128 RCW, these rules are authorized by RCW 43.20A.710, 43.43.830 through 43.43.842 and RCW ~~((74.39A.050(8)))~~ 74.39A.051(8).

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10161 Background checks—~~(Washington state—)~~Who is required to have. (1) An adult family home applicant and anyone affiliated with an applicant must have ~~((a Washington state))~~ the following background checks before licensure:

(a) A Washington state name and date of birth background check; and

(b) If applying after January 7, 2012, a national fingerprint background check.

(2) The adult family home must ensure ~~((the following individuals))~~ that all caregivers, entity representatives, and resident managers who are employed directly or by contract after January 7, 2012, have ((Washington state)) the following background checks:

~~((Caregivers, including volunteers and students who may have unsupervised access to residents))~~ A Washington state name and date of birth background check; and

~~((Entity representatives;~~

~~Resident managers; and~~

~~All household members over the age of eleven who may have unsupervised access to residents))~~ A national fingerprint background check.

(3) All household members over the age of eleven, volunteers, students, and noncaregiving staff who may have unsupervised access to residents must have a Washington state name and date of birth background check. They are not required to have a national fingerprint background check.

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10163 Background checks—Process—Background authorization form. Before the adult family home employs, directly or by contract, a resident manager, entity representative ~~((or)),~~ caregiver, or noncaregiving staff, or accepts as a caregiver any volunteer or student, or allows a household member over the age of eleven unsupervised access to residents, the home must:

(1) Require the person to complete a DSHS background authorization form; and

(2) Send the completed form to the department's background check central unit (BCCU), including any additional documentation and information requested by the department.

NEW SECTION

WAC 388-76-101631 Background checks—Process—Washington state name and date of birth back-

ground check. (1) Before receiving the results of the Washington state name and date of birth background check, the adult family home may conditionally employ, directly or by contract, a caregiver, entity representative or resident manager as provided in WAC 388-76-10175.

(2) After receiving the results of the Washington state name and date of birth background check, the adult family home must:

(a) Not employ, directly or by contract, a caregiver, entity representative or resident manager convicted of disqualifying crime or a disqualifying finding under WAC 388-76-10180.

(b) Not allow a household member over the age of eleven, volunteer, student or noncaregiving staff to have unsupervised access to residents if they have been convicted of a disqualifying crime or disqualifying finding under WAC 388-76-10180.

NEW SECTION

WAC 388-76-101632 Background checks—Process—National fingerprint background check. (1) Individuals specified in WAC 388-76-10161(2) who are hired after January 7, 2012 and are not disqualified by the Washington state name and date of birth background check, must complete a national fingerprint background check and follow department procedures.

(2) Before receiving the results of the national fingerprint background check, the adult family home may provisionally employ, directly or by contract, a caregiver, entity representative or resident manager as provided in WAC 388-76-10176.

(3) After receiving the results of the national fingerprint background check the adult family home must not employ, directly or by contract, a caregiver, entity representative or resident manager who has been convicted of a disqualifying crime or who has a disqualifying finding under WAC 388-76-10180.

(4) The provider may accept a copy of a national fingerprint background check result letter and any additional information from the department's background check central unit (BCCU) from an individual who previously completed a national fingerprint background check through the BCCU, provided the national fingerprint background check was completed after January 7, 2012.

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10164 Background checks—Results. (1) ~~((The adult family home must not allow persons listed in WAC 388-76-10161(2) to have unsupervised access to residents until the adult family home receives background check results from the department verifying that the person does not have convictions, or findings described in WAC 388-76-10180.~~

~~((2) If the background check results show that the person has a conviction or finding that is not disqualifying under WAC 388-76-10180, then the adult family home must determine whether the person has the character, suitability and competence to work with vulnerable adults in long-term care.~~

~~(3))~~ After receiving the results of the Washington state name and date of birth background check, the adult family home must:

(a) Inform the person of the results of the background checks;

(b) Inform the person that they may request a copy of the results of the background check. If requested, a copy of the background check results must be provided within ten days of the request; and

(c) Notify the department and the other appropriate licensing or certification agency of any person resigning or terminated as a result of having a conviction record.

(2) After receiving a copy of the results of the national fingerprint background check, the adult family home must:

(a) Inform the person of the results of the background check; and

(b) Inform the person that they may request a copy of the results of the national fingerprint background check result letter and that any additional information can only be obtained from the department's background check central unit.

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10165 Background checks—Washington state name and date of birth background check—Valid for two years—National fingerprint background check—Valid indefinitely. (1) A Washington state name and date of birth background check is valid for two years from the initial date it is conducted. The adult family home must ensure:

~~((+))~~ (a) A new DSHS background authorization form is submitted to the department's background check central unit (BCCU) every two years for all individuals listed in WAC 388-76-10161;

~~((2))~~ (b) There is a valid Washington state background check for all individuals listed in WAC 388-76-10161.

(2) A national fingerprint background check is valid for an indefinite period of time. The adult family home must ensure there is a valid national fingerprint background check for individuals hired after January 7, 2012 as caregivers, entity representatives or resident managers. To be considered valid, the individual must have completed the national fingerprint background check through the BCCU after January 7, 2012.

NEW SECTION

WAC 388-76-10166 Background checks—Household members, noncaregiving and unpaid staff—Unsupervised access. (1) The adult family home must not allow individuals specified in WAC 388-76-10161(3) to have unsupervised access to residents until the home receives results of the Washington state name and date of birth background check from the department verifying that the person does not have convictions or findings described in WAC 388-76-10180.

(2) If any background check results show that the person has a conviction or finding that is not automatically disquali-

fying under WAC 388-76-10180, then the adult family home must:

(a) Determine whether or not the person has the character, competence and suitability to have unsupervised access to residents; and

(b) Document in writing the basis for making the decision.

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10175 Background checks—Employment—Conditional hire—Pending results of Washington state name and date of birth background check. An adult family home may conditionally employ a person directly or by contract, pending the result of a Washington state name and date of birth background check, provided the home:

(1) ~~((Requests))~~ Submits the Washington state name and date of birth background check no later than one business day after conditional employment;

(2) Requires the individual to sign a disclosure statement and the individual denies having been convicted of a disqualifying crime or a disqualifying finding under WAC 388-76-10180;

(3) Does not allow the individual to have unsupervised access to any resident;

(4) Ensures direct supervision, ~~((of the individual,))~~ as defined in WAC 388-76-10000, of the individual; and

(5) Ensures the individual is competent and receives the necessary training to perform assigned tasks and meets the staff training requirements under chapter 388-112 WAC.

NEW SECTION

WAC 388-76-10176 Background checks—Employment—Provisional hire—Pending results of national fingerprint background check. The adult family home may provisionally employ individuals hired after January 7, 2012 and listed in WAC 388-76-10161(2) for one hundred twenty-days and allow those individuals to have unsupervised access to residents when:

(1) The individual is not disqualified based on the results of the Washington state name and date of birth background check; and

(2) The results of the national fingerprint background check are pending.

AMENDATORY SECTION (Amending WSR 10-16-082, filed 7/30/10, effective 1/1/11)

WAC 388-76-10180 Background checks—Employment—Disqualifying information. ~~((Unless hired conditionally as specified in))~~ Except as provided in WAC 388-76-10175 and 388-76-10176, the adult family home must not ~~((use or))~~ employ anyone, directly or by contract, who is listed in WAC 388-76-10161(2) if the individual has ~~((+))~~ any of the convictions, history, or findings, described below:

~~((+))~~ (1) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

~~((b))~~ (2) Has been convicted of a crime in federal court or in any other state, and the department determines that the crime is equivalent to a crime under subsections (c), (d), (e), (f), or (g) below;

~~((c))~~ (3) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

~~((d))~~ (4) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;

~~((e))~~ (5) Has been convicted of the manufacture, delivery, or possession with intent to manufacture or deliver drugs under one of the following laws:

~~((i))~~ (a) Violation of the Imitation Controlled Substances Act (VICSA);

~~((ii))~~ (b) Violation of the Uniform Controlled Substances Act (VUCSA);

~~((iii))~~ (c) Violation of the Uniform Legend Drug Act (VULDA); or

~~((iv))~~ (d) Violation of the Uniform Precursor Drug Act (VUPDA).

~~((f))~~ (6) Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

~~((g))~~ (7) Has been convicted of criminal mistreatment;

~~((h))~~ (8) Has been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceeding under Title 26, RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW;

~~((i))~~ (9) Has a finding of abuse or neglect of a child that is:

~~((i))~~ (a) Listed on the department's background check central unit (BCCU) report; or

~~((ii))~~ (b) Disclosed by the individual, except for findings made before December, 1998.

~~((j))~~ (10) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

~~((i))~~ (a) Listed on any registry, including the department's registry;

~~((ii))~~ (b) Listed on the department's background check central unit (BCCU) report; or

~~((iii))~~ (c) Disclosed by the individual, except for adult protective services findings made before October, 2003.

~~((2))~~ Nothing in this section should be interpreted as requiring the employment of any person against the better judgment of the adult family home.))

NEW SECTION

WAC 388-76-10181 Background checks—Employment—Nondisqualifying information. (1) If any back-

ground check results show that an employee or prospective employee has a conviction or finding that is not automatically disqualifying under WAC 388-76-10180, then the adult family home must:

(a) Determine whether the person has the character, competence and suitability to work with vulnerable adults in long-term care; and

(b) Document in writing the basis for making the decision.

(2) Nothing in this section should be interpreted as requiring the employment of any person against the better judgment of the adult family home.

AMENDATORY SECTION (Amending WSR 10-04-008, filed 1/22/10, effective 2/22/10)

WAC 388-76-10200 Adult family home—Staff—Availability—Contact information. In addition to other licensing requirements for staff availability, the adult family home must:

(1) Ensure at least one qualified caregiver is present in the home whenever one or more residents are present in the home ~~(, unless the resident has been assessed as being safe when left unattended for a specific period of time, and that information is included in the negotiated care plan)~~, except as provided in subsection (2). For purpose of this subsection, a qualified caregiver means someone who has completed orientation and basic training;

(2) Ensure that before the adult family home leaves a resident unattended:

(a) That the adult family home bases its determination of each resident's ability to safely be left unattended on the resident's identified strengths and needs from an assessment;

(b) The resident knows what to do in an emergency and is able to successfully act on that knowledge; such as to, when necessary, leave the home or call 911;

(c) That the adult family home individualizes each resident's negotiated care plan to the resident's identified strengths and needs and includes a limited and specific amount of time the resident is safe to be left unattended;

(d) The resident consents to the plan to be left unattended; and

(e) The resident is able to contact a responsible staff person at all times.

(3) Designate an experienced, staff member who is capable of responding on behalf of the adult family home by phone or pager at all times.

~~((3))~~ (4) Give residents the telephone or pager number for the contact required in subsection (2) of this section;

~~((4))~~ (5) Ensure the provider, entity representative or resident manager is readily available to:

(a) Each resident;

(b) Residents' representatives;

(c) Caregivers; and

(d) Authorized state staff.

AMENDATORY SECTION (Amending WSR 10-03-064, filed 1/15/10, effective 2/15/10)

WAC 388-76-10955 Remedies—Department must impose remedies. (1) The department must impose a remedy

or remedies if the department substantiates a complaint involving harm to a resident and violation of an applicable law or rule.

(2) The department must impose a remedy or remedies if the department substantiates, after licensure, that it has been less than twenty years since the adult family home voluntarily surrendered or relinquished an adult family home license in lieu of department initiated denial, suspension, nonrenewal, or revocation of a license.

(3) The department must impose a remedy or remedies if the department finds any person listed in WAC 388-76-10950:

(a) Has a history of significant noncompliance with federal or state laws or regulations in the provision of care or services to children or vulnerable adults;

(b) Has been convicted of a "crime against children or other persons" as defined in RCW 43.43.830, unless the crime is simple assault, assault in the fourth degree, or prostitution and more than three years has passed since conviction;

(c) Has been convicted of "crimes relating to financial exploitation" as defined in RCW 43.43.830, unless the crime is theft in third degree and more than three years have passed since conviction, or unless the crime is forgery or theft in the second degree and more than five years has passed since conviction;

(d) Has been convicted of the manufacture, delivery, or possession with intent to manufacture or deliver drugs under one of the following laws:

(i) Violation of the Imitation Controlled Substances Act (VICSA);

(ii) Violation of the Uniform Controlled Substances Act (VUCSA);

(iii) Violation of the Uniform Legend Drug Act (VULDA); or

(iv) Violation of the Uniform Precursor Drug Act (VUPDA).

(e) Has been convicted of sending or bringing into the state depictions of a minor engaged in sexually explicit conduct;

(f) Has been convicted of criminal mistreatment;

(g) Has been found to have abused, neglected, financially exploited, or abandoned a minor or vulnerable adult by court of law or a disciplining authority, including the department of health. Examples of legal proceedings in which such findings could be made include juvenile court proceedings under chapter 13.34 RCW, domestic relations proceedings under Title 26 RCW, and vulnerable adult protection proceedings under chapter 74.34 RCW.

(h) Has a finding of abuse or neglect of a child that is:

(i) Listed on the department's background check central unit (BCCU) report; or

(ii) Disclosed by the individual, except for findings made before December, 1998.

(i) Has a finding of abuse, neglect, financial exploitation, or abandonment of a vulnerable adult that is:

(i) Listed on any registry, including the department's registry;

(ii) Listed on the department's background check central unit (BCCU) report; or

(iii) Disclosed by the individual, except for adult protective services findings made before October, 2003.

(j) Has been convicted of a crime in federal court or in the court of any other state, and the department determines that the conviction is equivalent to a conviction under subsection (3)(b), (c), (d), (e) or (f) above.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-76-10162	Background check— National fingerprint checks—Who is required to have.
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WSR 12-10-005
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)

[Filed April 19, 2012, 10:16 a.m.]

The economic services administration requests the withdrawal of the CR-102 filed as WSR 12-09-047 on April 16, 2012. This rule is withdrawn immediately upon filing of this notice and will not be heard at the hearing on May 22, 2012.

Katherine I. Vasquez
Rules Coordinator

WSR 12-10-011
PROPOSED RULES
STATE BOARD OF HEALTH

[Filed April 19, 2012, 3:25 p.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-105-040 Requirements based on national immunization guidelines, updating the reference of the advisory committee on immunization practices to the 2012 schedule.

Hearing Location(s): Department of Health, Point Plaza East, Rooms 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on June 13, 2012, at 1:30 p.m.

Date of Intended Adoption: June 13, 2012.

Submit Written Comments to: Jeff Wise, Washington State Department of Health, Office of Immunization and Child Profile, P.O. Box 47843, Tumwater, WA 98504-7843, web site <https://fortress.wa.gov/doh/policyreview/>, fax (360) 236-5390, by June 1, 2012.

Assistance for Persons with Disabilities: Contact Desiree Robinson by June 6, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal

would update the reference to the advisory committee on immunization practices (ACIP) recommended childhood and adolescent immunization schedule from the 2010 version to the 2012 version. With this change, the only vaccine required for school entry affected by the update in schedule is Tdap, an adolescent vaccine protecting against tetanus, diphtheria and pertussis. Under this proposal: (1) Children could receive Tdap regardless of when they previously received a diphtheria-, tetanus-, or pertussis-containing vaccine, and (2) children as young as seven years of age could receive Tdap vaccine if they are undervaccinated against pertussis. A single dose of Tdap would still [be] routinely require[d] for entry into grade six. Child care centers would not be affected.

Reasons Supporting Proposal: This rule revision is necessary to maintain consistency between the national immunization standards as set by the ACIP and Washington state school and child care immunization entry requirements.

Statutory Authority for Adoption: RCW 28A.210.140.

Statute Being Implemented: RCW 28A.210.140.

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

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

Name of Agency Personnel Responsible for Drafting and Implementation: Jeff Wise, 101 Israel Road S.E., Tumwater, WA, 98501, (360) 236-3483; and Enforcement: Janna Bardi, 101 Israel Road S.E., Tumwater, WA, 98501, (360) 236-3568.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Under RCW 19.85.025 and 34.05.310 (4)(c), a small business economic impact statement is not required for proposed rules that adopt or incorporate by reference - without material change - federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

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)(iii) exempts rules that adopt or incorporate by reference without material change federal statutes or regulations, Washington state law, the rules of other Washington state agencies, or national consensus codes that generally establish industry standards.

April 19, 2012
Michelle A. Davis
Executive Director

AMENDATORY SECTION (Amending WSR 11-05-060, filed 2/11/11, effective 3/14/11)

WAC 246-105-040 Requirements based on national immunization guidelines. The department shall develop and distribute implementation guidelines for schools and child care centers that are consistent with the national immunization guidelines described in this section and the requirements in WAC 246-105-090.

(1) Unless otherwise stated in this section, a child must be vaccinated against each vaccine-preventable disease listed

in WAC 246-105-030 at ages and intervals according to the ~~((following published))~~ national immunization guidelines ~~((Effective July 1, 2009,))~~ in the "Recommended Immunization Schedule for Persons Aged 0-18 Years, United States ~~((2008))~~ 2012"; as published in the *Morbidity and Mortality Week Report* (MMWR) ~~((2008;57(01)))~~ 2012;61(05):Q1-4.

~~((b) Effective July 1, 2011, the "Recommended Immunization Schedule for Persons Aged 0-18 Years, United States, 2010"; as published in the *Morbidity and Mortality Week Report* (MMWR), 2010;58(51 and 52):Q1-4.))~~

(2) In addition to the ages and intervals required by subsection (1) of this section, the following vaccine administration guidelines shall apply. Schools and child care centers may accept one of the following as proof of a child's immunization status against varicella:

(a) Documentation on the CIS form that the child received age appropriate varicella vaccine; or

(b) Diagnosis or verification of a history of varicella disease by a health care provider; or

(c) Diagnosis or verification of a history of herpes zoster by a health care provider; or

(d) Serologic proof of immunity against varicella; or

(e) Documentation by the parent that a child has a history of varicella. This type of proof will be accepted only for certain grade levels described in the department's implementation guidelines according to WAC 246-105-090(2).

WSR 12-10-013
PROPOSED RULES
HEALTH CARE AUTHORITY
(Basic Health)

[Filed April 19, 2012, 4:46 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-045.

Title of Rule and Other Identifying Information: WAC 182-22-320 How to appeal health care authority (HCA) decisions.

Hearing Location(s): HCA, Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 6, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by June 5, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by May 29, 2012, TTY/TDD (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To amend basic

health subsidized program rules contained in WAC 182-22-320 to comply with federal rules concerning eligibility and a fair hearings process.

Reasons Supporting Proposal: HCA intends to reform, align, and clarify the basic health processes as a result of the federal requirements contained in the section 1115 federal waiver number 11-W-00254/10, 42 U.S.C. 1396a(3), and 42 C.F.R. Part 431, Subpart E, Fair Hearings for Applicants and Recipients.

Statutory Authority for Adoption: RCW 70.47.050.

Rule is necessary because of federal law, 42 U.S.C. 1396a(3) and 42 C.F.R. Part 431, Subpart E, Fair Hearings for Applicants and Recipients.

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Rena Fay Carlson, 626 8th Avenue S.E., Olympia, WA 98501, (360) 725-0763; Implementation: Alyson Chase, 626 8th Avenue S.E., Olympia, WA 98501, (360) 725-9834; and Enforcement: Annette Schuffenhauer, 626 8th Avenue S.E., Olympia, WA 98501, (360) 725-1254.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative rules review committee has not requested the filing of a small business economic impact statement and there will be no costs to small businesses.

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

April 19, 2012
Kevin M. Sullivan
Rules Coordinator

AMENDATORY SECTION (Amending Order 10-03, filed 11/30/10, effective 12/31/10)

WAC 182-22-320 How to appeal health care authority (HCA) decisions. (1) HCA decisions regarding the following may be appealed under this section:

- (a) Eligibility;
- (b) Premiums;
- (c) Premium adjustments or penalties;
- (d) Enrollment;
- (e) Suspension;
- (f) Disenrollment; or
- (g) Selection of managed health care system (MHCS).

(2) ~~((To appeal an HCA decision, enrollees))~~ The hearing process described in chapter 388-526 or 182-526 WAC, whichever is in effect at the time of the appeal, applies to the subsidized basic health program (BHP) appeal process found in this subsection. Where conflict exists, the requirements in this chapter take precedence.

(a) To appeal an HCA decision, enrollees or applicants must send a written request for a hearing to the HCA. The written hearing request should be signed by the appealing party and must be received by the HCA within ninety calendar days of the date of the HCA notice. The request must be sent to:

Basic Health Appeals
P.O. Box 42690

Olympia, WA 98504-2690

(b) The hearing request should include:

(i) The name, mailing address, and BHP account number of the subscriber or applicant;

(ii) The name and address of the enrollee or applicant affected by the decision, if that person is not the subscriber on the account;

(iii) A copy of the HCA notice of the decision that is being appealed or, if the notice is not available, a statement of the decision being appealed;

(iv) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation; and

(v) If the appealing party is not an enrollee or the subscriber on the account, a signed agreement from the enrollee authorizing the appealing party to act on the enrollees behalf and authorizing the HCA to release otherwise confidential information to the appealing party's designated representative.

(c) HCA provides at least ten days advanced notice of any change in enrollment or premiums. An enrollee may continue receiving the same benefits under the same terms and conditions as received before the change, if a hearing is requested before the effective date of the agency action. This is called continuation of benefits. Requests for continuation of benefits should be in writing. To qualify for continuation of benefits, the appealing party must continue to pay all premiums when due as required by law and request the hearing in writing before the effective date of the agency's action.

(d) HCA reviews all appeals to determine whether the appeal can be resolved prior to sending the appeal to the office of administrative hearings (OAH) to schedule a hearing.

(i) If the parties can resolve the appeal to the satisfaction of the applicant or enrollee who requested the hearing and the applicant or enrollee chooses to withdraw the appeal before HCA sends the appeal to the OAH, the enrollee or applicant must submit a written request to withdraw the appeal to the HCA at:

Basic Health Appeals
P.O. Box 42690
Olympia, WA 98504-2690

(ii) If the parties cannot resolve the appeal or if the applicant or enrollee does not withdraw the appeal, HCA will forward the appeal to OAH so a hearing can be scheduled. The provisions of chapter 388-526 or 182-526 WAC, whichever is in effect at the time of the hearing, apply only if the appeal is sent to OAH for a hearing.

(3) This subsection applies only to Washington health (WH) program appeals. Enrollees or applicants must send a letter of appeal to the HCA. The letter of appeal should be signed by the appealing party and must be received by the HCA within thirty calendar days of the date of the decision.

(a) The letter of appeal should include:

~~((a))~~ (i) The name, mailing address, and ~~((BHP or))~~ WHP account number of the subscriber or applicant;

~~((b))~~ (i) The name and address of the WH enrollee or applicant affected by the decision, if that person is not the subscriber on the account;

~~((e))~~ (iii) A copy of the HCA notice of the decision that is being appealed or, if the notice is not available, a statement of the decision being appealed;

~~((f))~~ (iv) A statement explaining why the appealing party believes the decision was incorrect, outlining the facts surrounding the decision and including supporting documentation; and

~~((g))~~ (v) If the appealing party is not an enrollee or the subscriber on the account, a signed agreement from the enrollee, authorizing the appealing party to act on his/her behalf.

~~((3))~~ (b) When an appeal is received, the HCA will send a notice to the appealing party, confirming that the appeal has been received and indicating when a decision can be expected. If the appealing party is not an enrollee on the affected account, the notice will also be sent to the subscriber.

~~((4))~~ (c) Initial HCA decisions: The HCA will conduct WH appeals according to RCW 34.05.485. The HCA appeals committee or a single presiding officer designated by the HCA will review and decide the appeal. The appealing party may request an opportunity to be present in person or by telephone to explain his or her view. If the appealing party does not request an opportunity to be present to explain, the HCA appeals committee or presiding officer will review and decide the appeal based on the information and documentation submitted.

~~((5))~~ (i) The HCA will give priority handling to appeals regarding a loss of coverage for an enrollee with an urgent medical need that could seriously jeopardize the enrollee's life, health, or ability to regain maximum function, provided:

~~((a))~~ (A) The appeal is received within ten business days of the effective date of the loss of coverage; and

~~((b))~~ (B) The enrollee has clearly stated in the letter of appeal or has otherwise notified the HCA that he or she has an urgent medical need.

~~((6))~~ (ii) For all other appeals, the HCA will send the appealing party written notice of the initial HCA decision within sixty days of receiving the letter of appeal. If the appealing party is not an enrollee on the affected account, the notice will also be sent to the subscriber. The notice will include the reasons for the initial decision and instructions on further appeal rights.

~~((7))~~ (d) Review of initial HCA decision on WH appeal: The initial HCA decision becomes the final agency decision unless the HCA receives a valid request for a review from the appealing party.

~~((a))~~ (i) To be a valid request for review, the appealing party's request may be either verbal or in writing, but must:

~~((i))~~ (A) Be received within thirty days of the date of the initial HCA decision.

~~((ii))~~ (B) Include a summary of the initial HCA decision being appealed and state why the appealing party believes the decision was incorrect; and

~~((iii))~~ (C) Provide any additional information or documentation that the appealing party would like considered in the review.

~~((b))~~ (ii) Requests for review of an initial HCA decision regarding a disenrollment for nonpayment will be reviewed by the office of administrative hearings through a hearing conducted under chapter 34.12 RCW and RCW 34.05.488 through 34.05.494.

~~((e))~~ (iii) All other requests for review of an initial HCA decision will be reviewed by a presiding officer designated by the HCA according to the requirements of RCW 34.05.488 through 34.05.494, with the following exception: These review decisions will be based on the record and documentation submitted, unless the presiding officer decides that an in-person or telephone hearing is needed. If an in-person or telephone hearing is needed, the presiding officer will decide whether to conduct the hearing as an informal hearing or formal adjudicative proceeding.

~~((f))~~ (iv) The presiding officer will issue a written notice of the review decision, giving reasons for the decision, within twenty-one days of receiving the request for review, unless the presiding officer finds that additional time is needed for the decision.

~~((g))~~ (e) Enrollees who appeal a disenrollment decision that was based on eligibility issues and not related to premium payments may remain enrolled during the appeal process, provided:

~~((a))~~ (i) The appeal was submitted according to the requirements of this section; and

~~((b))~~ (ii) The enrollee:

~~((i))~~ (A) Remains otherwise eligible;

~~((ii))~~ (B) Continues to make all premium payments when due; and

~~((iii))~~ (C) Has not demonstrated a danger or threat to the safety or property of the MHCS or health care authority or their staff, providers, patients or visitors.

~~((9) Enrollees who appeal a disenrollment decision related to nonpayment of premium or any issue other than eligibility will remain disenrolled during the appeal process.~~

~~(10) If the appealing party disagrees with a review decision under subsection (6) of this section, the appealing party may request judicial review of the decision, as provided for in RCW 34.05.542. Request for judicial review must be filed with the court within thirty days of service of the final agency decision.)~~ (4) For both WH and the BHP, enrollees who appeal a disenrollment decision related to nonpayment of premium or any issue other than eligibility will remain disenrolled during the appeal process.

WSR 12-10-029

PROPOSED RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Policy and External Relations)

[Filed April 24, 2012, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-06-030.

Title of Rule and Other Identifying Information: The department is amending WAC 388-02-0580 What is the deadline for requesting review by a review judge?

Hearing Location(s): Office Building 2, Lookout Room, 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 June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 6, 2012.

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 June 5, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 22, 2012, 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: WAC 388-02-0580 does not specifically address whether a party disagreeing with an initial order can submit a petition for review to the board of appeals (BOA) by fax, alone. WAC 388-02-0075 (1)(c) and 388-02-0040(4), do allow filing or sending of documents to BOA by fax if a copy of the document is also mailed the same day. "Filing" is defined in WAC 388-02-0070 as the act of delivering documents to BOA or the office of administrative hearings (OAH). It has been the practice of BOA to accept for review timely faxed transmissions of petitions for review whether or not a "hard copy" of the petition is eventually mailed to BOA. This practice is not in compliance with the regulations when reading and applying WAC 388-02-0580, 388-02-0075, and 388-02-0040 together. The proposed amendment (addition) to WAC 388-02-0580 would clarify and implement BOA's current practice of accepting for review timely faxed petitions for review while still encouraging follow-up with a mailed copy. The term "should" is defined in WAC 388-02-0010 as meaning that an action is recommended but not required. Using the term "should" in the proposed changes would allow accepting faxed petitions for review and would not require a "hard copy" to be mailed in order for BOA to assume jurisdiction to review the case. Without the rule change, there exists a serious question as to whether BOA has jurisdiction to review a timely faxed petition for review that has not also been mailed the same day as the facsimile transmission. The proposed rule change allows greater access to justice for all parties (department and clients) involved in the administrative hearing process.

Statutory Authority for Adoption: RCW 34.05.020.

Statute Being Implemented: RCW 34.05.020.

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, Implementation and Enforcement: James Conant, P.O. Box 45803, Olympia, WA 98504-5803, (360) 664-6081.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These are procedural rules and are exempt under RCW 19.85.025(3) and 34.005.-310 [34.05.310] (4)(g)(i).

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not "significant legislative rule" under RCW 34.05.328 (5)(c)(iii). Under RCW 34.05.328 (5)(a)(i), a cost-benefit analysis is only required for significant legislative rules.

April 24, 2012

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-04-074, filed 1/31/11, effective 3/3/11)

WAC 388-02-0580 What is the deadline for requesting review by a review judge? (1) BOA must receive the written review request on or before 5:00 p.m. on the twenty-first calendar day after the initial order was mailed. A party may submit the review request by facsimile transmission (fax). A copy of the review request should also be mailed to the BOA.

- (2) A review judge may extend the deadline if a party:
- (a) Asks for more time before the deadline expires; and
 - (b) Gives a good reason for more time.
- (3) A review judge may accept a review request after the twenty-one calendar day deadline only if:
- (a) The BOA receives the review request on or before the thirtieth calendar day after the deadline; and
 - (b) A party shows good cause for missing the deadline.
- (4) If you ask a review judge to review an ALJ decision, the time period provided by this section for requesting review of an initial order, including any extensions, does not count against any deadline, if any, for a review judge to enter the final order.

WSR 12-10-037

PROPOSED RULES

STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

[Filed April 26, 2012, 8:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-119.

Title of Rule and Other Identifying Information: WAC 131-28-026 Tuition charges for certain ungraded courses.

Hearing Location(s): Clover Park Technical College, 4500 Steilacoom Boulevard S.W., Tacoma, WA 98499-4098, on June 21, 2012, at 8:00 a.m.

Date of Intended Adoption: June 21, 2012.

Submit Written Comments to: Kathy Goebel, P.O. Box 42495, Olympia, WA 98504-2495, e-mail kgoebel@sbctc.edu, fax (360) 704-4359, by June 1, 2012.

Assistance for Persons with Disabilities: Contact Julie Walter by June 1, 2012, (360) 704-4313.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The WAC proposed changes will result in two effects:

(1) The mandatory waiver of an eighty-five percent reduction from the standard per credit tuition and services activities fee charge will become a local option for each community and technical college. The individual college boards of trustees will have authority to determine whether or not to establish a waiver for parenting education classes. They will also have authority to set the rate of the waiver and eligibility requirements for students receiving the waiver.

(2) The waiver option will be expanded to all delivery modes for parenting education classes and not limited to a cooperative preschool model currently required in the WAC, to better meet community needs.

Reasons Supporting Proposal: The proposed WAC change will provide community and technical colleges with added flexibility to make fiscal decisions that best serve their communities and the needs of their students. The proposed change allows the colleges to develop budgets that respond to current economic conditions to create sustainable parenting programs. Under the current WAC, community and technical colleges are constrained in offering tuition and fee waiver opportunities to students participating in parenting classes outside the traditional cooperative preschool model. The proposed change in WAC 131-28-026 will allow the community and technical colleges to potentially offer waivers to more students.

Statutory Authority for Adoption: RCW 28B.15.069.

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

Name of Proponent: State board for community and technical colleges, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Kathy Goebel, 1300 Quince Street S.E., Olympia, WA 98504-2495, (360) 704-4359.

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

A cost-benefit analysis is not required under RCW 34.05.328. No additional costs.

April 26, 2012

Beth Gordon

Executive Assistant

Agency Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-14-070, filed 6/30/05, effective 7/31/05)

WAC 131-28-026 Tuition charges for certain ungraded courses. (1) The state board shall designate ungraded courses. These courses may be offered at tuition rates that differ from the standard rates set by WAC 131-28-025. Ungraded shall mean courses not categorized by level of instruction and may be assigned degree credit or letter grades.

(2) Ungraded courses shall meet the following qualifications:

(a) The course has a specialized purpose in that it is intended to meet the unique educational needs of a specific category or group of students.

(b) The course is offered for the purpose of providing the individual student with a discrete skill or basic body of knowledge that is intended to enhance potential for initial or continued employment, parenting skills or retirement.

(c) The course cannot be administered as a contract course pursuant to WAC 131-28-027, 131-32-010, or 131-32-020.

(d) The course is not one specifically or primarily intended to satisfy requirements for receiving a high school diploma.

(3) Colleges may establish the amount of waiver for the following ungraded courses:

(a) Farm management and small business management;

(b) Emergency medical technician and paramedic continuing education;

(c) Retirement;

(d) Industrial first aid offered to satisfy WISHA and approved by the department of labor and industries;

(e) Journeyperson training in cooperation with joint apprenticeship and training committees;

(f) Parenting education including, but not limited to, cooperative preschool programs.

(4) The waiver amounts for the following ungraded courses shall conform with the following schedule:

(a) Adult basic education, English as a second language, GED preparation: An amount to be established by the state board.

~~(b) ((Parent education involving a cooperative preschool program: Eighty-five percent reduction from the standard per credit tuition and services activities fee charge.~~

~~(c))~~ Courses offered for the purpose of satisfying related or supplemental educational requirements for apprentices registered with the Washington state apprenticeship council or federal Bureau of Apprenticeship and Training: A college shall waive one-half of the standard per credit tuition and services and activities fee. The college may convert the credit hour charge to a rounded amount per clock hour. Colleges may deduct the tuition owed from training contracts with apprentice organizations.

(5) Students taking both regular and ungraded courses will be charged separately for the courses.

(6) Application of this section shall be subject to administrative procedures established by the state director with respect to maximum credit values of such ungraded courses, curriculum, or any unique circumstances related to enrollment in such courses.

(7) Ungraded course fees received pursuant to this section shall be accounted for and deposited in local community college operating fee accounts established in RCW 28B.15.-031.

(8) Ungraded course fees may be paid by the sponsoring entity rather than an individual student.

WSR 12-10-039
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD

[Filed April 27, 2012, 10:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 07-19-113.

Title of Rule and Other Identifying Information: Amends WAC 181-82-110 to permit teachers who provide instruction to a cohort of students to teach the same cohort two consecutive years so long as the teacher is properly endorsed in at least one of the two course years.

Hearing Location(s): Phoenix Inn, 415 Capitol Way North, Olympia, WA 98501, on July 30, 2012, at 8:30 a.m.

Date of Intended Adoption: July 30, 2012.

Submit Written Comments to: David Brenna, Legislative and Policy Coordinator, P.O. Box 47236, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by July 23, 2012.

Assistance for Persons with Disabilities: Contact David Brenna by July 23, 2012, TTY (360) 664-3631 or (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Districts will not be required to seek a waiver to policy for a teacher being out-of-endorsement if the teacher in [is] participating in teaching a cohort of students across a two-year period.

Reasons Supporting Proposal: Provides for innovative practice.

Statutory Authority for Adoption: RCW 28A.410.210.

Statute Being Implemented: RCW 28A.410.270.

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

Name of Proponent: Professional educator standards board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: David Brenna, P.O. Box 47236 [47236], Olympia, WA 98504, (360) 725-6238.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed amendment does not have an impact on small business and therefore does not meet the requirements for a statement under RCW 19.85.030 (1) or (2).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, P.O. Box 47236, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-3631, e-mail david.brenna@k12.wa.us.

April 27, 2012

David Brenna

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 08-12-056, filed 6/2/08, effective 7/3/08)

WAC 181-82-110 Exceptions to classroom teacher assignment policy. Exceptions to the classroom teacher assignment policy specified in WAC 181-82-105 shall be limited to the following:

(1) Upon determination by school districts that teachers have the competencies to be effective teachers in areas other than their endorsed areas, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any such teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; ~~((and))~~

(d) The assignment of such teachers for the previous school year shall be reported annually to the professional educator standards board by the employing school district as required by WAC 180-16-195. Included in the report shall be the number of teachers in out-of-endorsement assignments and the specific assistance being given to the teachers; and

(e) Teachers providing instruction to a cohort of students in two consecutive years may be assigned subject to (b), (c), and (d) of this subsection, provided they are properly endorsed in at least one of the two years they instruct the cohort class.

(2) Teachers with initial, residency, endorsed continuing, or professional teacher certificates who have not completed provisional status with a school district under RCW 28A.405.220 may be assigned to one out-of-endorsement assignment for a maximum of two periods (not more than forty percent full-time equivalent) a day. Conditions described in subsection (1)(a) through (d) of this section shall apply to teachers so assigned.

(3) After August 31, 2000, a teacher who has completed twenty-four quarter credit hours (sixteen semester credit hours) of course work applicable to a special education endorsement shall be eligible for a waiver from the special education office which will allow that person to be employed as a special education teacher. All remaining requirements shall be completed within five years of service as a special education teacher. Teachers who hold certificates endorsed in special education or who have received waivers from the special education office prior to September 1, 2000, shall not be affected by the requirements of this subsection.

(4) After September 1, 2009, a teacher who has completed eighteen quarter credit hours (twelve semester credit hours) of course work applicable to an endorsement, other than special education for which subsection (3) of this section applies, shall be eligible for a conditional waiver from the professional educator standards board. Approved conditional waivers will allow a teacher to be employed in the subject matter area for which they do not hold the endorsement as long as they verify enrollment in an endorsement program within six months of their assignment and attain the full

endorsement within four years. Application for a conditional waiver shall be made by both teachers and districts to the professional educator standards board.

WSR 12-10-043
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed April 27, 2012, 11:39 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-092.

Title of Rule and Other Identifying Information: WAC 388-446-0020 What penalties will I receive if I break a food assistance rule on purpose?

Hearing Location(s): Office Building 2, Lookout Room, 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 June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 6, 2012.

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 June 5, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 22, 2012, 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 proposed amendments will adopt penalties for Washington food assistance programs consistent with federal penalties for intentional program violations for the supplemental nutrition assistance program (SNAP).

Reasons Supporting Proposal: Amendments proposed under this filing are needed to incorporate federal regulations regarding the allowable use of SNAP benefits. The amendments will provide penalty information to comply with 7 C.F.R. 273.16 for first, second and third convictions of crimes that are an intentional program violation for food assistance benefits.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.04.770, 74.12.260, 74.08.580, 9.91.142, 7 C.F.R. 273.16.

Statute Being Implemented: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.04.510, 74.04.770, 74.12.260, 74.08.580, 9.91.142, 7 C.F.R. 273.16.

Rule is necessary because of federal law, 7 C.F.R. 273.16.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Holly St. John, P.O. Box 45470, Olympia, WA, (360) 725-4895.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These amendments are exempt as allowed under RCW 34.05.328 (5)(b)(vii) which states in part, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents."

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, "this section does not apply to ... rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

April 25, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-19-047, filed 9/13/11, effective 10/14/11)

WAC 388-446-0020 What penalties will I receive if I break a food assistance rule on purpose? (1) Breaking a rule on purpose for food assistance is known as an intentional program violation (IPV) under WAC 388-446-0015. These rules apply to all DSHS food assistance programs including:

- (a) Washington Basic Food program or Basic Food;
- (b) The Washington combined application project (WASHCAP) under chapter 388-492 WAC;
- (c) Transitional food assistance (TFA) under chapter 388-489 WAC; and
- (d) The state-funded food assistance program (FAP) for legal immigrants.

(2) You will have ~~((an IPV))~~ a disqualification period if we have shown that you have committed an IPV in any of the following three ways:

- (a) We establish that you committed an IPV through an administrative disqualification hearing (ADH) under WAC 388-446-0015;
- (b) You signed a disqualification consent agreement that waives your right to an administrative disqualification hearing and ~~((accepts))~~ states you accept the IPV penalty; or
- (c) A federal, state or local court found that you committed an IPV or found you guilty of a crime that breaks food assistance rules.

(3) ~~((We only apply a disqualification penalty to the person or persons who have committed an IPV. People who commit an IPV are disqualified from all food assistance benefits listed in subsection (1) of this section. If you commit an IPV you will not be eligible for food assistance:~~

- ~~(a) For a period of twelve months for the first violation;~~
- ~~(b) For a period of twenty-four months for the second violation;~~
- ~~(c) Permanently for the third violation.~~

(4)) Special penalties for certain crimes - If you are convicted in a court of law for crimes that are an intentional program violation, we disqualify you for the period of time

set in the court order. If the court order does not state a disqualification period, we set a disqualification period based on the crime you were convicted of committing:

(a) **Drugs** - If you are convicted in a federal, state, or local court of trading or receiving food benefits for a controlled substance, we disqualify you:

(i) For a period of twenty-four months for a first ~~((conviction))~~ offense; and

(ii) Permanently for a second ~~((violation))~~ offense.

(b) **Weapons** - If you are convicted in a federal, state or local court of trading your food assistance benefits for firearms, ammunition, or explosives, we permanently disqualify you from receiving food assistance on the first offense.

(c) **Trafficking** - If you are convicted in a federal, state, or local court of knowingly buying, selling, trading, or presenting for redemption food assistance benefits totaling five hundred dollars or more, we permanently disqualify you from receiving food assistance on the first offense.

(d) **False identification** - If you are ~~((convicted in a federal, state, or local court of providing))~~ found to have provided false identification to receive benefits in more than one assistance unit, we disqualify you from receiving food assistance:

(i) For ten years on the first offense.

(ii) Permanently for the third offense.

(e) **Receiving benefits in more than one state** - If you are ~~((convicted in a federal, state, or local court of providing))~~ found to have provided false residency information to receive benefits in more than one household or state, we disqualify you from receiving food assistance:

(i) For ten years on the first offense.

(ii) Permanently for the third offense.

~~((5) When we))~~ (4) In addition to penalties for crimes described in subsection (3), if you commit an IPV you will not be eligible for food assistance:

(a) For a period of twelve months for any first intentional program violation;

(b) For a period of twenty-four months for any second intentional program violation; and

(c) Permanently for any third intentional program violation.

(5) We only apply a disqualification penalty to the person or persons who have committed an intentional program violation.

(6) Start date of a disqualification. The date of a disqualification depends on how a person was disqualified. We will send you a letter telling you when your disqualification period will start:

(a) **ADH or consent agreement** - If you were found to have committed an IPV in an administrative disqualification hearing or you signed a consent agreement waiving this hearing and accepting the disqualification, we start the disqualification period by the second month after we sent you a letter informing you of the disqualification.

(b) **Conviction in court** - If you are convicted in court of a crime that is an intentional program violation, your disqualification period in subsection (4) is in addition to any civil or criminal penalties. We disqualify you from food assistance within forty-five days of the court order unless this timing conflicts with the court order.

~~((6))~~ (7) Disqualifications apply in all states - If you have an IPV disqualification this stays with you until the penalty period is over, even if you move to another state:

(a) If we disqualify you from food assistance, you are also disqualified from receiving supplemental nutrition assistance program (SNAP) benefits in another state during the disqualification period.

(b) If you are disqualified from receiving SNAP benefits for an IPV from another state, you can't receive food assistance in Washington during the disqualification period.

~~((7))~~ (8) Even though we only disqualify the persons who have committed an IPV from receiving food assistance benefits, all adults in the assistance unit are responsible to repay any benefits you were overpaid as described under WAC 388-410-0020 and 388-410-0025.

WSR 12-10-047

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed April 30, 2012, 9:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-06-056.

Title of Rule and Other Identifying Information: WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments, 458-40-610 Timber excise tax—Definitions, 458-40-640 Timber excise tax—Stumpage value area (map), and 458-40-650 Timber excise tax—Timber quality codes defined.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98501, on June 5, 2012, at 10:00 a.m. Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 26, 2012.

Submit Written Comments to: Mark Bohe, e-mail mark.bohe@dor.wa.gov, P.O. Box 47453, Olympia, WA 98504-7453, by June 5, 2012.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499 or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in proposed WAC 458-40-660 will apply to the second half of 2012. The department's anticipated changes include consolidating stumpage value areas (SVAs), which will result in the elimination of other SVAs, changes to some log quality codes, and excluding redcedar from the small log definition. Other rules in chapter 458-40 WAC will need to be amended to recognize these changes.

Possible changes include the following:

WAC 458-40-610 Timber excise tax—Definitions, this rule provides definitions of terms used in other rules prescribing the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096. Possible changes include updating the following definitions:

- Subsection (25)(e) Small logs - inserting "excluding redcedar" into definition, and eliminating references to SVAs 7 and 10.
- Subsection (25)(f) Sawlog - eliminating reference to SVA 7.
- Subsection (30) Thinning - eliminating reference to SVA 10.

WAC 458-40-640 Timber excise tax—Stumpage value area (map), map to be updated to combine SVA 6, 7, and 10 into one Eastern Washington SVA 6.

WAC 458-40-650 Timber excise tax—Timber quality codes defined:

- Updating Table 1 by removing SVA 10 and making "All conifer and all hardwood sawlogs" Quality Code 1 for all log grades.
- Updating Table 2 by removing SVA 7 and making "All conifer and all hardwood sawlogs" Quality Code 1 for all log sizes.
- Updating Table 1 and Table 2 by combining species Lodgepole Pine with the Western Hemlock and other conifer species category and combining [combining] species Western White Pine with the Ponderosa Pine species category.

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments, in addition to updating existing valuations for the second half of 2012:

- Stumpage Value Tables - eliminate SVA Tables 7 and 10;
- Harvest Adjustment Tables - remove references to SVA 10 and 7; and
- Domestic Market Adjustment - for SVA 1-5 only, eliminate Quality Code 2, leaving only Quality Code 1.

Reasons Supporting Proposal: RCW 84.33.091 requires that the stumpage values provided in WAC 458-40-660 be updated as of January 1 and July 1 of each year.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091 and 84.33.140.

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

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

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1574; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #100, Olympia, WA, (360) 534-1300.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required for either rule.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Mark Bohe, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1574, e-mail markbohe@dor.wa.gov.

April 30, 2012

Alan R. Lynn

Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-07-040, filed 3/10/10, effective 4/10/10)

WAC 458-40-610 Timber excise tax—Definitions. (1) **Introduction.** The purpose of WAC 458-40-610 through 458-40-680 is to prescribe the policies and procedures for the taxation of timber harvested from public and private forest lands as required by RCW 84.33.010 through 84.33.096.

Unless the context clearly requires otherwise, the definitions in this rule apply to WAC 458-40-610 through 458-40-680. In addition to the definitions found in this rule, definitions of technical forestry terms may be found in *The Dictionary of Forestry*, 1998, edited by John A. Helms, and published by the Society of American Foresters.

(2) **Codominant trees.** Trees whose crowns form the general level of the main canopy and receive full light from above, but comparatively little light from the sides.

(3) **Competitive sales.** The offering for sale of timber which is advertised to the general public for sale at public auction under terms wherein all qualified potential buyers have an equal opportunity to bid on the sale, and the sale is awarded to the highest qualified bidder. The term "competitive sales" includes making available to the general public permits for the removal of forest products.

(4) **Cord measurement.** A measure of wood with dimensions of 4 feet by 4 feet by 8 feet (128 cubic feet).

(5) **Damaged timber.** Timber where the stumpage values have been materially reduced from the values shown in the applicable stumpage value tables due to damage resulting from fire, blow down, ice storm, flood, or other sudden unforeseen causes.

(6) **Dominant trees.** Trees whose crowns are higher than the general level of the main canopy and which receive full light from the sides as well as from above.

(7) **Firewood.** Commercially traded firewood is considered scaled utility log grade as defined in subsection (14) of this section.

(8) **Forest-derived biomass.** Forest-derived biomass consists of tree limbs, tops, needles, leaves, and other woody debris that are residues from such activities as timber harvesting, forest thinning, fire suppression, or forest health. Forest-derived biomass does not include scalable timber products or firewood (defined in WAC 458-40-650).

(9) **Harvest unit.** An area of timber harvest, defined and mapped by the harvester before harvest, having the same stumpage value area, hauling distance zone, harvest adjustments, harvester, and harvest identification. The harvest identification may be a department of natural resources forest

practice application number, public agency harvesting permit number, public sale contract number, or other unique identifier assigned to the timber harvest area prior to harvest operations. A harvest unit may include more than one section, but harvest unit may not overlap a county boundary.

(10) **Harvester.** Every person who from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, fells, cuts, or takes timber for sale or for commercial or industrial use. The term "harvester" does not include persons performing under contract the necessary labor or mechanical services for a harvester. In cases where the identity of the harvester is in doubt, the department of revenue will consider the owner of the land from which the timber was harvested to be the harvester and the one liable for paying the tax.

The definition above applies except when the United States or any instrumentality thereof, the state, including its departments and institutions and political subdivisions, or any municipal corporation therein so fells, cuts, or takes timber for sale or for commercial or industrial use. When a governmental entity described above fells, cuts, or takes timber, the harvester is the first person, other than another governmental entity as described above, acquiring title to or a possessory interest in such timber.

(11) **Harvesting and marketing costs.** Only those costs directly and exclusively associated with harvesting merchantable timber from the land and delivering it to the buyer. The term includes the costs of piling logging residue on site, and costs to abate extreme fire hazard when required by the department of natural resources. Harvesting and marketing costs do not include the costs of other consideration (for example, reforestation, permanent road construction), treatment to timber or land that is not a necessary part of a commercial harvest (for example, precommercial thinning, brush clearing, land grading, stump removal), costs associated with maintaining the option of land conversion (for example, county fees, attorney fees, specialized site assessment or evaluation fees), or any other costs not directly and exclusively associated with the harvesting and marketing of merchantable timber. The actual harvesting and marketing costs must be used in all instances where documented records are available. When the taxpayer is unable to provide documented proof of such costs, or when harvesting and marketing costs can not be separated from other costs, the deduction for harvesting and marketing costs is thirty-five percent of the gross receipts from the sale of the logs.

(12) **Hauling distance zone.** An area with specified boundaries as shown on the statewide stumpage value area and hauling distance zone maps contained in WAC 458-40-640, having similar accessibility to timber markets.

(13) **Legal description.** A description of an area of land using government lots and standard general land office subdivision procedures. If the boundary of the area is irregular, the physical boundary must be described by metes and bounds or by other means that will clearly identify the property.

(14) **Log grade.** Those grades listed in the "*Official Log Scaling and Grading Rules*" developed and authored by the Northwest Log Rules Advisory Group (Advisory Group). "Utility grade" means logs that do not meet the minimum

requirements of peeler or sawmill grades as defined in the "*Official Log Scaling and Grading Rules*" published by the Advisory Group but are suitable for the production of firm useable chips to an amount of not less than fifty percent of the gross scale; and meeting the following minimum requirements:

(a) Minimum gross diameter—two inches.

(b) Minimum gross length—twelve feet.

(c) Minimum volume—ten board feet net scale.

(d) Minimum recovery requirements—one hundred percent of adjusted gross scale in firm useable chips.

(15) **Lump sum sale.** Also known as a cash sale or an installment sale, it is a sale of timber where all the volume offered is sold to the highest bidder.

(16) **MBF.** One thousand board feet measured in Scribner Decimal C Log Scale Rule.

(17) **Noncompetitive sales.** Sales of timber in which the purchaser has a preferential right to purchase the timber or a right of first refusal.

(18) **Other consideration.** Value given in lieu of cash as payment for stumpage, such as improvements to the land that are of a permanent nature. Some examples of permanent improvements are as follows: Construction of permanent roads; installation of permanent bridges; stockpiling of rock intended to be used for construction or reconstruction of permanent roads; installation of gates, cattle guards, or fencing; and clearing and reforestation of property.

(19) **Permanent road.** A road built as part of the harvesting operation which is to have a useful life subsequent to the completion of the harvest.

(20) **Private timber.** All timber harvested from privately owned lands.

(21) **Public timber.** Timber harvested from federal, state, county, municipal, or other government owned lands.

(22) **Remote island.** An area of land which is totally surrounded by water at normal high tide and which has no bridge or causeway connecting it to the mainland.

(23) **Scale sale.** A sale of timber in which the amount paid for timber in cash and/or other consideration is the arithmetic product of the actual volume harvested and the unit price at the time of harvest.

(24) **Small harvester.** A harvester who harvests timber from privately or publicly owned forest land in an amount not exceeding two million board feet in a calendar year.

(25) **Species.** A grouping of timber based on biological or physical characteristics. In addition to the designations of species or subclassifications defined in Agriculture Handbook No. 451 Checklist of United States Trees (native and naturalized) found in the state of Washington, the following are considered separate species for the purpose of harvest classification used in the stumpage value tables:

(a) **Other conifer.** All conifers not separately designated in the stumpage value tables. See WAC 458-40-660.

(b) **Other hardwood.** All hardwoods not separately designated in the stumpage value tables. See WAC 458-40-660.

(c) **Special forest products.** The following are considered to be separate species of special forest products: Christmas trees (various species), posts (various species), western redcedar flatsawn and shingle blocks, western redcedar shake blocks and boards.

(d) **Chipwood.** All timber processed to produce chips or chip products delivered to an approved chipwood destination that has been approved in accordance with the provisions of WAC 458-40-670 or otherwise reportable in accordance with the provisions of WAC 458-40-670.

(e) **Small logs.** All conifer logs ~~excluding redcedar~~ harvested in stumpage value area ~~(s) 6 ((~~or~~7))~~ generally measuring seven inches or less in scaling diameter, purchased by weight measure at designated small log destinations that have been approved in accordance with the provisions of WAC 458-40-670. Log diameter and length is measured in accordance with the Eastside Log Scaling Rules developed and authored by the Northwest Log Rules Advisory Group, with length not to exceed twenty feet.

(f) **Sawlog.** For purposes of timber harvest in stumpage value area ~~(s) 6 ((~~and~~7))~~, a sawlog is a log having a net scale of not less than 33 1/3% of gross scale, nor less than ten board feet and meeting the following minimum characteristics: Gross scaling diameter of five inches and a gross scaling length of eight feet.

(g) **Piles.** All logs sold for use or processing as piles that meet the specifications described in the most recently published edition of the *Standard Specification for Round Timber Piles (Designation: D 25)* of the American Society for Testing and Materials.

(h) **Poles.** All logs sold for use or processing as poles that meet the specifications described in the most recently published edition of the *National Standard for Wood Poles—Specifications and Dimensions (ANSI 05.1)* of the American National Standards Institute.

(26) **Stumpage.** Timber, having commercial value, as it exists before logging.

(27) **Stumpage value.** The true and fair market value of stumpage for purposes of immediate harvest.

(28) **Stumpage value area (SVA).** An area with specified boundaries which contains timber having similar growing, harvesting and marketing conditions.

(29) **Taxable stumpage value.** The value of timber as defined in RCW 84.33.035(7), and this chapter. Except as provided below for small harvesters and public timber, the taxable stumpage value is the appropriate value for the species of timber harvested as set forth in the stumpage value tables adopted under this chapter.

(a) **Small harvester option.** Small harvesters may elect to calculate the excise tax in the manner provided by RCW 84.33.073 and 84.33.074. The taxable stumpage value must be determined by one of the following methods as appropriate:

(i) **Sale of logs.** Timber which has been severed from the stump, bucked into various lengths and sold in the form of logs has a taxable stumpage value equal to the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber.

(ii) **Sale of stumpage.** When standing timber is sold and harvested within twenty-four months of the date of sale, its taxable stumpage value is the actual purchase price in cash and/or other consideration for the stumpage for the most recent sale prior to harvest. If a person purchases stumpage, harvests the timber more than twenty-four months after purchase of the stumpage, and chooses to report under the small

harvester option, the taxable stumpage value is the actual gross receipts for the logs, less any costs associated with harvesting and marketing the timber. See WAC 458-40-626 for timing of tax liability.

(b) **Public timber.** The taxable stumpage value for public timber sales is determined as follows:

(i) **Competitive sales.** The taxable stumpage value is the actual purchase price in cash and/or other consideration. The value of other consideration is the fair market value of the other consideration; provided that if the other consideration is permanent roads, the value is the appraised value as appraised by the seller. If the seller does not provide an appraised value for roads, the value is the actual costs incurred by the purchaser for constructing or improving the roads. Other consideration includes additional services required from the stumpage purchaser for the benefit of the seller when these services are not necessary for the harvesting or marketing of the timber. For example, under a single stumpage sale's contract, when the seller requires road abandonment (as defined in WAC 222-24-052(3)) of constructed or reconstructed roads which are necessary for harvesting and marketing the timber, the construction and abandonment costs are not taxable. Abandonment activity on roads that exist prior to a stumpage sale is not necessary for harvesting and marketing the purchased timber and those costs are taxable.

(ii) **Noncompetitive sales.** The taxable stumpage value is determined using the department of revenue's stumpage value tables as set forth in this chapter. Qualified harvesters may use the small harvester option.

(iii) **Sale of logs.** The taxable stumpage value for public timber sold in the form of logs is the actual purchase price for the logs in cash and/or other consideration less appropriate deductions for harvesting and marketing costs. Refer above for a definition of "harvesting and marketing costs."

(iv) **Defaulted sales and uncompleted contracts.** In the event of default on a public timber sale contract, wherein the taxpayer has made partial payment for the timber but has not removed any timber, no tax is due. If part of the sale is logged and the purchaser fails to complete the harvesting, taxes are due on the amount the purchaser has been billed by the seller for the volume removed to date. See WAC 458-40-628 for timing of tax liability.

(30) **Thinning.** Timber removed from a harvest unit located in stumpage value area 1, 2, 3, 4, ~~or~~ 5 ~~((~~or~~10))~~:

(a) When the total volume removed is less than forty percent of the total merchantable volume of the harvest unit prior to harvest; and

(b) The harvester leaves a minimum of one hundred undamaged, evenly spaced, dominant or codominant trees per acre of a commercial species or combination thereof.

AMENDATORY SECTION (Amending WSR 07-14-094, filed 6/29/07, effective 7/30/07)

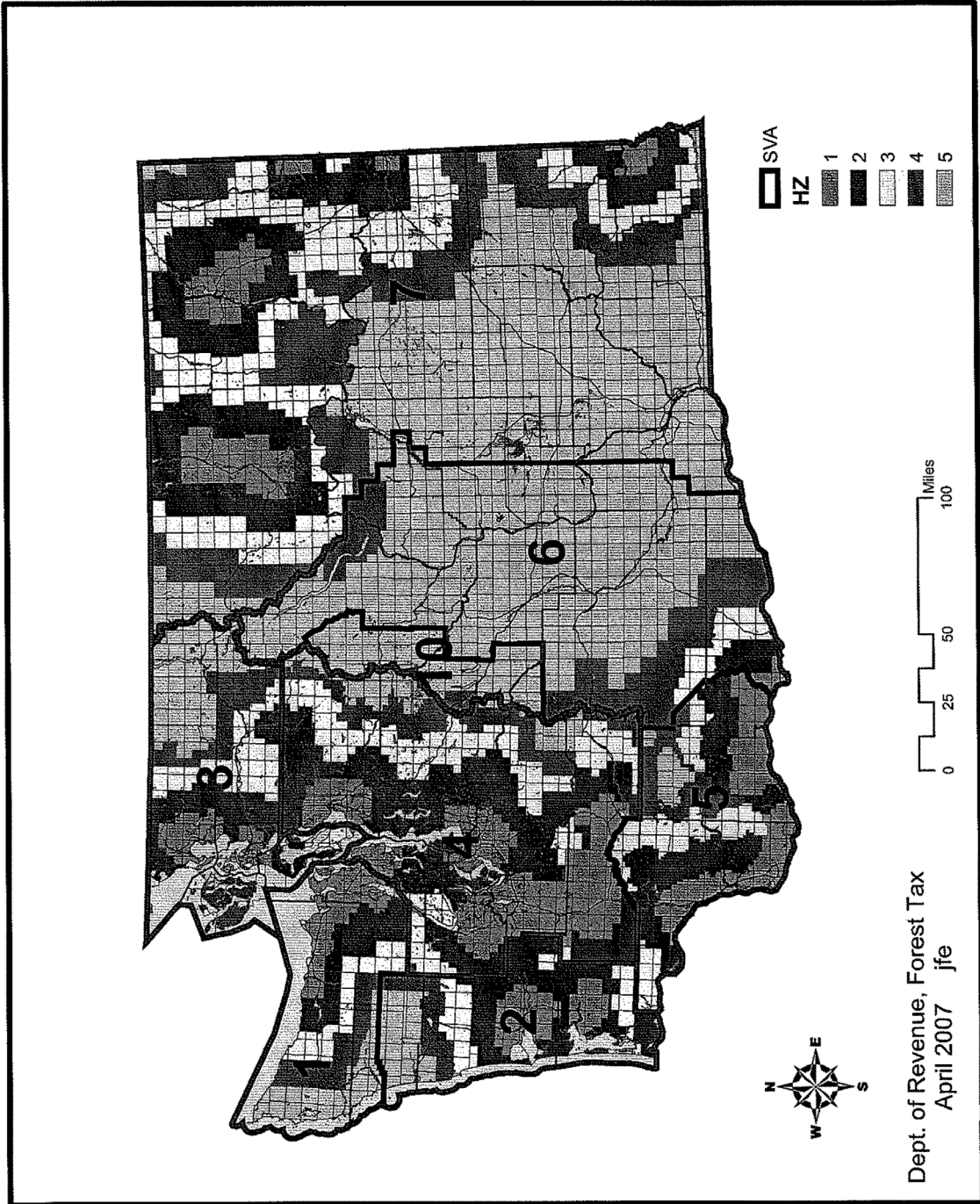
WAC 458-40-640 Timber excise tax—Stumpage value area (map). The stumpage value area and hauling distance zone map contained in this rule must be used to determine the proper stumpage value table and haul zone to be used in calculating the taxable stumpage value of timber harvested from private land.

WAC 458-40-640 Stumpage value area and hauling zone—Map

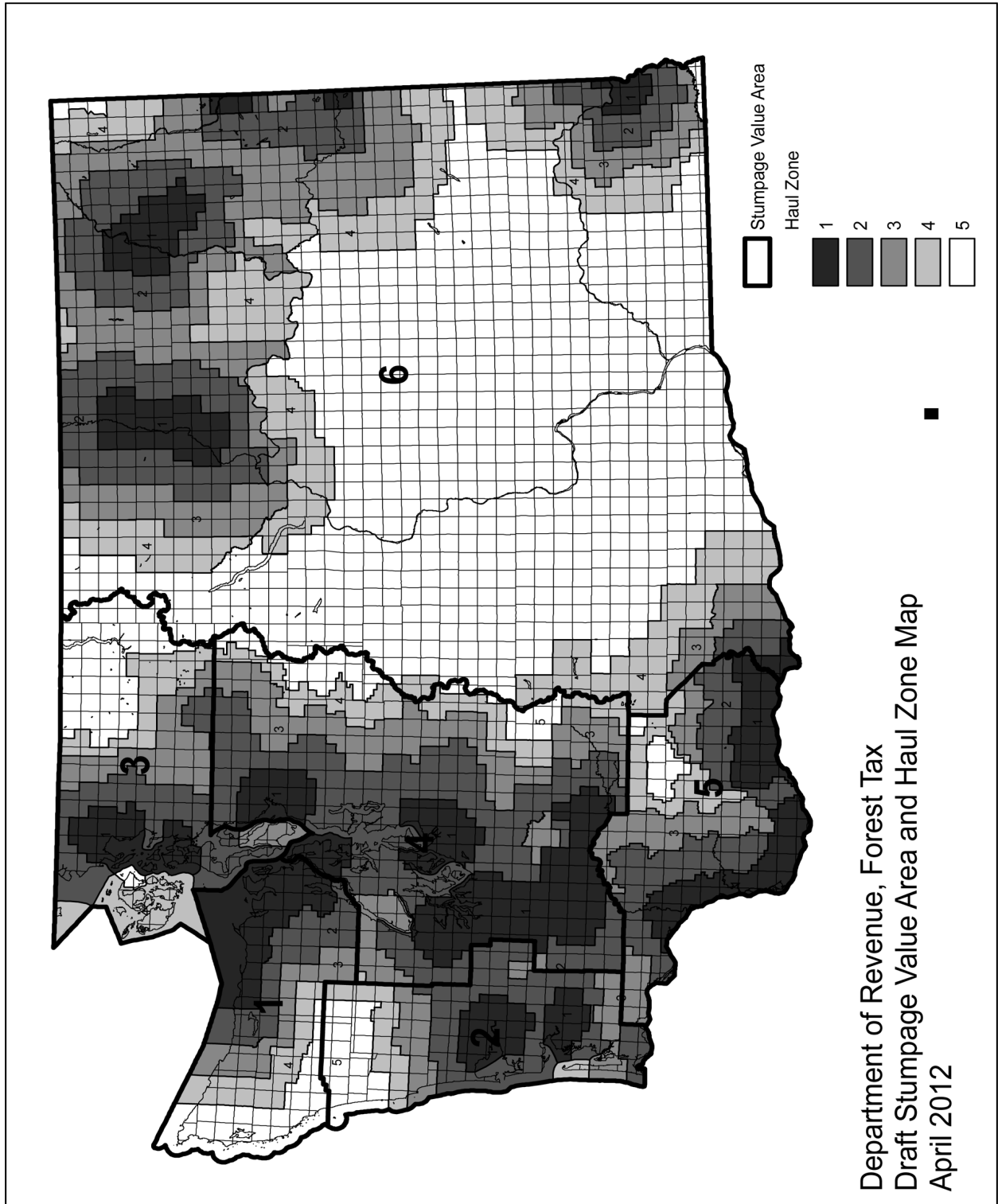
Harvesters may obtain a larger scale map by writing to the Washington State Department of Revenue, Special Programs Division, Forest Tax Section, Post Office Box 47472, Olympia, Washington 98504-7472; or by calling 1-800-548-8829.

Forest Tax SVA and Haul Zone Map

((STRICKEN GRAPHIC



STRICKEN GRAPHIC))



AMENDATORY SECTION (Amending WSR 00-19-067, filed 9/19/00, effective 1/1/01)

WAC 458-40-650 Timber excise tax—Timber quality codes defined. The timber quality code numbers for each species of timber shown in the stumpage value tables contained in this chapter are defined as follows:

**TABLE 1—Timber Quality Code Table
Stumpage Value Areas 1, 2, 3, 4, and 5(~~6 and 10~~)**

Species	Quality Code Number	Log grade specifications ¹
Douglas-fir and Western Larch	1	((Over 50% No. 2 Sawmill and better log grade, and 15% and over Special Mill, No. 1 Sawmill, and better)) All log grades.
((Douglas-fir	2	Over 50% No. 2 Sawmill and better log grade, and less than 15% Special Mill, No. 1 Sawmill, and better log grade.
Douglas-fir	3	25-50% inclusive No. 2 Sawmill and better log grade.
Douglas-fir	4	Less than 25% No. 2 Sawmill and better log grade.))
Western Redcedar and Alaska-Cedar	1	All log grades.
Western Hemlock, True Firs, Lodgepole Pine, Other Conifer, and Spruce	1	((Over 50% No. 2 Sawmill and better log grade, and 5% and over Special Mill, No. 1 Sawmill and better)) All log grades.
((Western Hemlock, True Firs, Other Conifer, and Spruce	2	Over 50% No. 2 Sawmill and better log grade, and less than 5% Special Mill, No. 1 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	3	25-50% inclusive No. 2 Sawmill and better log grade.
Western Hemlock, True Firs, Other Conifer, and Spruce	4	Less than 25% No. 2 Sawmill and better log grade.))
Ponderosa Pine and Western White Pine	1	((Less than 10 logs 16 feet long per thousand board feet Scribner scale.)) All log grades.
((Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
Lodgepole Pine	+	All log grades.))
Red Alder	1	((40% and over No. 3 Sawmill and better)) All log grades.
((Red Alder	2	Less than 40% No. 3 Sawmill and better log grades.))
Black Cottonwood ((and other hardwoods))	1	All log grades.
Other Hardwoods	1	All log grades.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

¹ For information on approved log scaling and grading methods see WAC 458-40-680.

**TABLE 2—Timber Quality Code Table
Stumpage Value Area(~~6~~) 6 ((~~and 7~~))**

Species	Quality Code Number	Log grade specifications
Douglas Fir and Western Larch	1	All log grades.
Ponderosa Pine and Western White Pine	1	((Less than 10 logs 16 feet long per thousand board feet Scribner scale.)) All log grades.
((Ponderosa Pine	2	10 or more logs 16 feet long per thousand board feet Scribner scale.
All conifers other than Ponderosa Pine	+	All log sizes.))
Western Redcedar and Alaska Cedar	1	All log grades.
True Firs, Spruce, Hemlock, Lodgepole Pine and all Other Conifer	1	All log grades.
Hardwoods	1	Sawlogs only.
Small logs	1	All conifer logs that comply with the definition of small logs in WAC 458-40-610.
Chipwood	1	All logs that comply with the definition of chipwood in WAC 458-40-610.
Piles	1	All logs that comply with the definition of piles in WAC 458-40-610.
Poles	1	All logs that comply with the definition of poles in WAC 458-40-610.

AMENDATORY SECTION (Amending WSR 12-02-040, filed 12/29/11, effective 1/1/12)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) Introduction. This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((January)) July 1 through ((June 30)) December 31, 2012:

**((PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 1
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽⁺⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	+	\$397	\$390	\$383	\$376	\$369

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		2	397	390	383	376	369
		3	397	390	383	376	369
		4	397	390	383	376	369
Western Redcedar ⁽²⁾	RC	1	743	736	729	722	715
Western Hemlock ⁽²⁾	WH	1	423	416	409	402	395
		2	423	416	409	402	395
		3	423	416	409	402	395
		4	423	416	409	402	395
Red Alder	RA	1	489	482	475	468	461
		2	489	482	475	468	461
Black Cottonwood	BC	1	97	90	83	76	69
Other Hardwood	OH	1	237	230	223	216	209
Douglas-Fir Poles & Piles	DFL	1	735	728	721	714	707
Western Redcedar Poles	RCL	1	1326	1319	1312	1305	1298
Chipwood ⁽⁴⁾	CHW	1	20	19	18	17	16
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Alaska Cedar.
- ⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed on this page.
- ⁽⁴⁾ Stumpage value per ton.
- ⁽⁵⁾ Stumpage value per cord.
- ⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁷⁾ Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 2
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir	DF	1	\$424	\$417	\$410	\$403	\$396
		2	424	417	410	403	396
		3	424	417	410	403	396
		4	424	417	410	403	396
Western Redcedar ⁽²⁾	RC	1	743	736	729	722	715
Western Hemlock ⁽²⁾	WH	1	425	418	411	404	397

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
		2	425	418	411	404	397
		3	425	418	411	404	397
		4	425	418	411	404	397
Red Alder	RA	1	489	482	475	468	461
		2	489	482	475	468	461
Black Cottonwood	BC	1	97	90	83	76	69
Other Hardwood	OH	1	237	230	223	216	209
Douglas-Fir Poles & Piles	DFL	1	735	728	721	714	707
Western Redcedar Poles	RCL	1	1326	1319	1312	1305	1298
Chipwood ⁽⁴⁾	CHW	1	20	19	18	17	16
RC Shake & Shingle Blocks ⁽⁵⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁶⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁷⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁷⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- ⁽¹⁾ Log-scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- ⁽²⁾ Includes Alaska Cedar.
- ⁽³⁾ Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed on this page.
- ⁽⁴⁾ Stumpage value per ton.
- ⁽⁵⁾ Stumpage value per cord.
- ⁽⁶⁾ Stumpage value per 8 lineal feet or portion thereof.
- ⁽⁷⁾ Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 3
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$413	\$406	\$399	\$392	\$385
		2	413	406	399	392	385
		3	413	406	399	392	385
		4	413	406	399	392	385
Western Redcedar ⁽²⁾	RC	1	743	736	729	722	715
Western Hemlock ⁽⁴⁾	WH	1	422	415	408	401	394
		2	422	415	408	401	394
		3	422	415	408	401	394
		4	422	415	408	401	394
Red Alder	RA	1	489	482	475	468	461
		2	489	482	475	468	461
Black Cottonwood	BC	1	97	90	83	76	69
Other Hardwood	OH	1	237	230	223	216	209
Douglas-Fir Poles & Piles	DFL	1	735	728	721	714	707

Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone Number				
			1	2	3	4	5
			Western-Redcedar-Poles	RCL	1	1326	1319
Chipwood ⁽⁵⁾	CHW	1	20	19	18	17	16
RC-Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF-Christmas-Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas-Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska Cedar.
- (4) Includes all Hemlock, Spruce, true Fir species and Pines, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 4
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone Number				
			1	2	3	4	5
			Douglas-Fir ⁽²⁾	DF	1	\$432	\$425
		2	432	425	418	411	404
		3	432	425	418	411	404
		4	432	425	418	411	404
Lodgepole Pine	LP	1	130	123	116	109	102
Ponderosa Pine	PP	1	156	149	142	135	128
		2	156	149	142	135	128
Western Redcedar ⁽³⁾	RC	1	743	736	729	722	715
Western Hemlock ⁽⁴⁾	WH	1	379	372	365	358	351
		2	379	372	365	358	351
		3	379	372	365	358	351
		4	379	372	365	358	351
Red Alder	RA	1	489	482	475	468	461
		2	489	482	475	468	461
Black Cottonwood	BC	1	97	90	83	76	69
Other Hardwood	OH	1	237	230	223	216	209
Douglas-Fir Poles & Piles	DFL	1	735	728	721	714	707
Western Redcedar-Poles	RCL	1	1326	1319	1312	1305	1298
Chipwood ⁽⁵⁾	CHW	1	20	19	18	17	16
RC-Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF-Christmas-Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas-Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone Number				
			1	2	3	4	5
			DF-Christmas-Trees ⁽⁸⁾	DFX	1	0.25	0.25
Other Christmas-Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 5
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone Number				
			1	2	3	4	5
			Douglas-Fir ⁽²⁾	DF	1	\$405	\$398
		2	405	398	391	384	377
		3	405	398	391	384	377
		4	405	398	391	384	377
Lodgepole Pine	LP	1	130	123	116	109	102
Ponderosa Pine	PP	1	156	149	142	135	128
		2	156	149	142	135	128
Western Redcedar ⁽³⁾	RC	1	743	736	729	722	715
Western Hemlock ⁽⁴⁾	WH	1	395	388	381	374	367
		2	395	388	381	374	367
		3	395	388	381	374	367
		4	395	388	381	374	367
Red Alder	RA	1	489	482	475	468	461
		2	489	482	475	468	461
Black Cottonwood	BC	1	97	90	83	76	69
Other Hardwood	OH	1	237	230	223	216	209
Douglas-Fir Poles & Piles	DFL	1	735	728	721	714	707
Western Redcedar-Poles	RCL	1	1326	1319	1312	1305	1298
Chipwood ⁽⁵⁾	CHW	1	20	19	18	17	16
RC-Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF-Christmas-Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas-Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.

- (3) Includes Alaska-Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 6
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$140	\$133	\$126	\$119	\$112
Lodgepole Pine	LP	1	130	123	116	109	102
Ponderosa Pine	PP	1	156	149	142	135	128
		2	156	149	142	135	128
Western Redcedar ⁽³⁾	RC	1	457	450	443	436	429
True Firs and Spruce ⁽⁴⁾	WH	1	128	121	114	107	100
Western White Pine	WP	1	158	151	144	137	130
Hardwoods	OH	1	86	79	72	65	58
Western Redcedar Poles	RCL	1	457	450	443	436	429
Small Logs ⁽⁵⁾	SML	1	20	19	18	17	16
Chipwood ⁽⁵⁾	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (9) Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 7
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$140	\$133	\$126	\$119	\$112

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Lodgepole Pine	LP	1	130	123	116	109	102
Ponderosa Pine	PP	1	156	149	142	135	128
		2	156	149	142	135	128
Western Redcedar ⁽³⁾	RC	1	457	450	443	436	429
True Firs and Spruce ⁽⁴⁾	WH	1	128	121	114	107	100
Western White Pine	WP	1	158	151	144	137	130
Hardwoods	OH	1	86	79	72	65	58
Western Redcedar Poles	RCL	1	457	450	443	436	429
Small Logs ⁽⁵⁾	SML	1	20	19	18	17	16
Chipwood ⁽⁵⁾	CHW	1	10	9	8	7	6
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
LP & Other Posts ⁽⁷⁾	LPP	1	0.35	0.35	0.35	0.35	0.35
Pine Christmas Trees ⁽⁸⁾	PX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	DFX	1	0.25	0.25	0.25	0.25	0.25

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot. Includes Ponderosa Pine, Western White Pine, and Lodgepole Pine.
- (9) Stumpage value per lineal foot.

**PROPOSED STUMPAGE VALUE TABLE
STUMPAGE VALUE AREA 10
January 1 through June 30, 2012**

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾

Species Name	Species Code	Timber Quality Code Number	Hauling Distance Zone Number				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$418	\$411	\$404	\$397	\$390
		2	418	411	404	397	390
		3	418	411	404	397	390
		4	418	411	404	397	390
Lodgepole Pine	LP	1	130	123	116	109	102
Ponderosa Pine	PP	1	156	149	142	135	128
		2	156	149	142	135	128
Western Redcedar ⁽³⁾	RC	1	729	722	715	708	701
Western Hemlock ⁽⁴⁾	WH	1	365	358	351	344	337
		2	365	358	351	344	337
		3	365	358	351	344	337
		4	365	358	351	344	337
Red Alder	RA	1	475	468	461	454	447
		2	475	468	461	454	447

Species Name	Species Code	Timber Quality Code Number	Hauling Distance-Zone Number				
			1	2	3	4	5
Black Cottonwood	BC	1	83	76	69	62	55
Other Hardwood	OH	1	223	216	209	202	195
Douglas-Fir Poles & Piles	DFL	1	721	714	707	700	693
Western Redcedar Poles	RCL	1	1312	1305	1298	1291	1284
Chipwood ⁽⁵⁾	CHW	1	20	19	18	17	16
RC Shake & Shingle Blocks ⁽⁶⁾	RCS	1	164	157	150	143	136
RC & Other Posts ⁽⁷⁾	RCP	1	0.45	0.45	0.45	0.45	0.45
DF Christmas Trees ⁽⁸⁾	DFX	1	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁸⁾	TFX	1	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes Alaska-Cedar.
- (4) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.
- (5) Stumpage value per ton.
- (6) Stumpage value per cord.
- (7) Stumpage value per 8 lineal feet or portion thereof.
- (8) Stumpage value per lineal foot.))

PROPOSED STUMPAGE VALUE TABLE
Washington State Department of Revenue
STUMPAGE VALUE TABLE
 July 1 through December 31, 2012

Stumpage Values per Thousand Board Feet Net Scribner Log Scale⁽¹⁾
 Starting July 1, 2012, there are no separate
 Quality Codes per Species Code.

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Douglas-Fir ⁽²⁾	DF	1	\$348	\$341	\$334	\$327	\$320
		2	438	431	424	417	410
		3	384	377	370	363	356
		4	397	390	383	376	369
		5	385	378	371	364	357
		6	163	156	149	142	135
Western Hemlock and Other Conifer ⁽³⁾	WH	1	352	345	338	331	324
		2	400	393	386	379	372
		3	400	393	386	379	372
		4	365	358	351	344	337
		5	372	365	358	351	344
		6	146	139	132	125	118
Western Redcedar ⁽⁴⁾	RC	1-5	727	720	713	706	699
		6	441	434	427	420	413

Species Name	Species Code	SVA (Stumpage Value Area)	Haul Zone				
			1	2	3	4	5
Ponderosa Pine ⁽⁵⁾	PP	1-6	180	173	166	159	152
Red Alder	RA	1-5	515	508	501	494	487
Black Cottonwood	BC	1-5	88	81	74	67	60
Other Hardwood	OH	1-5	229	222	215	208	201
		6	113	106	99	92	85
Douglas-Fir Poles & Piles	DFL	1-5	800	793	786	779	772
Western Redcedar Poles	RCL	1-5	1328	1321	1314	1307	1300
		6	723	716	709	702	695
Chipwood ⁽⁶⁾	CHW	1-5	23	22	21	20	19
		6	13	12	11	10	9
Small Logs ⁽⁶⁾	SML	6	23	22	21	20	19
RC Shake & Shingle Blocks ⁽⁷⁾	RCS	1-6	164	157	150	143	136
Posts ⁽⁸⁾	LPP	1-6	0.35	0.35	0.35	0.35	0.35
DF Christmas Trees ⁽⁹⁾	DFX	1-6	0.25	0.25	0.25	0.25	0.25
Other Christmas Trees ⁽⁹⁾	TFX	1-6	0.50	0.50	0.50	0.50	0.50

- (1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.
- (2) Includes Western Larch.
- (3) Includes all Hemlock, Spruce and true Fir species, Lodgepole Pine, or any other conifer not listed on this page.
- (4) Includes Alaska-Cedar.
- (5) Includes Western White Pine.
- (6) Stumpage Value per ton.
- (7) Stumpage Value per cord.
- (8) Includes Lodgepole posts and other posts. Stumpage Value per 8 lineal feet or portion thereof.
- (9) Stumpage Value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50%) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A

harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.) over 2 acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber**—Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber**—Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ~~(January)~~ July 1 through ~~((June 30))~~ December 31, 2012:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, and 5 ~~(and 10~~
~~January))~~ July 1 through ~~((June 30))~~ December 31, 2012

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	\$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-\$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-\$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled vehicles or draft animals.	\$0.00
Class 2	Cable logging a majority of the unit using an overhead system of winch driven cables.	-\$50.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00
IV. Thinning		

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
Class 1	A limited removal of timber described in WAC 458-40-610 (28)	-\$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Area ~~((s))~~ 6 ~~(and 7~~
~~January))~~ July 1 through ~~((June 30))~~ December 31, 2012

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	\$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-\$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	\$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-\$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-\$75.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-\$145.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-\$50.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
((Class-	((SVA's)) SVAs 1 through 5 ((and	\$12.00
+-))	40)) only:	
((Class-	SVA-6 and 7	\$0.00)
2:		

Note: This adjustment only applies to published MBF sawlog values.

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of

estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the department of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a \$0/ton stumpage value.

2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 12-10-060

WITHDRAWAL OF PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

(By the Code Reviser's Office)

[Filed May 1, 2012, 9:11 a.m.]

WAC 392-151-003, 392-151-005, 392-151-010, 392-151-015, 392-151-017, 392-151-020, 392-151-025, 392-151-030, 392-151-035, 392-151-040, 392-151-045, 392-151-050, 392-151-055, 392-151-060, 392-151-065, 392-151-070, 392-151-075, 392-151-080, 392-151-085, 392-151-090, 392-151-095, 392-151-100, 392-151-105, 392-151-110, 392-151-115, 392-151-120, 392-151-125, 392-151-130, 392-151-135 and 392-151-140, proposed by the superintendent of public instruction in WSR 11-21-045 appearing in issue 11-21 of the State Register, which was distributed on November 2, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 12-10-058

WITHDRAWAL OF PROPOSED RULES CRIMINAL JUSTICE TRAINING COMMISSION

(By the Code Reviser's Office)

[Filed May 1, 2012, 9:10 a.m.]

WAC 139-05-100, proposed by the criminal justice training commission in WSR 11-21-023 appearing in issue 11-21 of the State Register, which was distributed on November 2, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 12-10-061

WITHDRAWAL OF PROPOSED RULES SUPERINTENDENT OF PUBLIC INSTRUCTION

(By the Code Reviser's Office)

[Filed May 1, 2012, 9:12 a.m.]

WAC 392-123-132, proposed by the superintendent of public instruction in WSR 11-21-069 appearing in issue 11-21 of the State Register, which was distributed on November 2, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 12-10-059

WITHDRAWAL OF PROPOSED RULES CRIMINAL JUSTICE TRAINING COMMISSION

(By the Code Reviser's Office)

[Filed May 1, 2012, 9:11 a.m.]

WAC 139-07-050, proposed by the criminal justice training commission in WSR 11-21-027 appearing in issue 11-21 of the State Register, which was distributed on November 2,

WSR 12-10-062

WITHDRAWAL OF PROPOSED RULES DEPARTMENT OF LABOR AND INDUSTRIES

(By the Code Reviser's Office)

[Filed May 1, 2012, 9:13 a.m.]

WAC 296-62-50060, proposed by the department of labor and industries in WSR 11-21-080 appearing in issue 11-21 of

the State Register, which was distributed on November 2, 2011, is withdrawn by the code reviser's office under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor
Washington State Register

WSR 12-10-067
PROPOSED RULES
HEALTH CARE AUTHORITY

(Medicaid Program)

[Filed May 1, 2012, 11:00 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-05-022.

Title of Rule and Other Identifying Information: WAC 182-502-0010 When the medicaid agency enrolls and 182-543-2000 DME and related supplies, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room (106A), 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at <http://maa.dshs.wa.gov/pdf/CherryStreetDirectionsNMap.pdf> or directions can be obtained by calling (360) 725-1000), on June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not sooner than June 6, 2012.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail arc@hca.wa.gov, fax (360) 586-9727, by 5:00 p.m. on June 5, 2012.

Assistance for Persons with Disabilities: Contact Kelly Richters by May 29, 2012, TTY/TDD (800) 848-5429 or (360) 725-1307 or e-mail kelly.richters@hca.wa.gov.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These rule revisions propose to require providers of durable medical equipment (DME), prosthetics, orthotics, supplies, and related services (DMEPOS) to be medicare-enrolled providers in order to also receive payment under Washington state's medicaid program. This rule applies to newly enrolled DMEPOS providers and current DMEPOS providers upon revalidation of their enrollment (as required in 42 C.F.R. 455.414).

Reasons Supporting Proposal: This amendment is in accordance with the Affordable Care Act (ACA), these rule revisions are necessary to meet the screening requirements in the ACA for high-risk categorized provider types. This requirement avoids a costly additional state screening requirement for DMEPOS providers, most of whom have already met the screening requirements with medicare.

Statutory Authority for Adoption: RCW 41.05.021, ACA, 76 Fed. Reg. 5862, 42 C.F.R. Parts 405, 424, 447, 455, 457, and 498.

Statute Being Implemented: RCW 41.05.021.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Wendy L. Boedigheimer, HCA, P.O. Box 45504, Olympia, WA, (360) 725-1306; Implementation and Enforcement: Diane Getchman, HCA, P.O. Box 45510, Olympia, WA, (360) 725-1440.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has analyzed the proposed rules and concludes that they do not impose more than minor costs for affected small businesses.

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

May 1, 2012

Kevin M. Sullivan

Rules Coordinator

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-502-0010 When the ((department)) medicaid agency enrolls. (1) Nothing in this chapter obligates the ((department)) agency to enroll any eligible ((healthcare)) health care professional, ((healthcare)) health care entity, supplier or contractor of service who requests enrollment.

(2) To enroll as a provider with the ((department)) medicaid agency, a ((healthcare)) health care professional, ((healthcare)) health care entity, supplier or contractor of service must, on the date of application:

(a) Be currently licensed, certified, accredited, or registered according to Washington state laws and rules. Persons or entities outside of Washington state, see WAC ((388-502-0120)) 182-502-0120;

(b) Be enrolled with medicare, when required in specific program rules;

(c) Have current professional liability coverage, individually or as a member of a group;

((e)) (d) Have a current federal drug enforcement agency (DEA) certificate, if applicable to the profession's scope of practice;

((d)) (e) Meet the conditions in this chapter and other chapters regulating the specific type of ((healthcare)) health care practitioner;

((e)) (f) Sign, without modification, a core provider agreement (CPA) and debarment form ((DSSH)) 09-048) or a contract with the ((department)) agency. (Note: Section 13 of the CPA, ((DSSH)) 09-048 (REV. 08/2005), is hereby rescinded. The ((department)) medicaid agency and each provider signing a core provider agreement will hold each other harmless from a legal action based on the negligent actions or omissions of either party under the terms of the agreement.);

((f)) (g) Agree to accept the payment from the ((department)) medicaid agency as payment in full (in accordance with 42 C.F.R. § 447.15 acceptance of state payment as payment in full and WAC ((388-502-0160)) 182-502-0160 billing a client);

~~((g))~~ (h) Fully disclose ownership and control information requested by the ~~((department))~~ agency. If payment for services is to be made to a group practice, partnership, or corporation, the group, partnership, or corporation must enroll and obtain a CPA number to be used for submitting claims as the billing provider. All owners must be identified and fully disclosed in the application; and

~~((h))~~ (i) Have screened employees and contractors with whom they do business prior to hiring or contracting to assure that employees and contractors are not excluded from receiving federal funds as required by 42 U.S.C. 1320a-7 and 42.U.S.C. 1320c-5.

AMENDATORY SECTION (Amending WSR 11-14-075, filed 6/30/11, effective 7/1/11)

WAC 182-543-2000 DME and related supplies, prosthetics, orthotics, medical supplies and related services—Eligible providers and provider requirements. (1) The ~~((department))~~ medicaid agency pays qualified providers for durable medical equipment (DME) and related supplies, prosthetics, orthotics, medical supplies, repairs, and related services on a fee-for-service basis as follows:

(a) DME providers who are enrolled with medicare for DME and related repair services;

(b) Medical equipment dealers who are enrolled with medicare, pharmacies who are enrolled with medicare, and home health agencies under their national provider indicator (NPI) for medical supplies;

(c) Prosthetics and orthotics providers who are enrolled with medicare and licensed by the Washington state department of health in prosthetics and orthotics. Medical equipment dealers and pharmacies that do not require state licensure to provide selected prosthetics and orthotics may be paid for those selected prosthetics and orthotics only as long as the medical equipment dealers and pharmacies meet the medicare enrollment requirement;

(d) Physicians who provide medical equipment and supplies in the office. The ~~((department))~~ agency may pay separately for medical supplies, subject to the provisions in the department's resource-based relative value scale fee schedule; and

(e) Out-of-state orthotics and prosthetics providers who meet their state regulations.

(2) Providers and suppliers of durable medical equipment (DME) and related supplies, prosthetics, orthotics, medical supplies and related items must:

(a) Meet the general provider requirements in chapter ~~((388-502))~~ 182-502 WAC;

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

(c) Have a valid prescription;

(i) To be valid, a prescription must:

(A) Be written on the ~~((department's))~~ agency's Prescription Form (~~((DSHS))~~ 13-794). The ~~((department's))~~ agency's electronic forms are available on-line at: ~~((http://www.dshs.wa.gov/msa/forms/eforms.html;))~~ http://hrsa.dshs.wa.gov/mpforms.shtml;

(B) Be written by a physician, advanced registered nurse practitioner (ARNP), or physician's assistant certified (PAC);

(C) Be written, signed (including the prescriber's credentials), and dated by the prescriber on the same day and before delivery of the supply, equipment, or device. Prescriptions must not be back-dated;

(D) Be no older than one year from the date the prescriber signs the prescription; and

(E) State the specific item or service requested, diagnosis, estimated length of need (weeks, months, or years), and quantity.

(ii) For dual eligible medicare/medicaid clients when medicare is the primary payer and the department is being billed for the co-pay and/or deductible only, subsection (2)(a) of this section does not apply.

(d) Provide instructions for use of equipment;

(e) Furnish only new equipment to clients that includes full manufacturer and dealer warranties. See WAC ~~((388-543-2250(3)))~~ 182-543-2250(3);

(f) Furnish documentation of proof of delivery, upon ~~((department))~~ agency request (see WAC ~~((388-543-2200))~~ 182-543-2200); and

(g) Bill the ~~((department))~~ agency using only the allowed procedure codes listed in published DME and related supplies, prosthetics and orthotics, medical supplies and related items ~~((billing instructions))~~ medicaid provider guides.

WSR 12-10-069
PROPOSED RULES
DEPARTMENT OF HEALTH

[Filed May 1, 2012, 11:21 a.m.]

Original Notice.

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

Title of Rule and Other Identifying Information: WAC 246-254-130 Radioactive waste disposal site surveillance fee increase and clarification of who must pay.

Hearing Location(s): Department of Health, Point Plaza East, Room 139, 310 Israel Road S.E., Tumwater, WA 98501, on June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: June 25, 2012.

Submit Written Comments to: Michelle K. Austin, P.O. Box 47827, Olympia, WA 98504-7824, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2266, by June 5, 2012.

Assistance for Persons with Disabilities: Contact Michelle K. Austin by May 28, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2011, the state legislature gave the department of health (department) the authority to increase the radioactive waste site surveillance fee to "meet the actual costs of conducting business," which is consistent with the underlying statutes. The proposed fee increase is necessary to offset the costs of program activities related to regulatory oversight of the site and maintain the department's agreement with the United States Nuclear Regulatory Commission, as required by RCW 70.98.110. In

addition, editorial changes are also included to clarify who must pay the site surveillance fee.

Reasons Supporting Proposal: The proposed rule is needed to fund the statutory objectives of protecting the public and environment from the harmful effects of radiation. The proposed fee increase is needed to offset the ongoing decline in revenue based on the volume of waste disposed at the site, and to enable the program to continue to meet the requirements of the underlying statutes. To clarify that this fee applies to both low-level radioactive waste and naturally occurring and accelerator produced radioactive material as intended by the underlying statute, the proposed rule identifies both types of radioactive waste.

Statutory Authority for Adoption: RCW 70.98.085, 2ESHB 1087.

Statute Being Implemented: RCW 70.98.050, 70.98.-085, and 70.98.110.

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, Implementation and Enforcement: Mikel J. Elsen, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-3241.

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. RCW 34.05.328 (5)(b)(vi) exempts rules that set or adjust fees or rates pursuant to legislative standards.

April 30, 2012
Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending Order 121, filed 12/27/90, effective 1/31/91)

WAC 246-254-130 Radioactive waste disposal site surveillance fee. (1) The department shall charge a radioactive waste site surveillance fee (~~((for radioactive waste site surveillance))~~) of twenty-six dollars per cubic foot to generators and brokers of LLRW (low-level radioactive waste) and NARM (naturally occurring and accelerator produced radioactive material).

(2) The fee shall be an added charge on each cubic foot of ~~((low level waste))~~ LLRW and NARM disposed at the disposal site.

(3) The department shall authorize by contract the operator of a low-level radioactive waste disposal site to collect the fee from waste generators and brokers.

(4) The department shall provide for reimbursement to the site operator for collection costs.

(5) The department shall calculate the fee collected from waste generators and brokers as required under RCW 70.98.085 and the fee shall not exceed the statutory limit specified in that section.

(6) The site operator shall remit the fee to the department as follows:

- (a) Quarterly for the first seven quarters of each biennium.
- (b) By July 15 for the final quarter of the biennium.

WSR 12-10-082
PROPOSED RULES
DEPARTMENT OF HEALTH
(Board of Pharmacy)
[Filed May 2, 2012, 8:23 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 11-17-101.

Title of Rule and Other Identifying Information: WAC 246-901-061 Pharmacy technician certification, adding new rules to establish continuing education (CE) requirements for pharmacy technicians.

Hearing Location(s): Highline Community College, Mt. Constance (Building 8), 2400 South 240th Street, Des Moines, WA 98198, on June 7, 2012, at 3:00 p.m.

Date of Intended Adoption: June 7, 2012.

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 June 1, 2012.

Assistance for Persons with Disabilities: Contact Kitty Slater-Einert by May 30, 2012, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule requires pharmacy technicians to complete ten hours of CE or 1.0 CE unit annually. One hour must be in pharmacy law and the remaining nine hours must be in pharmacy technician related education. The proposed rule mirrors the national CE standards for pharmacy technicians set by the pharmacy technician certification board and the Institute for the Certification of Pharmacy Technicians.

Reasons Supporting Proposal: HB 1353 (2011) requires the board of pharmacy (BOP) to develop rules to establish CE requirements for pharmacy technicians. Requiring pharmacy technicians to obtain CE to maintain a credential will ensure they stay current with professional practice standards.

Statutory Authority for Adoption: RCW 18.64A.020.

Statute Being Implemented: RCW 18.64A.020 as amended by HB 1353 (2011).

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

Name of Proponent: BOP, 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: Steve Saxe, 310 Israel Road S.E., Tumwater, WA 98501, (360) 236-2902.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule would not impose more than minor costs on businesses in an industry.

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 [Tumwater], WA 98501, (360) 236-4861, fax (360) 236-4901, e-mail kitty.slater@doh.wa.gov.

May 2, 2012

Steve Saxe
Interim Executive Director
Board of Pharmacy

NEW SECTION

WAC 246-901-061 Pharmacy technician—Continuing education requirements. (1) A pharmacy technician certified under this chapter shall complete a minimum of ten continuing education (CE) hours or 1.0 continuing education unit (CEU) every renewal cycle following their first certification renewal. One contact hour equals 0.1 CEU.

(2) For each renewal cycle, continuing education must include:

(a) A minimum of one hour of course work in pharmacy law; and

(b) Nine hours in any course work that relates to pharmacy practice.

(3) Approved continuing education credits must be earned through a board approved continuing education program or course. Board approved continuing education includes:

(a) Courses and programs that are accredited or approved by the Accreditation Council of Pharmaceutical Education (ACPE).

(b) Courses and programs as established in WAC 246-861-050, that have been submitted by a pharmacist and approved by the board of pharmacy for purposes of pharmacist education. The course or program must be submitted on a form provided by the board and the course work must be directly related to the scope of practice of a pharmacy technician.

(4) A pharmacy technician must obtain a certificate of participation from a board-approved continuing education provider for each course completed. The certificate must be kept for a minimum of four years from the date of course completion. The certificate must contain:

(a) The participant's name;

(b) Course title;

(c) Course date; and

(d) The number of continuing education hours or CEUs.

(5) In lieu of a certificate of participation, approved courses can be verified through the Accreditation Council for Pharmacy Education (ACPE) central repository of continuing pharmacy education CPE monitoring system.

(6) Continuing education hours or CEUs may not be carried over from one reporting cycle to another.

(7) A pharmacy technician may request to be excused from meeting the continuing education requirements if the inability to satisfy the requirements was due to extenuating circumstances. The board determines if the requirement can be waived.

WSR 12-10-088

PROPOSED RULES

DEPARTMENT OF REVENUE

[Filed May 2, 2012, 10:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-06-056.

Title of Rule and Other Identifying Information: WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions.

Hearing Location(s): Capital Plaza Building, 4th Floor, L&P Large Conference Room, 1025 Union Avenue S.E., Olympia, WA 98501, on June 5, 2012, at 10:00 a.m. Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

Date of Intended Adoption: June 26, 2012.

Submit Written Comments to: Mark Bohe, e-mail mark.bohe@dor.wa.gov, P.O. Box 47453, Olympia, WA 98504-7453, by June 5, 2012.

Assistance for Persons with Disabilities: Contact Mary Carol LaPalm, (360) 725-7499 or Renee Cosare, (360) 725-7514, no later than ten days before the hearing date. For hearing impaired please contact us via the Washington relay operator at (800) 833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department to revise the stumpage value tables every six months. The department establishes stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax. The values in the proposed WAC 458-40-660 will apply to the second half of 2012. This time there is also a separate change to WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. The change is to remove all references to SVA 7 and SVA 10; and to update the multiple quality codes used in weight measure conversions in WAC 458-40-680 (4)(a).

Reasons Supporting Proposal: RCW 84.33.091 requires that the stumpage values provided in WAC 458-40-660 be updated as of January 1 and July 1 of each year. WAC 458-40-680, an associated section, is being updated to reflect changes affecting stumpage values.

Statutory Authority for Adoption: RCW 82.32.300, 82.01.060(2), and 84.33.096.

Statute Being Implemented: RCW 84.33.091 and 84.33.140.

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

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

Name of Agency Personnel Responsible for Drafting: Mark E. Bohe, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1574; Implementation and Enforcement: Stuart Thronson, 1025 Union Avenue S.E., Suite #100, Olympia, WA, (360) 534-1300.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business economic impact statement is required for either rule.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Mark Bohe, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98504-7453, phone (360) 534-1574, e-mail markbohe@dor.wa.gov.

May 2, 2012
 Alan R. Lynn
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 06-02-007, filed 12/22/05, effective 1/22/06)

WAC 458-40-680 Timber excise tax—Volume harvested—Approved scaling and grading methods—Sample scaling—Conversions. (1) **Introduction.** The acceptable log scaling and grading standard for stumpage value areas 1, 2, 3, 4, and 5(~~(-and-10)~~) is the Scribner Decimal C log rule as described in the most current edition of the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group. The acceptable log scaling standard for stumpage value area(~~s~~) 6 (~~(and-7)~~) is the Scribner Decimal C log rule described in the most current edition of the "Eastside Log Scaling Handbook" as published by the Northwest Log Rules Advisory Group, except that timber harvested in stumpage value area(~~s~~) 6 (~~(and-7)~~) must be scaled using the current regional taper rules at the point of origin.

(2) **Special services scaling.** Special services scaling as described in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest Log Rules Advisory Group may not be used for tax reporting purposes without prior written approval of the department of revenue.

(3) **Sample scaling.** Sample scaling may not be used for tax reporting purposes without prior written approval of the department of revenue. To be approved, sample scaling must be in accordance with the following guidelines:

(a) Sample selection, scaling, and grading must be conducted on a continuous basis as the unit is harvested.

(b) The sample must be taken in such a manner to assure random, unbiased sample selection in accordance with accepted statistical tests of sampling.

(c) The sample used to determine total volume, species, and quality of timber harvested for a given reporting period must have been taken during that period.

(d) Sample frequency must be large enough to meet board foot variation accuracy limits of plus or minus two and five-tenths percent standard error at the ninety-five percent confidence level.

(e) Harvesters, or a purchaser with an approved sample scaling method, must maintain sufficient supporting documentation to allow the department of revenue to verify source data, and test statistical reliability of sample scale systems.

(f) Exceptions: Sampling designs and accuracy standards other than those described herein may only be used with the prior written approval of the department of revenue.

(4) **Conversions to Scribner Decimal C Scale.** The following definitions, tables, and conversion factors must be used in determining taxable volume for timber harvested that was not originally scaled by the Scribner Decimal C Log Rule. Conversion methods other than those listed are not

be used for tax reporting purposes without prior written approval of the department of revenue. Harvesters who wish to use a method of conversion other than those listed below must obtain written approval from the department of revenue before harvesting. Purchasers may obtain written approval of a sample scaling method from the department of revenue. The department will maintain a list of purchasers with an approved sample scaling method. A harvester may obtain this list and a summary of the approved method for specific purchasers from the department of revenue. If a harvester has not obtained approval of a sample scaling method before harvesting, the harvester may use a purchaser's approved sample scaling method. If the harvester, or purchaser, fails to use an approved sample scaling method or other method of conversion approved by these rules to set the purchase price, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold.

(a) **Weight measurement.** If the sole unit of measure used to set the purchase price for logs from harvest units (~~(that meet the definition of the lowest quality code for each species)~~) was weight, and the harvester does not use an approved method of sample scaling to determine volume for the stumpage value tables, the following tables must be used for converting to Scribner Decimal C, if the harvest volume per species meets the definition listed in the table. If weight is the sole measure used for a harvest unit (~~(with quality codes other than the lowest)~~) and the harvest volume per species does not meet the definition listed in the table below, the department will establish its own method, as the circumstances require, to determine a reasonable estimate of the volume of timber sold. Harvesters must keep records to substantiate the species and quality codes reported. For tax reporting purposes, a ton equals 2,000 pounds.

(Stumpage Value Areas 1, 2, 3, 4, & 5((- & 10))) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)				
Species	Quality code			
	1	(2)	3	(4)
Douglas-fir ¹	((NA)) <u>7.50</u>	((NA	NA	7.50))
Western Hemlock ²	((NA)) <u>8.25</u>	((NA	NA	8.25))
Western Redcedar ³	7.0			
Red Alder ⁴	((NA)) <u>7.80</u>	((7-8))		
Chipwood	9.0			

¹ Includes Douglas-fir, Western Larch, Western White Pine and Sitka Spruce. Only for volume including less than 25% No. 2 sawmill or better log grades.

² Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, Lodgepole Pine and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir." Only for volume including less than 25% No. 2 sawmill or better log grades.

³ Includes Alaska-cedar.

⁴ Maple, Black Cottonwood and other hardwoods. Only for volume including less than 40% No. 3 sawmill or better log grades.

(Stumpage Value Area(s) 6 ((& 7))) BOARD FOOT WEIGHT SCALE FACTORS (TONS/MBF)		
Species	Quality code	
	1	((2))
Ponderosa Pine ¹	((NA) 6.50	((6.50))
Douglas-fir ⁽²⁾ ²	5.50	
Lodgepole Pine	6.0	
Western Hemlock ⁽²⁾ ³	5.50	
Englemann Spruce	4.50	
Western Redcedar ⁽²⁾ ⁴	4.50	
Chipwood	9.0	
Small Logs	6.50	

¹ Only for volume with 10 or more logs 16 feet long per thousand board feet Scribner scale.

² Includes Western Larch.

⁽²⁾³ Includes Western Hemlock, Mountain Hemlock, Pacific Silver Fir, Noble Fir, Grand Fir, Subalpine Fir, and other conifers not separately designated. Pacific Silver Fir, Noble Fir, Grand Fir, and Subalpine Fir are all commonly referred to as "White Fir."

⁽²⁾⁴ Includes Alaska-cedar.

(b) **Cord measurement.** For the purposes of converting cords into Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, and 5(~~and 10~~) logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 400 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 330 board feet per cord.

(ii) In stumpage value area(s) 6 (~~and 7~~) logs with an average scaling diameter of 8 inches and larger must be converted to Scribner volume using 470 board feet per cord. Logs having an average scaling diameter of less than 8 inches must be converted to Scribner volume using 390 board feet per cord.

(iii) A cord of Western Redcedar shake or shingle blocks must be converted to Scribner volume using 600 board feet per cord.

(iv) Firewood must be converted at a rate of 3 tons per cord.

(c) **Cants or lumber from portable mills.** To convert from lumber tally to Scribner volume:

(i) In stumpage value areas 1, 2, 3, 4, and 5(~~and 10~~) multiply the lumber tally for the individual species by 75%, and round to the nearest one thousand board feet (MBF); or

(ii) In stumpage value area(s) 6 (~~and 7~~) multiply the lumber tally for the individual species by 88%, and round to the nearest one thousand board feet (MBF).

(d) **Log scale conversion.** Timber harvested in stumpage value areas 1, 2, 3, 4, and 5(~~and 10~~) and which has been scaled by methods and procedures published in the "Eastside Log Scaling Handbook" must have the volumes reported reduced by eighteen percent. Timber harvested in stumpage value area(s) 6 (~~and 7~~) and which has been scaled by methods and procedures published in the "Official Log Scaling and Grading Rules" developed and authored by the Northwest log rules advisory group, must have the volumes reported increased by eighteen percent.

(e) **Timber pole and piling volume tables.** Harvesters of poles must use the following tables to determine the Scribner board foot volume for each pole length and class:

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, and 5(and 10)																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							50	50	40	40	30	30	20	20	20	80	70
25							60	60	50	50	40	40	30	30	30	100	90
30							110	70	60	60	50	50	40	40		130	110
35					160	160	130	100	80	80	60	60	50			130	110
40			240	200	180	180	150	120	120	90	70	60				150	120
45	380	340	340	280	230	230	190	150	120	120	90	90				150	120
50	430	370	370	300	260	260	210	160	140	140	100					160	140
55	470	410	410	330	280	280	230	180	150	150						180	150
60	540	470	470	410	340	340	290	220	190	190						190	160
65	610	520	520	420	380	380	320	260	210	210						210	180
70	650	560	560	480	400	400	350	270	230	230						230	190
75	700	600	600	520	520	520	440	290	250							230	200
80	820	700	700	600	600	540	440	360	290							250	210
85	910	800	800	660	660	660	570	490	360							260	210
90	1080	930	930	820	820	690	590	490	400							260	220
95	1170	1000	1000	870	870	750	640	540								290	240
100	1190	1030	1030	900	900	760	660	550								310	250
105	1310	1160	1160	1000	1000	860	740	610								330	270
110	1370	1220	1220	1050	1050	910	780	650								380	300
115	1440	1280	1280	1100	1100	960	860	680								400	310
120	1660	1460	1460	1300	1300	1140	970	820								500	400
125	1840	1600	1600	1410	1410	1250	1080	930									

Total Scribner Board Foot Volume Stumpage Value Areas 1, 2, 3, 4, and 5(and 10)																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
130	1920	1680	1680	1490	1490	1310	1120	970									

- ¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.
- ² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

Total Scribner Board Foot Volume Stumpage Value Area(s) 6 (and 7)																	
Length	Pole Class ¹															Piling Class ²	
	H6	H5	H4	H3	H2	H1	1	2	3	4	5	6	7	9	10	A	B
20							70	60	50	50	30	30	20	20	20	90	70
25							80	70	50	50	40	40	30	30	20	100	80
30							110	90	60	60	50	50	50	40		130	110
35					190	160	140	100	100	70	60	60	50			140	100
40				240	240	200	170	120	110	100	70	70				140	100
45	390	330	330	270	270	220	180	150	110	110	80	70				150	110
50	460	390	390	340	340	280	240	190	150	150	120					190	150
55	510	430	430	370	360	300	250	190	150	150						190	150
60	610	530	530	440	440	380	310	240	200	200						240	200
65	650	570	570	490	480	410	350	280	220	220						240	200
70	750	650	650	550	470	470	410	320	260	260						260	210
75	810	700	700	600	600	500	440	340	270							270	220
80	960	830	830	710	710	610	510	420	340							220	220
85	1020	870	870	760	760	640	550	450	360							300	240
90	1110	970	970	840	840	720	620	500	420							280	280
95	1160	1010	1010	870	870	740	640	510								360	280
100	1380	1210	1210	1060	1060	910	780	650								360	280
105	1430	1250	1250	1100	1100	940	820	690								400	300
110	1580	1390	1390	1220	1220	1070	920	770								460	340
115	1660	1470	1470	1280	1280	970	810	680								470	360
120	1880	1680	1680	1480	1480	1290	1130	950								560	450
125	1910	1690	1690	1490	1490	1140	970	810									
130	2170	1920	1920	1710	1710	1510	1320	1140									

- ¹ Pole class definitions taken from American National Standard specifications and dimensions for wood poles as approved August 7, 1976, under American National Standard Institute, Inc. codified ANSI 05.1-1972.
- ² Piling class definitions as per American Society for Testing and Materials for "round timber piles." As the designation: D 25-58 (reapproved 1964).

WSR 12-10-096
PROPOSED RULES
DEPARTMENT OF HEALTH
 [Filed May 2, 2012, 11:13 a.m.]

Israel Road S.E., Tumwater, WA 98501, web site <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2257, by June 12, 2012.

Original Notice.
 Exempt from preproposal statement of inquiry under RCW 34.05.310(4).
 Title of Rule and Other Identifying Information: WAC 246-282-990(5), Sanitary control of shellfish—Fees—Commercial geoduck paralytic shellfish poisoning testing.
 Hearing Location(s): Department of Health, Town Center 3, Room 225, 243 Israel Road S.E., Tumwater, WA 98501, on June 12, 2012, at 1:00 p.m.
 Date of Intended Adoption: June 13, 2012.
 Submit Written Comments to: Brandy Brush, Department of Health, Office of Shellfish and Water Protection, 243

Assistance for Persons with Disabilities: Contact Brandy Brush by June 5, 2012, TTY (800) 833-6388 or 711.
 Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is to equitably assess the costs of commercial geoduck paralytic shellfish poison (PSP) testing. The cost assessment will follow the annual redistribution formula which is based on the number of tests done in the previous year. The testing is essential to public health as it is the only way to determine if dangerous levels of PSP exist in commercial geoduck, and ensure toxic shellfish do not reach consumers.

Reasons Supporting Proposal: The proposed geoduck PSP fee redistribution is based on the 2011 total cost of service for the entities that submitted geoduck tests and the number of tests done for each entity. The annual redistribution of the fees assesses each entity their proportionate amount of the total fee based on the number of tests they submitted. The regulated community is aware of, participates in, and supports this annual change.

Statutory Authority for Adoption: RCW 43.70.250.

Statute Being Implemented: RCW 43.70.250.

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: Brandy Brush, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3342; Implementation and Enforcement: Rick Porso, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3302.

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.

May 2, 2012
Gregg Grunenfelder
Deputy Secretary
for Mary C. Selecky
Secretary

AMENDATORY SECTION (Amending WSR 11-19-011, filed 9/7/11, effective 10/8/11)

WAC 246-282-990 Fees. (1) The required annual shellfish operation license fees for shellstock shippers and shucker-packers due October 1, 2011, shall be reduced by twenty-five percent of the annual shellfish operation license fees in subsection (2) of this section. Beginning July 1, 2012, and for every subsequent year, the full annual shellfish operation license fees in subsection (2) of this section shall be assessed.

(2) Annual shellfish operation license fees are:

Type of Operation	Annual Fee
Harvester	\$263
Shellstock Shipper	
0 - 49 Acres	\$297
50 or greater Acres	\$476
Scallop Shellstock Shipper	\$297
Shucker-Packer	
Plants with floor space < 2000 sq. ft.	\$542
Plants with floor space 2000 sq. ft. to 5000 sq. ft.	\$656

Type of Operation	Annual Fee
Plants with floor space > 5000 sq. ft.	\$1,210

(3) The fee for each export certificate is \$20.00.

(4) Annual PSP testing fees for companies harvesting species other than geoduck intertidally (between the extremes of high and low tide) are as follows:

Fee Category

Type of Operation	Number of Harvest Sites	Fee
Harvester	≤ 2	\$173
Harvester	3 or more	\$259
Shellstock Shipper	≤ 2	\$195
0 - 49 acres		
Shellstock Shipper	3 or more	\$292
0 - 49 acres		
Shellstock Shipper	N/A	\$468
50 or greater acres		
Shucker-Packer	≤ 2	\$354
(plants < 2000 ft ²)		
Shucker-Packer	3 or more	\$533
(plants < 2000 ft ²)		
Shucker-Packer	≤ 2	\$429
(plants 2000 - 5000 ft ²)		
Shucker-Packer	3 or more	\$644
(plants 2000 - 5000 ft ²)		
Shucker-Packer	N/A	\$1,189
(plants > 5000 ft ²)		

(a) The number of harvest sites will be the total number of harvest sites on the licensed company's harvest site certificate:

- (i) At the time of first licensure; or
- (ii) January 1 of each year for companies licensed as harvesters; or
- (iii) July 1 of each year for companies licensed as shellstock shippers and shucker packers.

(b) Two or more contiguous parcels with a total acreage of one acre or less is considered one harvest site.

(5) Annual PSP testing fees for companies harvesting geoduck are as follows:

Harvester	Fee
Department of natural resources (quota tracts harvested by DNR contract holders)	\$(9,616)) <u>9,433</u>
<u>Discovery Bay Shellfish</u>	<u>\$401</u>
Jamestown S'Klallam Tribe	\$(1,221)) <u>3,412</u>
Lower Elwha Klallam Tribe	\$(4,274)) <u>4,817</u>
(Nisqually Indian Tribe	\$3,968))
Port Gamble S'Klallam Tribe	\$(3,053)) <u>7,626</u>

Harvester	Fee
Puyallup Tribe of Indians	\$ ((6,868)) <u>6,221</u>
Seattle Shellfish	\$ ((1,374)) <u>201</u>
Squaxin Island Tribe	\$ ((3,968)) <u>1,605</u>
Suquamish Tribe	\$ ((16,026)) <u>17,261</u>
Swinomish Tribe	\$ ((458)) <u>1,003</u>
((SYS Enterprises	(\$611))
Taylor Shellfish	\$ ((2,900)) <u>602</u>
Tulalip Tribe	\$ ((3,663)) <u>5,418</u>

(6) PSP fees must be paid in full to department of health before a commercial shellfish license is issued or renewed.

(7) Refunds for PSP fees will be given only if the applicant withdraws a new or renewal license application prior to the effective date of the new or renewed license.

WSR 12-10-097
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed May 2, 2012, 11:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-06-079 and 11-17-136.

Title of Rule and Other Identifying Information: The community services division is proposing to amend WAC 388-412-0025 How do I get my benefits?

Hearing Location(s): Office Building 2, Lookout Room, 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 June 5, 2012, at 10:00 a.m.

Date of Intended Adoption: Not earlier than June 6, 2012.

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 June 5, 2012.

Assistance for Persons with Disabilities: Contact Jennisha Johnson, DSHS rules consultant, by May 22, 2012, 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 proposed amendments will:

- Allow monthly state supplemental payment (SSP) benefits to be deposited directly into a recipient's bank account as an electronic funds transfer (EFT), or into an electronic benefits transfer (EBT) account that can be accessed with a debit card called the Washington EBT Quest card.
- Streamline the rules for use of EBT accounts.
- Eliminate the additional requirements for emergent needs language to align with WAC 388-436-0002.

Reasons Supporting Proposal: The proposed amendments are necessary to reduce expenditures associated with issuing benefits as a paper warrant.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090.

Statute Being Implemented: RCW 74.04.050, 74.04.-055, 74.04.057, 74.08.090.

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: All agency comments are implemented.

Name of Proponent: Department of social and health services, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Olga Walker, 712 Pear Street S.E., Olympia, 98501, (360) 725-4641.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed changes do not have an economic impact on small business.

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)(ii) Rules relating only to internal governmental operations that are not subject to violation by a nongovernmental party;

(b)(vii): "[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."

April 26, 2012
Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-21-071, filed 10/16/09, effective 11/16/09)

WAC 388-412-0025 How do I ~~((get))~~ receive my benefits? (1) ~~((We send))~~ You can choose to get your cash benefits ~~((to you by either))~~ by:

(a) Electronic benefit transfer (EBT), which is a direct deposit into a DSHS account that you access with a debit card called the Washington EBT Quest card;

(b) Electronic funds transfer (EFT), which is a direct deposit into your own bank account;

(c) A warrant (check) to an approved authorized representative (AREP);

(d) A warrant (check) to a payee who is not approved for direct deposit; or

~~((d))~~ (e) A warrant (check) to you if you get:

(i) Diversion cash assistance (DCA) that ~~((cannot be))~~ is not paid directly to a vendor;

~~((Additional requirements for emergent needs (AREN) that cannot be paid directly to a vendor;~~

~~((iii)))~~ Ongoing additional requirements (OAR) that cannot be paid directly to a vendor; or

~~((iv)))~~ (iii) Clothing and personal incidentals (CPI) payments~~(; or~~

~~(v) State supplemental payment (SSP) and you do not receive your benefit through EFT)).~~

(2) We send your **Basic Food** benefits to you by EBT.

~~((We set up an EBT account for the head of household of each AU that receives benefits by EBT.~~

~~((4)))~~ EBT accounts:

(a) We set up an EBT account for the head of household of each assistance unit (AU) that receives benefits by EBT.

(b) You use a Quest debit card to access your benefits in your EBT account. You select a personal identification number (PIN) that you must enter when using this card.

~~((5)))~~ (c) You must use your cash and Basic Food benefits from your EBT account. We ~~((do not convert))~~ cannot transfer cash to your bank account or change cash or Basic Food benefits to checks.

~~((6) We deposit your Basic Food benefits into your EBT account by the tenth day of the month based on your Basic Food assistance unit number as described in WAC 388 412-0020.~~

~~((7)))~~ (d) Unused EBT benefits: If you do not use your EBT account ~~((for))~~ within three hundred sixty-five days, we cancel the cash and Basic Food benefits on your account.

(4) Replacing benefits:

(a) Replacing Basic Food benefits:

(i) We **can replace** cancelled benefits we deposited **less than three hundred sixty-five days** from the date you ask for us to replace your benefits.

(ii) We **cannot replace** cancelled benefits deposited **three hundred sixty-five or more days** from the date you ask us to replace your benefits.

(b) **Replacing cash benefits:** We **can replace** cancelled cash benefits for you or another member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

~~((8)))~~ (c) Replacing cash warrants: ~~((If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.~~

~~((a)))~~ (i) If we issued you cash benefits as a warrant we can replace these benefits for you or a member of your assistance unit. Cash benefits are not transferable to someone outside of your assistance unit.

(ii) If we issued the benefits as a warrant one hundred sixty or fewer days ago, your local office can replace the warrant.

~~((b)))~~ (iii) If we issued the benefits as a warrant more than one hundred sixty days ago, the Office of Accounting Services (OAS) can replace the warrant. We will contact OAS with the request.

~~((9)))~~ (5) Correcting your EBT balance: When you make a purchase with your EBT card a system error can occur where the purchase amount is not deducted from your

EBT account. When the error is discovered the following will happen:

(a) You will be notified in writing of the system error before the money is removed from your account; and

(b) You will have ninety days to request an administrative hearing. If you ask for an administrative hearing within ten calendar days, the money will not be removed from your EBT account unless:

(i) You withdraw your administrative hearing request in writing;

(ii) You do not follow through with the administrative hearing process; or

(iii) The administrative law judge tells us in writing to remove the money.