

WSR 14-18-014
PERMANENT RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Aging and Disability Services)

(Behavioral Health and Service Integration Administration)
[Filed August 22, 2014, 2:35 p.m., effective September 22, 2014]

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

Purpose: Updates sections in chapters 388-877, 388-877A, and 388-877B WAC which contain the department's new rules for licensing agencies as behavioral health agencies and certifying the behavioral health services the agencies choose to provide. WAC 388-865-0511 is also updated. The amendments respond and make changes due to comments received from stakeholders on the existing rules; provide clarification and updates to language; correct a cross-reference; and make minor "housekeeping" changes.

Citation of Existing Rules Affected by this Order: Amending WAC 388-865-0511, 388-877-0300, 388-877-0305, 388-877-0335, 388-877-0365, 388-877-0420, 388-877-0620, 388-877-0640, 388-877-0650, 388-877A-0180, 388-877A-0195, 388-877A-0240, 388-877A-0280, 388-877A-0300, 388-877B-0110, 388-877B-0200, 388-877B-0220, 388-877B-0310, 388-877B-0370, 388-877B-0550, and 388-877B-0640.

Statutory Authority for Adoption: RCW 43.20A.550, 74.04.050, 74.08.090, chapters 70.02, 71.24 RCW.

Adopted under notice filed as WSR 14-11-090 on May 21, 2014.

A final cost-benefit analysis is available by contacting Kathy Sayre, 4500 10th Avenue S.E., Lacey, WA 98503, phone (360) 725-1342, fax (360) 725-2280, e-mail kathy.sayre@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 21, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 21, Repealed 0.

Date Adopted: August 22, 2014.

Kevin Quigley
Secretary

AMENDATORY SECTION (Amending WSR 09-02-030, filed 12/30/08, effective 1/30/09)

WAC 388-865-0511 Evaluation and treatment facility certification and fee requirements. To obtain and maintain certification to provide inpatient evaluation and treat-

ment services under chapter 71.05 and 71.34 RCW, a facility must (~~meet the following requirements~~):

(1) Be licensed by the department of health as:

(a) A hospital as defined in chapter 70.41 RCW;

(b) A psychiatric hospital as defined in chapter 246-322 WAC;

(c) A mental health inpatient evaluation and treatment facility consistent with chapter 246-337 WAC; or

(d) A mental health child long-term inpatient treatment facility consistent with chapter 246-337 WAC.

(2) Be approved by the regional support network, or the (~~mental health~~) department's division of behavioral health and recovery (DBHR). Child long-term inpatient treatment facilities can only be approved by (~~the mental health division~~) DBHR.

(3) Successfully complete a provisional and annual on-site review conducted by (~~the mental health division~~) DBHR to determine facility compliance with the minimum standards of this section and chapters 71.05 and 71.34 RCW.

(4) Pay the following certification fees:

(a) Ninety dollars initial certification fee, per bed; then

(b) Ninety dollars annual certification fee, per bed.

(5) Include the fees specified in subsection (4) of this section with the initial application, renewal application, or with requests for other services.

(a) Payment of fees must be made by check, bank draft, electronic transfer, or money order, payable to the department of social and health services, and mailed to the aging and disability services finance office at the address listed on the applicable application packet or form.

(b) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(c) Fees will not be refunded when DBHR denies, revokes or suspends certification.

(6) For behavioral health agency licensing fees, program-specific certification fees, and other fees charged by the department, see WAC 388-877-0365.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0300 Agency licensure—General information. The department licenses agencies to provide behavioral health treatment services. To gain and maintain licensure, an agency must meet the requirements of chapter 388-877 WAC, applicable local and state rules, and state and federal statutes. In addition, the agency must meet the applicable specific program requirements of chapter 388-877A WAC for mental health, chapter 388-877B WAC for chemical dependency, and/or chapter 388-877C WAC for problem and pathological gambling.

(1) An agency currently accredited by a national accreditation agency recognized by and having a current agreement with the department may be eligible for licensing through deeming. See WAC 388-877-0310.

(2) Initial applications and renewal forms for behavioral health agency licensure or certification may be downloaded at <http://www.dshs.wa.gov/dbhr/daforms.shtml>. Completed application packets, forms, and requests for deeming or other

services should be mailed to ~~(the Division of Behavioral Health and Recovery, P.O. Box 45320, Olympia, WA 98504-5320)~~ the aging and disability services finance office at the address listed on the applicable application packet or form.

(3) An agency must report to the department any changes that occur following the initial licensing or certification process. The department may request a copy of additional disclosure statements or background inquiries if there is reason to believe that offenses specified under RCW 43.43.830 have occurred since the original application was submitted.

(4) The department may grant an exemption or waiver from compliance with specific licensing or program certification requirements if the exemption does not violate an existing state, federal, or tribal law.

(a) To request an exemption to a rule in this chapter, the agency must:

- (i) Submit the request in writing to the department;
- (ii) Assure the exemption request does not jeopardize the safety, health, or treatment of an individual; and
- (iii) Assure the exemption request does not impede fair competition of another service agency.

(b) The department approves or denies an exemption request in writing and requires the agency to keep a copy of the decision.

(c) Appeal rights under WAC 388-877-0370 do not apply to exemption to rule decisions.

(5) In the event of an agency closure or the cancellation of a program-specific certification, the agency must provide each individual currently being served:

(a) Notice of the agency closure or program cancellation at least thirty days before the date of closure or program cancellation;

(b) Assistance with relocation; and

(c) Information on how to access records to which the individual is entitled.

(6) If an agency certified to provide ~~((chemical dependency and/or problem and pathological gambling services))~~ any behavioral health service closes, the agency must ensure all individual clinical records are kept and managed for at least six years after the closure before destroying the records in a manner that preserves confidentiality. In addition:

(a) The closing agency must notify the division of behavioral health and recovery (DBHR) that the agency will do one of the following:

(i) Continue to retain and manage all individual clinical records ~~((provide the method of contact, such as a telephone number and/or electronic address, and provide the mailing and street address where the records will be stored));~~ or

(ii) Arrange for the continued storage and management of all individual clinical records. ~~((In this case, the agency must:~~

~~(A) Enter into a specific qualified service organization agreement, authorized by 42 C.F.R. Part 2B, with a division of behavioral health and recovery licensed agency or entity; and~~

~~(B) Notify the division of behavioral health and recovery.)~~

(b) The closing agency must notify DBHR in writing ((of) and include the name of the licensed agency or entity storing and managing the records, provide the method of con-

tact, such as a telephone number, and/or electronic address, and provide the mailing and street address where the records will be stored.

(c) When a closing agency that has provided chemical dependency services arranges for the continued storage and management of clinical records by another entity, the closing agency must enter into a specific qualified services organization agreement with a DBHR licensed agency or other entity. See 42 C.F.R. Part 2, Subpart B.

(d) When ((the) any agency or entity storing and maintaining individual clinical records receives an authorized request for a record, the record must be provided to the requester within a reasonable period of time.

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0305 Agency licensure—Application.

To apply for licensure to provide any behavioral health service, an agency must submit an initial application that is signed by the agency's administrator.

(1) The application must include the following:

(a) A copy of the agency's master business license that authorizes the organization to do business in Washington state;

(b) A list of the specific program services for which the agency is seeking certification;

(c) A copy of the report of findings from a criminal background check of the administrator and any owner of five percent or more of the organizational assets;

(d) The physical address of any agency operated facility where behavioral health services will be provided;

(e) A statement assuring the agency meets American Disability Act (ADA) standards and that the facility is ~~((appropriate for providing the proposed services;))~~

(i) Suitable for the purposes intended;

(ii) Not a personal residence; and

(iii) Approved as meeting all building and safety requirements.

(f) A copy of the policies and procedures specific to the agency;

(g) A staff roster, including each staff member's license under department of health (DOH) rules for professional standards and licensing if credentials are required for the position;

(h) A copy of a current DOH residential treatment facility certificate if the agency is providing chemical dependency residential treatment or mental health residential treatment; and

(i) Payment of associated fees.

(2) The department conducts an on-site review as part of the initial licensing or certification process (see WAC 388-877-0320).

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

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0335 Agency licensure and program-specific certification—Denials, suspensions, revocations, and penalties. (1) The department will deny issuing or renewing an agency's license or specific program certification(s), place an agency on probation, or suspend, or revoke an agency's license or specific program certification for any of the following reasons:

- (a) The agency fails to meet requirements in this chapter.
- (b) The agency fails to cooperate or disrupts department representatives during an on-site survey or complaint investigation.
- (c) The agency fails to assist the department in conducting individual interviews with individuals or staff members.
- (d) The agency owner or agency administrator:
 - (i) Had a license or specific program certification issued by the department subsequently denied, suspended, or revoked;
 - (ii) Was convicted of child abuse or adjudicated as a perpetrator of substantiated child abuse;
 - (iii) Was convicted of abuse of a vulnerable adult or adjudicated as a perpetrator of substantiated abuse of a vulnerable adult;
 - (iv) Obtained or attempted to obtain a health provider license, certification, or registration by fraudulent means or misrepresentation;
 - (v) Committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180;
 - (vi) Demonstrated cruelty, abuse, negligence, misconduct, or indifference to the welfare of a patient or displayed acts of discrimination;
 - (vii) Misappropriated patient (individual) property or resources;
 - (viii) Failed to meet financial obligations or contracted service commitments that affect patient care;
 - (ix) Has a history of noncompliance with state or federal rules in an agency with which the applicant has been affiliated;
 - (x) Knowingly, or with reason to know, made a false statement of fact or failed to submit necessary information in:
 - (A) The submitted application or materials attached; or
 - (B) Any matter under department investigation.
 - (xi) Refused to allow the department access to view records, files, books, or portions of the premises relating to operation of the program;
 - (xii) Willfully interfered with the preservation of material information or attempted to impede the work of an authorized department representative;
 - (xiii) Is currently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in transactions involving certain federal funds (this also applies to any person or business entity named in the agency's application for licensure or certification);
 - (xiv) Does not meet criminal background check requirements;
 - (xv) Fails to provide satisfactory application materials;

or

(xvi) Advertises the agency as certified when licensing or certification has not been granted, or has been revoked or canceled.

(e) The department determines there is imminent risk to consumer health and safety.

(f) The agency's licensure or specific program certification is in probationary status and the agency fails to correct the noted health and safety deficiencies within the agreed-upon time frames.

~~((g) The agency voluntarily cancels licensure or certification.~~

~~(h) The agency fails to pay the required license or certification fees.~~

~~(i) The agency stops providing the services for which the agency is certified.~~

~~(j) The agency changes ownership without notifying the department.~~

~~(k) The agency relocates without notifying the department.)~~

(2) The department may deny issuing or renewing an agency's license or specific program certification, place an agency on probation, or suspend or revoke an agency's license or specific program certification for any of the following reasons:

(a) The agency voluntarily cancels licensure or certification.

(b) The agency fails to pay the required license or certification fees.

(c) The agency stops providing the services for which the agency is certified.

(d) The agency fails to notify the department before changing ownership.

(e) The agency fails to notify the department before relocating its licensed location.

(3) The department sends a written notice to deny, suspend, revoke, or modify the licensure or certification status (see RCW 43.20A.205) that includes the reason(s) for the decision and the agency's right to appeal a department decision (refer to WAC 388-877-0370).

(4) If an agency fails to comply with the requirements of this chapter, the department may:

(a) Assess fees to cover costs of added licensing and program-specific certification activities, including when the department determines a corrective action is required due to a complaint or incident investigation;

(b) Stop referral(s) of an individual who is a program recipient of a state and/or federally-funded program; and

(c) Notify the county alcohol and drug coordinator, regional support network (RSN) and/or local media of stopped referrals, suspensions, revocations, or nonrenewal of the agency's license or program-specific certification(s).

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0365 Agency licensure and program-specific certification—Fee requirements. (1) Payment of licensing and specific program certification fees required under this chapter must be included with the initial application, renewal application, or with requests for other services.

(2) Payment of fees must be made by check, bank draft, electronic transfer, or money order made payable to the department.

(3) The department may refund one-half of the application fee if an application is withdrawn before certification or denial.

(4) Fees will not be refunded when licensure or certification is denied, revoked, or suspended.

(5) The department charges the following fees for approved chemical dependency treatment programs:

Application Fees for Agency Certification for Approved Chemical Dependency Treatment Programs	
New agency application	\$1,000
Branch agency application	\$500
Application to add one or more services	\$200
Application to change ownership	\$500
Initial and Annual Certification Fees for Detoxification, Residential, and Nonresidential Services	
Detoxification and residential services	\$100 per licensed bed, per year, for agencies not renewing certification through deeming
	\$50 per licensed bed, per year, for agencies renewing certification through deeming per WAC 388-877-0310
Nonresidential services	\$750 per year for agencies not renewing certification through deeming
	\$200 per year for agencies certified through deeming per WAC 388-877-0310
Complaint/Critical Incident Investigation Fees	
All agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(6) Agency providers must annually complete a declaration form provided by the department to indicate information necessary for establishing fees and updating certification information. Required information includes, but is not limited to:

(a) The number of licensed detoxification and residential beds; and

(b) The agency provider's national accreditation status.

(7) The department charges the following fees for approved mental health treatment programs:

Initial Licensing Application Fee for Mental Health Treatment Programs	
Licensing application fee	\$1,000 initial licensing fee
((Initial and Annual Certification Fees))	
((Evaluation and treatment (E&T) bed fees))	(((\$90 initial certification fee, per bed))
	(((\$90 annual certification fee, per bed))
Initial and Annual Licensing Fees for Agencies not Deemed	
Annual service hours provided:	Initial and annual licensing fees:
0-3,999	\$728
4,000-14,999	\$1,055
15,000-29,999	\$1,405
30,000-49,999	\$2,105
50,000 or more	\$2,575
Annual Licensing Fees for Deemed Agencies	
Deemed agencies licensed by DBHR	\$500 annual licensing fee
Complaint/Critical Incident Investigation Fee	
All residential and nonresidential agencies	\$1,000 per substantiated complaint investigation and \$1,000 per substantiated critical incident investigation that results in a requirement for corrective action

(8) Agencies providing nonresidential mental health services must report the number of annual service hours provided based on the division of behavioral health and recovery's (DBHR's) current published "Service Encounter Reporting Instructions for RSN's" and the "Consumer Information System (CIS) Data Dictionary for RSN's". These publications are available at: <http://www.dshs.wa.gov/dbhr/mhpublications.shtml>.

(a) Existing licensed agencies must compute the annual services hours based on the most recent state fiscal year.

(b) Newly licensed agencies must compute the annual service hours by projecting the service hours for the first twelve months of operation.

(9) For inpatient evaluation and treatment facility initial and annual certification bed fees charged by the department, see WAC 388-865-0511.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0420 Agency administration—Policies and procedures. Each agency licensed by the department to provide any behavioral health service must develop, implement, and maintain administrative policies and procedures to meet the minimum requirements of this chapter. The

policies and procedures must demonstrate the following, as applicable:

(1) **Ownership.** Documentation of the agency's governing body, including a description of membership and authorities, and documentation of the agency's:

(a) Articles and certificate of incorporation and bylaws if the owner is a corporation;

(b) Partnership agreement if the owner is a partnership; or

(c) Sole proprietorship if one person is the owner.

(2) **Licensure.** A copy of the agency's master business license that authorizes the organization to do business in Washington state that:

(a) Includes the entity's name, firm name, or registered trade name; and

(b) Lists all addresses where the entity performs services.

(3) **Organizational description.** An organizational description detailing all positions and associated licensure or certification, updated as needed.

(4) **Agency staffing and supervision.** Documentation that shows the agency has staff members:

(a) Adequate in number to provide program-specific certified services to serve the agency's caseload of individuals; and

(b) Who provide treatment in accordance to regulations relevant to their specialty or specialties and registration, certification, licensing, and trainee or volunteer status.

(5) **Interpreter services for individuals with Limited English Proficiency (LEP) and individuals who have sensory disabilities.** Documentation that demonstrates the agency's ability to provide or coordinate services for individuals with LEP and individuals who have sensory disabilities.

(a) Certified interpreters or other interpreter services must be available for individuals with limited English speaking proficiency and individuals who have sensory disabilities; or

(b) The agency must have the ability to effectively provide, coordinate or refer individuals in these populations for appropriate assessment or treatment.

(6) **Reasonable access for individuals with disabilities.** A description of how reasonable accommodations will be provided to individuals with disabilities.

(7) **Nondiscrimination.** A description of how the agency complies with all state and federal nondiscrimination laws, rules, and plans.

(8) **Fee schedules.** A copy of the agency's current fee schedules for all services must be available on request.

(9) **Funding options for treatment costs.** A description of how the agency works with individuals to address the funding of an individual's treatment costs, including a mechanism to address changes in the individual's ability to pay.

(10) **State and federal rules on confidentiality.** A description of how the agency implements state and federal rules on individuals' confidentiality consistent with the service or services being provided.

(11) **Reporting and documentation of suspected abuse, neglect, or exploitation.** A description how the agency directs staff to report and document suspected abuse,

neglect, or exploitation of a child or vulnerable adult consistent with chapters 26.44 and 74.34 RCW.

(12) **Protection of youth.** Documentation of how the agency addresses compliance with program-specific rules and the protection of youth participating in group or residential treatment with adults.

(13) **Completing and submitting reports.** A description of how the agency directs staff to:

(a) Complete and submit in a timely manner, all reports required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services; and

(b) Include a copy of the report(s) in the clinical record and document the date submitted.

(14) Reporting the death of an individual seeking or receiving services. A description of how the agency directs staff to report to the department or Regional Support Network (RSN), as applicable, within one business day the death of any individual which occurs on the premises of a licensed agency.

~~((14))~~ (15) **Reporting critical incidents.** A description of how the agency directs staff to report to the department or RSN, as applicable, within one business day any critical incident that occurs involving an individual, and actions taken as a result of the incident.

~~((15))~~ (16) **A smoking policy.** Documentation that a smoking policy consistent with ~~((the Washington Clean Indoor Air Act,))~~ Chapter 70.160 RCW (smoking in public places), is in ~~((place))~~ effect.

~~((16))~~ (17) **Outpatient evacuation plan.** For a nonresidential agency, an evacuation plan for use in the event of a disaster or emergency that addresses:

(a) Different types of disasters or emergencies;

(b) Placement of posters showing routes of exit;

(c) The need to mention evacuation routes at public meetings;

(d) Communication methods for individuals, staff, and visitors, including persons with a visual or hearing impairment or limitation;

(e) Evacuation of mobility impaired individuals; and

(f) Evacuation of children if child care is offered.

~~((17))~~ (18) **Individual rights.** A description of how the agency has individual participation rights and policies consistent with WAC 388-877-0600.

~~((18))~~ (19) **Individual complaints and grievances.** A description of how the agency addresses an individual's complaint and/or grievance.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0620 Clinical—Individual service plan. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's service plan as follows:

(1) The individual service plan must:

(a) Be completed or approved by a professional appropriately credentialed or qualified to provide mental health, chemical dependency, and/or problem and pathological gambling services.

(b) Address age, gender, cultural, strengths and/or disability issues identified by the individual or, if applicable, the individual's parent(s) or legal representative.

(c) Be in a terminology that is understandable to the individual and the individual's family.

(d) Document that the plan was mutually agreed upon and a copy was provided to the individual.

(e) Demonstrate the individual's participation in the development of the plan.

(f) Document participation of family or significant others, if participation is requested by the individual and is clinically appropriate.

(g) Be strength-based.

(h) Contain measurable goals or objectives, or both.

(i) Be updated to address applicable changes in identified needs and achievement of goals and objectives.

(2) If the individual service plan includes assignment of work to an individual, the assignment must have therapeutic value and meet all the requirements in (1) of this section.

(3) When required by law, the agency must notify the required authority of a violation of a court order or nonparticipation in treatment, or both.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0640 Clinical—Record content. Each agency licensed by the department to provide any behavioral health service is responsible for an individual's clinical record content. The clinical record must include:

(1) Documentation the individual received a copy of counselor disclosure requirements ~~((established under RCW 18-19-060))~~ as required for the counselor's credential.

(2) Demographic information.

(3) An initial assessment.

(4) Documentation of the individual's response when asked if:

(a) The individual is under department of corrections (DOC) supervision.

(b) The individual is under civil or criminal court ordered mental health or chemical dependency treatment.

(c) There is a court order exempting the individual participant from reporting requirements. A copy of the court order must be included in the record if the participant claims exemption from reporting requirements.

(5) Documentation that the agency met all the following requirements when an individual informs the agency that the individual is under supervision by DOC due to a less restrictive alternative or DOC order for treatment:

(a) The agency notified DOC orally or in writing. The agency must confirm an oral notification with a written notice by electronic mail or fax.

(b) The agency obtained a copy of the court order from the individual and placed it in the record when the individual has been given relief from disclosure by the committing court.

(c) When appropriate, the agency requested an evaluation by a designated mental health professional when the provider becomes aware of a violation of the court-ordered treatment and the violation concerns public safety.

(6) The initial and any subsequent individual service plan that include:

(a) All revisions to the plan, consistent with the service(s) the individual receives; and

(b) Documentation of objective progress towards established goals as outlined in the plan.

(7) Documentation the individual was informed of applicable federal and state confidentiality requirements.

(8) Documentation of confidential information that has been released without the consent of the individual under:

(a) RCW 70.02.050((, 71.05.390, and 71.05.630, and));

(b) ((the)) The Health Insurance Portability and Accountability Act (HIPAA); and

(c) RCW 70.02.230 and 70.02.240 if the individual received mental health treatment services.

(9) Documentation that any mandatory reporting of abuse, neglect, or exploitation consistent with chapters 26.44 and 74.34 RCW has occurred.

(10) If treatment is not court-ordered, documentation of informed consent to treatment by the individual or individual's parent, or other legal representative.

(11) If treatment is court-ordered, a copy of the ~~((detention or involuntary treatment))~~ order.

(12) Documentation of coordination of care, as needed.

(13) Documentation of all service encounters.

(14) Medication records, if applicable.

(15) Laboratory reports, if applicable.

(16) Properly completed authorizations for release of information, if applicable.

(17) Copies of applicable correspondence.

(18) Discharge information.

(19) A copy of any report required by entities such as the courts, department of corrections, department of licensing, and the department of social and health services, and the date the report was submitted.

AMENDATORY SECTION (Amending WSR 13-12-054, filed 5/31/13, effective 7/1/13)

WAC 388-877-0650 Clinical—Access to clinical records. Each agency licensed by the department to provide any behavioral health service must:

(1) Provide access to an individual's clinical record at the request of the individual or, if applicable, the individual's designated representative, and/or legal representative. The agency must:

(a) Review the clinical record before making the record available in order to identify and remove:

(i) Any material confidential to another person, agency, or provider; and

(ii) Reports not originated by the agency.

(b) Make the clinical record available to the requester within fifteen days of the request.

(c) Allow appropriate time and privacy for the review.

(d) Have a clinical staff member available to answer questions.

(e) ~~((Charge))~~ Assure the charge for ~~((copying))~~ duplicating or searching the record is at a rate not higher than the "reasonable fee" as defined in RCW 70.02.010((+2)).

(f) Meet the individual clinical record system criteria in WAC 388-877-0630.

(2) Make an individual's clinical record available to department staff as required for department program review.

(3) If the agency maintains electronic individual clinical records, the agency must:

- (a) Make the clinical record available in paper form; and
- (b) Meet the criteria in (1) and (2) of this section.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0180 Optional outpatient mental health services requiring program-specific certification—Psychiatric medication services. Psychiatric medication services are a variety of activities related to prescribing and/or administering medication, including monitoring an individual for side effects and changes as needed. Psychiatric medication services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services may only be provided with one of the outpatient mental health services in WAC 388-877A-0100(2). An agency providing psychiatric medication services:

(1) Must ensure medical direction and responsibility are assigned to a:

(a) ~~((physician))~~ Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry~~((-));~~ or

(b) Psychiatric advanced registered nurse practitioner (ARNP) with prescriptive authority.

(2) Must ensure that the services are provided by a prescriber licensed by department of health who is practicing within the scope of that practice.

(3) Must ensure that all medications administered by staff practicing within the scope of their practice.

(4) Must have a process by which the medication prescriber informs the individual, and/or the legally responsible party, and, as appropriate, family members, of the potential benefits and side effects of the prescribed medication(s).

(5) Must review prescribed medications at least every three months.

(6) Must complete an inventory every three months of all medication stored.

(7) Must ensure that all medications maintained by the agency are safely and securely stored, including assurance that:

(a) Medications are kept in locked cabinets within a well-lit, locked and properly ventilated room;

(b) Medications kept for individuals on medication administration or self-administration programs are clearly labeled and stored separately from medication samples kept on site;

(c) Medications marked "for external use only" are stored separately from oral or injectable medications;

(d) Refrigerated food or beverages used in the administration of medications are kept separate from the refrigerated medications by the use of trays or other designated containers;

(e) Syringes and sharp objects are properly stored and disposed of;

(f) Refrigerated medications are maintained at the required temperature; and

(g) Outdated medications are disposed of in accordance with the regulations of the state board of pharmacy and no outdated medications are retained.

(8) Must ensure that the individual clinical record contains the following documentation:

(a) The individual was informed of the benefits and possible side effects of each prescribed medication.

(b) The effects, interactions, and side effects the staff observe or the individual reports spontaneously or as the result of questions from staff members.

(c) Clinical notes that include:

(i) The name and signature of the prescribing ~~((psychiatric advanced registered nurse practitioner (ARNP), board-eligible psychiatrist, or physician));~~

(A) Physician who is licensed to practice under chapter 18.57 or 18.71 RCW, and is board-certified or board-eligible in psychiatry; or

(B) Psychiatric ARNP with prescriptive authority;

(ii) The name and purpose of each medication prescribed;

(iii) The dosage, frequency, and method of giving each medication;

(iv) Identification of medications requiring laboratory monitoring and a frequency schedule for monitoring;

(v) The reasons for changing or stopping any medication; and

(vi) The dates the medication was prescribed, reviewed and renewed, as applicable.

(d) That any written orders to administer/discontinue a medication are generated by a licensed health care provider, within the scope of the provider's practice, and that:

(i) Written, dated orders are signed by the licensed prescriber within twenty-four hours; and

(ii) Telephone orders are reviewed and signed off on by the ordering licensed health care provider, within the scope of the provider's practice, within twenty-four hours and include:

(A) Documentation that clearly demonstrates emergency circumstances that required a phone order;

(B) The name and signature of the individual authorized by department of health whose scope of practice includes taking ~~((physician's))~~ orders over the telephone; and

(C) The time, date and exact details of the telephone order.

(9) May utilize a physician or ARNP without board eligibility in psychiatry if unable to employ or contract with a psychiatrist. In this case, the agency must ensure that:

(a) Psychiatrist consultation is provided to the physician or ARNP at least monthly; and

(b) A psychiatrist is accessible to the physician or ARNP for emergency consultation.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0195 Optional outpatient mental health services requiring program-specific certification—

Less restrictive alternative (LRA) support services. Less restrictive alternative (LRA) support services are optional outpatient mental health services that require program-specific certification by the department's division of behavioral health and recovery. These services are provided to individuals on a less restrictive alternative court order. An agency agrees to provide or monitor the provision of court-ordered services, including psychiatric and medical components of community support services. An agency providing court-ordered LRA support services must:

- (1) Ensure and document that the agency:
 - (a) Maintains written procedures for managing assaultive and/or self-destructive individual behavior; and
 - (b) Provides training to staff members on appropriate interventions.
- (2) Have a written policy and procedure that allows for the referral of an individual to an involuntary treatment facility (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week.
- (3) Have a written policy and procedure for an individual who requires involuntary detention that includes procedures for:
 - (a) Contacting the designated mental health professional (DMHP) regarding revocations or extension of an LRA; and
 - (b) The transportation of an individual, in a safe and timely manner, for the purpose of:
 - (i) Evaluation; or
 - (ii) Evaluation and detention.
- (4) Ensure a committed individual is advised of their rights under chapter 71.05 or 71.34 RCW, as applicable, and that the individual has the right:
 - (a) To receive adequate care and individualized treatment;
 - (b) To make an informed decision regarding the use of antipsychotic medication and to refuse medication beginning twenty-four hours before any court proceeding that the individual has the right to attend;
 - (c) To maintain the right to be presumed competent and not lose any civil rights as a consequence of receiving evaluation and treatment for a mental disorder;
 - (d) Of access to attorneys, courts, and other legal redress;
 - (e) To have the right to be told statements the consumer makes may be used in the involuntary proceedings; and
 - (f) To have all information and records compiled, obtained, or maintained in the course of treatment kept confidential as described in chapters 70.02, 71.05, and 71.34 RCW.
- (5) Include in the clinical record a copy of the less restrictive alternative court order and a copy of any subsequent modification.
- (6) Ensure the development and implementation of an individual service plan which addresses the conditions of the less restrictive alternative court order and a plan for transition to voluntary treatment.
- (7) Ensure that the individual receives psychiatric medication services for the assessment and prescription of psychotropic medications appropriate to the needs of the individual. These services must be provided:
 - (a) At least one time every seven days for the initial fourteen days following release from inpatient treatment for an

individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric advanced registered nurse practitioner (ARNP) determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(b) At least one time every thirty days for an individual on a ninety-day or one hundred eighty-day less restrictive alternative court order, unless the individual's attending physician or psychiatric ARNP determines another schedule is more appropriate and documents the new schedule and the reason(s) in the individual's clinical record.

(8) Keep a record of the periodic evaluation by a mental health professional of each committed individual for release from, or continuation of, an involuntary treatment order. Evaluations must occur at least every thirty days for both ninety-day and one hundred eighty-day commitments and include documentation of assessment and rationale:

(a) For requesting a petition for an additional period of less restrictive treatment under an involuntary treatment order; or

(b) Allowing the less restrictive court order expire without an extension request.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0240 Crisis mental health services—Outreach services. Crisis outreach services are face-to-face intervention services provided to assist individuals in a community setting. A community setting can be an individual's home, an emergency room, a nursing facility, or other private or public location. An agency providing crisis outreach services must:

- (1) Provide crisis telephone screening.
- (2) Have staff available (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week to respond to a crisis.
- (3) Ensure face-to-face outreach services are provided by a mental health professional, or a staff member under the supervision of a mental health professional with documented training in crisis response.
- (4) Ensure services are provided in a setting that provides for the safety of the individual and agency staff members.
- (5) Have a protocol for requesting a copy of an individual's crisis plan (~~twenty-four hours a day, seven days a week~~) twenty-four hours a day, seven days a week.
- (6) Require that staff member(s) remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or a referral to another service is accomplished.
- (7) Resolve the crisis in the least restrictive manner possible.
- (8) Have a written plan for training, staff back-up, information sharing, and communication for staff members who respond to a crisis in an individual's private home or in a non-public setting.
- (9) Ensure that a staff member responding to a crisis is able to be accompanied by a second trained individual when

services are provided in the individual's home or other non-public location.

(10) Ensure that any staff member who engages in home visits is provided by their employer with a wireless telephone, or comparable device for the purpose of emergency communication as described in RCW 71.05.710.

(11) Provide staff members who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(12) Have a written protocol that allows for the referral of an individual to a voluntary or involuntary treatment facility (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(13) Have a written protocol for the transportation of an individual in a safe and timely manner, when necessary.

(14) Document all crisis response contacts, including:

(a) The date, time, and location of the initial contact.

(b) The source of referral or identity of caller.

(c) The nature of the crisis.

(d) Whether the individual has a crisis plan and any attempts to obtain a copy.

(e) The time elapsed (~~(form)~~) from the initial contact to the face-to-face response.

(f) The outcome, including:

(i) The basis for a decision not to respond in person;

(ii) Any follow-up contacts made; and

(iii) Any referrals made, including referrals to emergency medical services.

(g) The name of the staff person(s) who responded to the crisis.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0280 Crisis mental health services—Emergency involuntary detention services. Emergency involuntary detention services are services provided by a designated mental health professional (DMHP) to evaluate an individual in crisis and determine if involuntary services are required.

An agency providing emergency involuntary detention services must:

(1) Ensure that services are provided by a DMHP.

(2) Ensure staff members are available (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(3) Ensure staff members utilize the protocols for DMHPs required by RCW 71.05.214.

(4) Have a written agreement with a certified inpatient evaluation and treatment facility to allow admission of an individual (~~(twenty-four hours a day, seven days a week)~~) twenty-four hours a day, seven days a week.

(5) Have a plan for training, staff back-up, information sharing, and communication for a staff member who responds to a crisis in a private home or a nonpublic setting.

(6) Ensure that a DMHP is able to be accompanied by a second trained individual when responding to a crisis in a private home or a nonpublic setting.

(7) Ensure that a DMHP who engages in a home visit to a private home or a nonpublic setting is provided by their employer with a wireless telephone, or comparable device, for the purpose of emergency communication as described in RCW 71.05.710.

(8) Provide staff members, who are sent to a private home or other private location to evaluate an individual in crisis, prompt access to information about any history of dangerousness or potential dangerousness on the individual they are being sent to evaluate that is documented in a crisis plan(s) or commitment record(s). This information must be made available without unduly delaying the crisis response.

(9) Require that a mental health professional remain with the individual in crisis in order to provide stabilization and support until the crisis is resolved or referral to another service is accomplished.

(10) Have a written protocol for the transportation of an individual, in a safe and timely manner, for the purpose of medical evaluation or detention.

(11) Ensure that when a peace officer or DMHP escorts an individual to a facility, the DMHP takes reasonable precautions to safeguard the individual's property including:

(a) Safeguarding the individual's property in the immediate vicinity of the point of apprehension;

(b) Safeguarding belongings not in the immediate vicinity if there may be possible danger to those belongings; and

(c) Taking reasonable precautions to lock and otherwise secure the individual's home or other property as soon as possible after the individual's initial detention.

(12) Document services provided to the individual, and other applicable information. At a minimum this must include:

(a) That the individual was advised of their rights in accordance with RCW 71.05.360.

(b) That if the evaluation was conducted in a hospital emergency department or inpatient unit, it occurred in accordance with the timelines required by RCW 71.05.050, 71.05.153, and 71.34.710.

(c) That the DMHP conducting the evaluation considered both of the following when evaluating the individual:

(i) The imminent likelihood of serious harm or imminent danger because of being gravely disabled (see RCW 71.05.153); and

(ii) The likelihood of serious harm or grave disability that does not meet the imminent standard for the emergency detention (see RCW 71.05.150).

(d) That the DMHP documented consultation with any examining emergency room physician as required by RCW 71.05.154.

(e) If the individual was not detained:

(i) A description of the disposition and follow-up plan; and

(ii) Documentation that the minor's parent was informed of their right to request a court review of the DMHP's decision not to detain the minor under RCW 71.34.710, if the individual is a minor thirteen years of age or older.

~~((f))~~ (f) If the individual was detained, a petition for initial detention must include the following:

(i) The circumstances under which the person's condition was made known.

(ii) Evidence, as a result of the DMHP's personal observation or investigation, that the actions of the person for which application is made constitute a likelihood of serious harm, or that the individual is gravely disabled.

(iii) Evidence that the individual will not voluntarily seek appropriate treatment.

(iv) Consideration of all reasonably available information from credible witnesses, to include family members, landlords, neighbors, or others with significant contact and history of involvement with the individual, and records, as required by RCW 71.05.212.

(v) Consideration of the individual's history of judicially required, or administratively ordered, anti-psychotic medications while in confinement when conducting an evaluation of an offender under RCW 72.09.370.

~~((g))~~ (g) Documentation that the individual, or the individual's guardian or conservator, received a copy of the following:

- (i) Notice of detention;
- (ii) Notice of rights; and
- (iii) Initial petition.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877A-0300 Recovery support services requiring program-specific certification—General. The rules in this section apply to behavioral health agencies that provide one or more recovery support services that require program-specific certification by the department's division of behavioral health and recovery. The definitions in WAC 388-877-0200 also apply to these services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, and chapter 388-877C WAC no later than September 1, 2013.

(1) Recovery support services are intended to promote an individual's socialization, recovery, self-advocacy, development of natural support, and maintenance of community living skills.

(2) Recovery support services requiring program-specific certification include:

- (a) Employment services (see WAC 388-877A-0330);
- (b) Peer support services (see WAC 388-877A-0340);
- (c) Wraparound facilitation services (see WAC 388-877A-0350); ~~((and))~~
- (d) Medication support services (see WAC 388-877A-0360); and
- (e) Applied behavior analysis (ABA) services (see WAC 388-877A-0370).

(3) An agency providing any recovery support service requiring program-specific certification must:

(a) Be licensed by the department as a behavioral health agency.

(b) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical requirements in chapter 388-877 WAC.

(c) Have policies and procedures to support and implement the:

- (i) General requirements in chapter 388-877 WAC; and
- (ii) Applicable program-specific requirements.

(4) An agency that provides any recovery support service requiring program-specific certification may operate through an agreement with a behavioral health agency certified for an outpatient mental health service listed in WAC 388-877A-0100(2). The agreement must specify the responsibility for initial assessments, the determination of appropriate services, individual service planning, and the documentation of these requirements.

(5) When providing any recovery support service requiring program-specific certification, an agency must:

(a) Have an assessment process to determine the appropriateness of the agency's services, based on the individual's needs and goals.

(b) Refer an individual to a more intensive level of care when appropriate.

(c) With the consent of the individual, include the individual's family members, significant others, and other relevant treatment providers, as necessary to provide support to the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0110 Chemical dependency detoxification services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing chemical dependency detoxification services must ensure:

(1) All chemical dependency assessment and counseling services are provided by a chemical dependency professional (CDP), or a CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

- (a) Is a CDP;
- (b) Has documented competency in clinical supervision;
- (c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

(3) Each staff member providing detoxification services to an individual, with the exception of licensed staff members and CDPs, completes a minimum of forty hours of documented training before being assigned individual care duties. This personnel training must include the following topics:

~~((i))~~ (a) Chemical dependency;

~~((ii))~~ (b) Infectious diseases, to include hepatitis and tuberculosis (TB); and

~~((iii))~~ (c) Detoxification screening, admission, and signs of trauma.

(4) Each CDPT has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

(5) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

(6) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens, and TB. The training must be documented in the personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0200 Chemical dependency residential treatment services—General. The rules in WAC 388-877B-0200 through 388-877B-0280 apply to behavioral health agencies that provide chemical dependency residential treatment services. The definitions in WAC 388-877-0200 also apply to chemical dependency residential treatment services. The department requires all agencies and providers affected by this rule to fully comply with the applicable requirements in chapter 388-877 WAC, chapter 388-877A WAC, chapter 388-877B WAC, chapter 388-877C WAC no later than September 1, 2013.

(1) Residential treatment services provide chemical dependency treatment for an individual and include room and board in a facility with ~~((twenty-four hours a day))~~ twenty-four hours a day supervision.

(2) Residential treatment services require additional program-specific certification by the department's division of behavioral ~~((health))~~ health and recovery and include:

(a) Intensive inpatient services (see WAC 388-877B-0250);

(b) Recovery house treatment services (see WAC 388-877B-0260);

(c) Long-term residential treatment services (see WAC 388-877B-0270); and

(d) Youth residential services (see WAC 388-877B-0280).

(3) An agency providing residential treatment services must:

(a) Be a facility licensed by department of health (DOH) and meet the criteria under one of the following DOH chapters:

(i) Hospital licensing regulations (chapter 246-320 WAC);

(ii) Private psychiatric and alcoholism hospitals (chapter 246-322 WAC);

(iii) Private alcohol and chemical dependency hospitals (chapter 246-324 WAC); or

(iv) Residential treatment facility (chapter 246-337 WAC);

(b) Be licensed by the department as a behavioral health agency;

(c) Meet the applicable behavioral health agency licensure, certification, administration, personnel, and clinical

requirements in chapter 388-877 WAC, Behavioral health services administrative requirements; and

(d) Have policies and procedures to support and implement the:

(i) General requirements in chapter 388-877 WAC; and

(ii) Specific applicable requirements in WAC 388-877B-0200 through 388-877B-0280.

(4) An agency must:

(a) Use patient placement criteria (PPC) for admission, continued services, and discharge planning and decisions.

(b) Provide education to each individual admitted to the treatment facility on:

(i) Alcohol, other drugs, and/or chemical dependency;

(ii) Relapse prevention;

(iii) Blood borne pathogens; and

(iv) Tuberculosis (TB).

(c) Provide education or information to each individual admitted on:

(i) Emotional, physical, and sexual abuse;

(ii) Nicotine addiction; and

(iii) The impact of chemical use during pregnancy, risks to the fetus, and the importance of informing medical practitioners of chemical use during pregnancy.

(d) Maintain a list or source of resources, including self-help groups, and referral options that can be used by staff to refer an individual to appropriate services.

(e) Screen for the prevention and control of tuberculosis.

(f) Limit the size of group counseling sessions to no more than twelve individuals.

(g) Have written procedures for:

(i) Urinalysis and drug testing, including laboratory testing; and

(ii) How agency staff members respond to medical and psychiatric emergencies.

(5) An agency that provides services to a pregnant woman must:

(a) Have a written procedure to address specific issues regarding the woman's pregnancy and prenatal care needs; and

(b) Provide referral information to applicable resources.

(6) An agency that provides an assessment to an individual under RCW 46.61.5056 must also meet the requirements for driving under the influence (DUI) assessment providers in WAC 388-877B-0550.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0220 Chemical dependency residential treatment services—Clinical record content and documentation requirements. In addition to the general clinical record content requirements in WAC 388-877-0640, an agency providing chemical dependency residential treatment services must maintain an individual's clinical record.

(1) The clinical record must contain:

(a) Documentation the individual was informed of the federal confidentiality requirements and received a copy of the individual notice required under 42 C.F.R. Part 2.

(b) Documentation that the individual received a copy of the rules and responsibilities for treatment participants, including the potential use of interventions or sanction.

(c) Justification for the change in the level of care when transferring an individual from one certified treatment service to another within the same agency, at the same location.

(d) Documentation of progress notes in a timely manner and before any subsequent scheduled appointments of the same type of service session or group type occur, or documentation as to why this did not occur. Progress notes must include the date, time, duration, participant names, and a brief summary of the session and the name of the staff member who provided it.

(e) When an individual is transferring to another service provider, documentation that copies of documents pertinent to the individual's course of treatment were forwarded to the new service provider to include:

(i) The individual's demographic information; and
(ii) The diagnostic assessment statement and other assessment information to include:

(A) Documentation of the HIV/AIDS intervention.
(B) Tuberculosis (TB) screen or test result.
(C) A record of the individual's detoxification and treatment history.

(D) The reason for the individual's transfer.
(E) Court mandated, department of correction supervision status or the agency's recommended follow-up treatment.

(F) A discharge summary and continuing care plan.

(f) Documentation that a staff member(s) met with each individual at the time of discharge, unless the individual left without notice, to:

(i) Determine the appropriate recommendation for care and finalize a continuing care plan.

(ii) Assist the individual in making contact with necessary agencies or services.

(iii) Provide and document the individual was provided with a copy of the plan.

(g) Documentation that the discharge summary was completed within seven working days of the individual's discharge from the agency, which includes the date of discharge and a summary of the individual's progress toward each individual service plan goal.

(2) In addition to the requirements in (1) of this section, an agency must ensure the following for each individual service plan. The individual service plan must:

(a) Be personalized to the individual's unique treatment needs.

(b) Be initiated with at least one goal identified by the individual during the initial assessment or at the first service session following the assessment.

(c) Include individual needs identified in the diagnostic and periodic reviews, addressing:

(i) All substance use needing treatment, including tobacco, if necessary;

(ii) Patient bio-psychosocial problems;

(iii) Treatment goals;

(iv) Estimated dates or conditions for completion of each treatment goal; and

(v) Approaches to resolve the problem.

(d) Document approval by a chemical dependency professional (CDP) if the staff member developing the plan is not a CDP.

(e) Document that the plan was updated to reflect any changes in the individual's treatment needs, ~~((or as requested by the individual, at least once per month for the first three months, and at least quarterly thereafter))~~ status, and progress towards goals, or as requested by the individual, at least weekly.

(f) Document that the plan has been reviewed with the individual.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0310 Chemical dependency outpatient treatment services—Agency staff requirements. In addition to meeting the agency administrative and personnel requirements in WAC 388-877-0400 through 388-877-0530, an agency providing chemical dependency outpatient treatment services must ensure:

(1) All chemical dependency assessment and counseling services are provided by a chemical dependency professional (CDP), or a department of health-credential CDP trainee (CDPT) under the supervision of an approved supervisor.

(2) There is a designated clinical supervisor who:

(a) Is a CDP;

(b) Has documented competency in clinical supervision;

(c) Is responsible for monitoring the continued competency of each CDP in assessment, treatment, continuing care, transfer, and discharge. The monitoring must include a semi-annual review of a sample of the clinical records kept by the CDP; and

(d) Has not committed, permitted, aided or abetted the commission of an illegal act or unprofessional conduct as defined under RCW 18.130.180.

~~((4))~~ (3) Each chemical dependency professional trainee has at least one approved supervisor who meets the qualifications in WAC 246-811-049. An approved supervisor must decrease the hours of individual contact by twenty percent for each full-time CDPT supervised.

~~((5))~~ (4) Each staff member that provides individual care has a copy of an initial TB screen or test and any subsequent screenings or testing in their personnel file.

~~((6))~~ (5) All staff members are provided annual training on the prevention and control of communicable disease, blood borne pathogens and TB, and document the training in the personnel file.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0370 Chemical dependency outpatient treatment services ~~((requiring program-specific certification))~~—Chemical dependency counseling ~~((required under))~~ subject to RCW 46.61.5056. Chemical dependency outpatient treatment services provided to an individual convicted of driving under the influence or physical control under RCW 46.61.5056 are subject to the requirements in this section ~~((, and require program-specific certification by the department's division of behavioral health and recovery)).~~

An agency providing outpatient treatment services subject to RCW 46.61.5056 must ensure treatment is completed as follows:

- (1) Treatment during the first sixty days must include:
 - (a) Weekly group or individual chemical dependency counseling sessions according to the individual service plan.
 - (b) One individual chemical dependency counseling session of not less than thirty minutes duration, excluding the time taken for a chemical dependency assessment, for each individual, according to the individual service plan.
 - (c) Alcohol and drug basic education for each individual.
 - (d) Participation in self-help groups for an individual with a diagnosis of substance dependence. Participation must be documented in the individual's clinical record.
 - (e) The balance of the sixty-day time period for individuals who complete intensive inpatient chemical dependency treatment services must include, at a minimum, weekly outpatient counseling sessions according to the individual service plan.
- (2) The next one hundred twenty days of treatment includes:
 - (a) Group or individual chemical dependency counseling sessions every two weeks according to the individual service plan.
 - (b) One individual chemical dependency counseling session of not less than thirty minutes duration, every sixty days according to the individual service plan.
 - (c) Referral of each individual for ongoing treatment or support, as necessary, using PPC, upon completion of one hundred eighty days of treatment.
- (3) For an individual who is assessed with insufficient evidence of a substance use disorder, a chemical dependency professional (CDP) must refer the individual to alcohol/drug information school.

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0550 Chemical dependency assessment only services requiring program-specific certification—DUI assessment services. Driving under the influence (DUI) assessment services are diagnostic services requested by a court to determine an individual's involvement with alcohol and other drugs and to recommend a course of action.

(1) A behavioral health agency certified for chemical dependency assessment only services may choose to provide optional program-specific DUI assessment services. Optional DUI assessment services require additional program-specific certification by the department's division of behavioral health and recovery.

(2) An agency providing DUI assessment services, as defined in chapter 46.61 RCW, must ensure:

- (a) The assessment is conducted in person.
- (b) The individual has a summary included in the assessment that evaluates the individual's:
 - (i) Blood or breath alcohol level and other drug levels, or documentation of the individual's refusal at the time of the arrest, if available; and
 - (ii) Self-reported driving record and the abstract of the individual's legal driving record.

(3) ~~((That when))~~ When the assessment findings do not result in a substance use disorder diagnosis, the assessment must also ~~((includes))~~ include:

- (a) A copy of the police report;
- (b) A copy of the court originated criminal case history; ~~((and))~~
- (c) The results of a urinalysis or drug testing obtained at the time of the assessment; and
- (d) A referral to alcohol and drug information school.

(4) ~~((That the assessment contains documentation of the attempts to obtain))~~ If the information in subsection (3)(a) through (d) of this section ~~((if it))~~ is required and not readily available, the record must contain documentation of attempts to obtain the information.

(5) ~~((The assessment includes a referral to alcohol and drug information school))~~ Upon completion of the DUI assessment, the individual must be:

- (a) Informed of the results of the assessment; and
- (b) Referred to the appropriate level of care according to patient placement criteria (PPC).

AMENDATORY SECTION (Amending WSR 13-12-053, filed 5/31/13, effective 7/1/13)

WAC 388-877B-0640 Chemical dependency information and assistance services requiring program-specific certification—Information and crisis services. Chemical dependency information and crisis services provide an individual assistance or guidance related to the abuse of addictive substances, ~~((twenty-four hours a day))~~ twenty-four hours a day by telephone or in-person. Information and crisis services require program-specific certification by the department's division of behavioral health and recovery. An agency providing information and crisis services must:

(1) Have services available to any individual ~~((twenty-four hours a day, seven days a week))~~ twenty-four hours a day, seven days a week.

(2) Ensure each staff member completes forty hours of training that covers the following areas before assigning the staff member unsupervised duties:

(a) Chemical dependency crisis intervention techniques; and

(b) Alcoholism and drug abuse.

(3) Ensure a chemical dependency professional (CDP), or a CDP trainee (CDPT) under supervision of a CDP, is available or on staff ~~((twenty-four hours a day))~~ twenty-four hours a day.

(4) Have a least one approved supervisor that meets the qualifications in WAC 246-811-049, if services are provided by a CDPT or other certified or licensed counselor in training to become a CDP. The supervisor must decrease the number of individual contact hours for each full-time CDPT under their supervision.

(5) Maintain a current directory of all certified chemical dependency service providers in the state.

(6) Maintain a current list of local resources for legal, employment, education, interpreter, and social and health services.

(7) Maintain records of each individual contact, including:

- (a) The name, age, sex, and ethnic background of the individual.
- (b) The presenting problem.
- (c) The outcome.
- (d) A record of any referral made.
- (e) The signature of the person handling the case.

WSR 14-19-001
PERMANENT RULES
UTILITIES AND TRANSPORTATION
COMMISSION

[Docket PL-140104, General Order R-576—Filed September 3, 2014, 3:29 p.m., effective October 4, 2014]

In the matter of amending and adopting WAC 480-75-250, relating to civil penalty for violation of chapter 81.88 RCW.

1 STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 14-10-082, filed with the code reviser on May 7, 2014. The commission has authority to take this action pursuant to RCW 80.01.040(4), 81.04.160, and 81.88.040.

2 STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3 DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4 CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5 The commission amends WAC 480-75-250 Civil penalty for violation of chapter 81.88 RCW, to increase the maximum civil penalty for violations. The amendment aligns with recent changes to federal rules by the Pipeline and Hazardous Materials Safety Administration (PHMSA) that increased maximum administrative penalties in conformance with the federal Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011. The revised rule provides that any pipeline company that violates any pipeline safety provision of any commission order, or any rule in chapter 480-75 WAC including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists. It also provides that the maximum civil penalty for a related series of violations is two million dollars.

6 REFERENCE TO AFFECTED RULES: This order amends WAC 480-75-250 Civil penalty for violation of chapter 81.88 RCW.

7 PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on February 19, 2014, at WSR 14-05-089, advising interested persons that the commission was considering entering a rule making to amend WAC 480-75-250, a rule relating to "Hazardous liquid pipelines—Safety," to increase the maximum civil penalties for violations involving gas pipeline operators, in an effort to adopt the more stringent administrative civil penalties set in federal pipeline safety rules. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to a list of all hazardous liquid pipeline companies. The commission posted the relevant rule-making information on its internet web site at <http://www.utc.wa.gov/140104>. Pursuant to the notice, the commission received written comments by March 24, 2014.

8 NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on May 7, 2014, at WSR 14-10-082. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 14-10-082 on July 2, 2014, in the Commission's Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

9 WRITTEN COMMENTS: The commission did not receive comments on the proposed CR-102. Summaries of all written comments are contained in Appendix A, shown below, and made part of this order.

Appendix A
(Comment Summary Matrix)
Summary of Written Comments

Rule making to consider amending WAC 480-75-250 and 480-93-223, increasing the maximum civil penalty for violations involving gas and hazardous liquids pipeline operators, comments through June 9, 2014
Dockets PL-140104 and PG-140105

ISSUE	INTERESTED PERSON	COMMENTS
General Comments	Avista Corp.	Avista: Avista does not take any issue with the proposed rulemaking to consider amending WAC 480-93-225. The Company appreciates the opportunity to provide comments.
General Comments	City of Liberty Lake	City of Liberty Lake: The City of Liberty Lake has several high pressure Gas Lines that traverse our community. These Gas Lines predate the incorporation of our City in 2001

ISSUE	INTERESTED PERSON	COMMENTS
		<p>and as such, our comprehensive planning documents fully recognize the location and critical needs of these facilities.</p> <p>As Mayor, I recognize the importance of these pipelines in the conveyance of the region's gas utility supply source. For this reason, our comprehensive plan identifies the pipeline easement and our building and construction permit process reviews new construction to minimize potential risks and conflicts.</p> <p>In the past we were a rural and agricultural area. Now we are a City of 8100+ residents in addition to a daily workforce approaching 7500. For purposes of public safety, we feel strongly that Gas Companies adhere to the strictest standards. This includes understanding the condition of their facilities, complying with mandatory preventive maintenance assessments and enforcing safety inspections.</p> <p>We fully support adherence, at a minimum, to the federal injunctive and monetary sanctions levels found in the Code of Federal Regulations. We want to note that the pipeline (Trans Canada) in Liberty Lake is an interstate facility and currently operates on the Federal Standards.</p>

10 RULE-MAKING HEARING: The commission considered the proposed rule for adoption at a rule-making hearing on Wednesday, July 2, 2014, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz. No other interested person made oral comments.

11 COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rule as proposed in the CR-102 at WSR 14-10-082, with the change described below.

12 CHANGES FROM PROPOSAL: After reviewing the entire record, the Commission adopts the CR-102 proposal with the following minor grammatical change from the text noticed at WSR 14-10-082: WAC 480-75-250 Civil penalty for violation of chapter 81.88 RCW.

The commission corrects a grammatical error in WAC 480-75-250, first sentence to read: Any pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists.

13 STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-75-250 should be amended to read as set forth in Appendix B, as a rule of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

ORDER

14 THE COMMISSION ORDERS:

15 The commission amends WAC 480-75-250 to read as set forth in Appendix B, as a rule of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

16 This order and the rule set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW, and 1-21 WAC.

Dated at Olympia, Washington, September 3, 2014.

Washington Utilities and Transportation Commission
 David W. Danner, Chairman
 Philip B. Jones, Commissioner
 Jeffrey D. Goltz, Commissioner

**APPENDIX B
 (WAC 480-75-250)**

AMENDATORY SECTION (Amending WSR 08-12-045, filed 5/30/08, effective 6/30/08)

WAC 480-75-250 Civil penalty for violation of chapter 81.88 RCW. Any pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed ~~((one))~~ two hundred thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is ~~((one))~~ two million dollars.

**WSR 14-19-002
 PERMANENT RULES
 UTILITIES AND TRANSPORTATION
 COMMISSION**

[Docket PG-140105, General Order R-577—Filed September 3, 2014, 3:31 p.m., effective October 4, 2014]

In the matter of amending and adopting WAC 480-93-223, relating to civil penalty for violation of chapter 81.88 RCW and commission gas safety rules.

1. STATUTORY OR OTHER AUTHORITY: The Washington utilities and transportation commission (commission) takes this action under Notice No. WSR 14-10-083, filed with the code reviser on May 7, 2014. The commission has authority to take this action pursuant to RCW 80.01.040(4), 81.04.160, and 81.88.040.

2. STATEMENT OF COMPLIANCE: This proceeding complies with the Administrative Procedure Act (chapter 34.05 RCW), the State Register Act (chapter 34.08 RCW), the State Environmental Policy Act of 1971 (chapter 43.21C RCW), and the Regulatory Fairness Act (chapter 19.85 RCW).

3. DATE OF ADOPTION: The commission adopts this rule on the date this order is entered.

4. CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE: RCW 34.05.325(6) requires the commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing changes), summarize the comments received regarding the proposed rule changes, and state the commission's responses to the comments reflecting the commission's consideration of them.

5. The commission amends WAC 480-93-223, to increase the maximum civil penalty for violation of chapter 81.88 RCW and commission gas safety rules. The amendment aligns with recent changes to federal rules by the Pipeline and Hazardous Materials Safety Administration

(PHMSA) that increased maximum administrative civil penalties in conformance with the federal Pipeline Safety, Regulatory Certainty and Job Creation Act of 2011. The revised rule provides that any gas pipeline company that violates any pipeline safety provision of any commission order, or any rule in chapter 480-93 WAC including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists. It also provides that the maximum civil penalty for a related series of violations is two million dollars.

6. REFERENCE TO AFFECTED RULES: This order amends WAC 480-93-223 Civil penalty for violation of RCW 80.28.210 and commission gas safety rules.

7. PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS THEREUNDER: The commission filed a preproposal statement of inquiry (CR-101) on February 19, 2014, at WSR 14-05-090, advising interested persons that the commission was considering entering a rule making to amend WAC 480-93-223, a rule relating to "Gas companies—Safety," to increase the maximum civil penalties for violations involving gas pipeline operators, in an effort to adopt the more stringent administrative civil penalties set in federal pipeline safety rules. The commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to a list of all gas pipeline companies. The commission posted the relevant rule-making information on its internet web site at <http://www.utc.wa.gov/140105>. Pursuant to the notice, the commission received written comments by March 24, 2014.

8. NOTICE OF PROPOSED RULE MAKING: The commission filed a notice of proposed rule making (CR-102) on May 7, 2014, at WSR 14-10-083. The commission scheduled this matter for oral comment and adoption under Notice No. WSR 14-10-083 at 10:30 a.m., July 2, 2014, in the Commission's Hearing Room 206, Second Floor, Richard Hemstad Building, 1300 South Evergreen Park Drive S.W., Olympia, WA. The notice provided interested persons the opportunity to submit written comments to the commission.

9. WRITTEN COMMENTS: The commission did not receive comments on the proposed CR-102. Summaries of all written comments are contained in Appendix A, shown below, and made part of this order.

**Appendix A
 (Comment Summary Matrix)
 Summary of Written Comments**

Rule making to consider amending WAC 480-75-250 and 480-93-223, increasing the maximum civil penalty for violations involving gas and hazardous liquids pipeline operators, comments through June 9, 2014

Dockets PL-140104 and PG-140105

ISSUE	INTERESTED PERSON	COMMENTS
General Comments	Avista Corp.	<u>Avista:</u> Avista does not take any issue with the

ISSUE	INTERESTED PERSON	COMMENTS
		proposed rulemaking to consider amending WAC 480-93-225. The Company appreciates the opportunity to provide comments.
General Comments	City of Liberty Lake	City of Liberty Lake: The City of Liberty Lake has several high pressure Gas Lines that traverse our community. These Gas Lines predate the incorporation of our City in 2001 and as such, our comprehensive planning documents fully recognize the location and critical needs of these facilities.
		As Mayor, I recognize the importance of these pipelines in the conveyance of the region's gas utility supply source. For this reason, our comprehensive plan identifies the pipeline easement and our building and construction permit process reviews new construction to minimize potential risks and conflicts. In the past we were a rural and agricultural area. Now we are a City of 8100+ residents in addition to a daily workforce approaching 7500. For purposes of public safety, we feel strongly that Gas Companies adhere to the strictest standards. This includes understanding the condition of their facilities, complying with mandatory preventive maintenance assessments and

ISSUE	INTERESTED PERSON	COMMENTS
		enforcing safety inspections. We fully support adherence, at a minimum, to the federal injunctive and monetary sanctions levels found in the Code of Federal Regulations. We want to note that the pipeline (Trans Canada) in Liberty Lake is an interstate facility and currently operates on the Federal Standards.

10. RULE-MAKING HEARING: The commission considered the proposed rule for adoption at a rule-making hearing on Wednesday, July 2, 2014, before Chairman David W. Danner, Commissioner Philip B. Jones, and Commissioner Jeffrey D. Goltz. No interested person made oral comments.

11. COMMISSION ACTION: After considering all of the information regarding this proposal, the commission finds and concludes that it should amend and adopt the rule as proposed in the CR-102 at WSR 14-10-083, with the changes described below.

12. CHANGES FROM PROPOSAL: After reviewing the entire record, the commission adopts the CR-102 proposal with the following change from the text of the title of the rule noticed at WSR 14-10-083: WAC 480-93-223 Civil penalty for violation of chapter 81.88 RCW ~~80.28.210~~ and commission gas safety rules.

13. The commission also corrects a minor grammatical error in WAC 480-93-223, first sentence to read: Any gas pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed two hundred thousand dollars for each violation for each day that the violation persists.

14. STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE: After reviewing the entire record, the commission determines that WAC 480-93-223 should be amended to read as set forth in Appendix B as a rule of the Washington utilities and transportation commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the code reviser.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 1, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

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

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

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

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

ORDER

15. THE COMMISSION ORDERS:

16. The commission amends WAC 480-93-223 to read as set forth in Appendix B as a rule of the Washington utilities and transportation commission, to take effect on the thirty-first day after the date of filing with the code reviser pursuant to RCW 34.05.380(2).

17. This order and the rule set out below, after being recorded in the register of the Washington utilities and transportation commission, shall be forwarded to the code reviser for filing pursuant to chapters 80.01 and 34.05 RCW and 1-21 WAC.

Dated at Olympia, Washington, September 3, 2014.

Washington Utilities and Transportation Commission

David W. Danner, Chairman

Philip B. Jones, Commissioner

Jeffrey D. Goltz, Commissioner

APPENDIX B (WAC 480-93-223)

AMENDATORY SECTION (Amending WSR 08-12-046, filed 5/30/08, effective 6/30/08)

WAC 480-93-223 Civil penalty for violation of chapter 81.88 RCW ((80.28.210)) and commission gas safety rules. Any gas pipeline company that violates any pipeline safety provision of any commission order, or any rule in this chapter including those rules adopted by reference, or chapter 81.88 RCW is subject to a civil penalty not to exceed ~~((one))~~ two hundred thousand dollars for each violation for each day that the violation persists. The maximum civil penalty under this subsection for a related series of violations is ~~((one))~~ two million dollars.

WSR 14-19-004

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed September 4, 2014, 8:08 a.m., effective October 5, 2014]

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

Purpose: Amending chapter 16-445 WAC will make the rules establishing standards for Italian prunes clear and usable by removing the question and answer format, eliminating charts, and including the definition of russetting. The rule will provide clear explicit language written in plain talk which clearly defines the grade, pack, tolerances, and application of tolerances for Italian prunes packed and shipped from Washington.

Citation of Existing Rules Affected by this Order: Amending WAC 16-445-015, 16-445-025, 16-445-040, 16-445-045, 16-445-060, and 16-445-070.

Statutory Authority for Adoption: RCW 15.17.050.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 14-14-096 on June 30, 2014.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 0.

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

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

Date Adopted: September 4, 2014.

Don R. Hover
Director

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-015 ((What)) Definitions ((are important to this chapter?)). The following definitions are important to this chapter and apply only to Italian prunes:

"Badly misshapen" means prunes so malformed or rough that they appear to be seriously damaged. Doubles that have approximately equal sized halves are not considered "badly misshapen."

"Culls" mean prunes that are immature, or seriously damaged by growth cracks, hail, insect pests, mechanical or other means.

"Department" means the Washington state department of agriculture.

"Diameter" means the greatest distance measured through the center of a prune at right angles to a line running from the stem to the blossom end.

"Fairly uniform size" means that the prunes in each packed container must not show a variation of more than one-fourth of an inch in diameter.

"Fairly well colored" means that at least three-fourths of the surface of a prune is purple color.

"Mature" means that a prune has reached the stage of maturity that will insure proper completion of the ripening process.

"Russetting" means an abnormal roughening and scarring of the surface of the fruit, which characteristically is smooth.

"Sunscald" means an apparent softening or collapse of a prune's flesh that is caused by the sun.

"Well colored" means that except for the portion of allowed russeting, ninety-five percent of the surface of a prune is purple color.

"Well-formed" means that a prune has the shape characteristic of the variety. Doubles are not considered well-formed.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-025 ((What does "Damage") and ("serious damage") standards. ((The following table explains the differences between "damage" and "serious damage" as the terms apply to Italian prunes:

"Damage" means:	"Serious damage" means:
(1) Any injury or defect that materially affects the prune's appearance, or its edible or shipping quality.	(1) Any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality.
Note: Internal growth cracks, cavities or gum spots are not considered damage.	
(2) Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "damage":	(2) Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is "serious damage":
(a) Broken skins that are unhealed. Note: <ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars. 	(a) Broken skins that are unhealed and more than one-eighth inch in diameter or depth. Note: <ul style="list-style-type: none"> Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not serious damage. Broken skins that have healed are considered scars.
(b) Heat injury that is extensive or not light in color.	(b) Heat injury that causes any softening or dark discoloration of the flesh. Note: <ul style="list-style-type: none"> Heat injury may cause internal or external discoloration, and may or may not be serious.

"Damage" means:	"Serious damage" means:
	<ul style="list-style-type: none"> Heat injury should not be confused with sunscald, which causes softening or collapse of the tissue, and which is always classed as serious damage.
(e) External growth cracks , when: <ul style="list-style-type: none"> There are more than one on a prune; or One is deep; or One is not well-healed; or One is more than 1/4 inch in length. 	(e) External growth cracks that are: <ul style="list-style-type: none"> Not well healed; or More than 3/16 inch in depth; or More than 1/2 inch in length.
(d) Sunburn that has: <ul style="list-style-type: none"> Materially changed the normal color of a prune; or Caused the skin to blister or crack. 	(d) Sunburn that causes: <ul style="list-style-type: none"> Decided flattening of a prune; or Blistering, cracking, or noticeable brownish discoloration of the skin.
(e) Split pit that: <ul style="list-style-type: none"> Causes a readily apparent crack at the stem end; or Affects a prune's shape so it is not well-formed. 	(e) Split pit that: <ul style="list-style-type: none"> Causes a crack at the stem end more than 3/16 inch in length, including any part that may be covered by the stem; or Affects the shape to the extent that the fruit is badly misshapen.
(f) Hail marks , or other similar depressions or scars that: <ul style="list-style-type: none"> Are not shallow or superficial; or Total more than 3/8 inch in diameter; or Break the skin. 	(f) Hail marks that: <ul style="list-style-type: none"> Are more than 3/16 inch deep; or Total more than 1/2 inch in diameter.
(g) Drought spots or external gum spots that are more than 1/4 inch in diameter.	(g) Drought spots or external gum spots that total more than 1/2 inch in diameter.

"Damage" means:	"Serious damage" means:
<p>(h) Russetting that is:</p> <ul style="list-style-type: none"> • Not excessively rough but totals more than 1/10 of a prune's surface; or • Excessively rough and totals more than 1/4 inch in diameter. 	<p>(h) Russetting that is:</p> <ul style="list-style-type: none"> • Not excessively rough but totals more than 1/3 of a prune's surface; or • Excessively rough and totals more than 1/2 inch in diameter.
<p>(i) Scars:</p> <ul style="list-style-type: none"> • Dark, rough or depressed scars totaling more than 1/4 inch in diameter. • Fairly smooth, superficial scars that total more than 1/2 inch in diameter. An example is fairly light discoloration such as that caused by handling or packing or by prunes rubbing against each other while on the tree. • Thorn and limb scratches that are not well healed, or that total more than 1/2 inch in length.) 	<p>(i) Scars that are:</p> <ul style="list-style-type: none"> • Very dark or excessively rough and total more than 1/2 inch in diameter; or • More than 3/16 inches deep.

(1) **"Damage"** means any injury or defect that materially affects the prune's appearance, or its edible or shipping quality. Internal growth cracks, cavities or gum spots are not considered damage. Any one of the following defects or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect is damage:

(a) **Broken skins** that are unhealed. Broken skins caused by pulled stems where the skin is not torn beyond the stem basin are not damage. Broken skins that have healed are considered scars.

(b) **Heat injury** that is extensive or not light in color.

(c) **External growth cracks** when there are more than one on a fruit, or when any growth crack is deep, not well healed or more than one-fourth inch in length.

(d) **Sunburn** which has materially changed the normal color of the fruit, or has caused the skin to blister or crack.

(e) **Split pit** which causes a readily apparent crack at the stem end, or which affects the shape to the extent that the fruit is not well-formed.

(f) **Hail marks** or other similar depressions or scars that are not shallow or superficial, or which aggregate more than three-eighths inch in diameter, or when the skin has been broken.

(g) **Drought spots or external gum spots** that are more than one-fourth inch in diameter.

(h) **Russetting** that is not excessively rough when aggregating more than ten percent of the fruit surface, or that is excessively rough when aggregating more than one-fourth inch in diameter.

(i) **Scars:** Dark, rough, or depressed scars which aggregate more than one-fourth inch in diameter. Fairly smooth, superficial scars, including fairly light discoloration such as is caused by handling or packing or by prunes rubbing against each other while on the tree, which aggregate more than one-half inch in diameter.

(2) **"Serious damage"** means any injury or defect that seriously affects the prune's appearance, or its edible or shipping quality. Any one of the following defects, or any combination of defects, the seriousness of which exceeds the maximum allowed for any one defect, is serious damage:

(a) **Broken skins** that are unhealed and more than one-eighth inch in diameter or depth, except those caused by pulled stems where the skin is not torn beyond the stem basin. Broken skins that have healed are considered scars.

(b) **Heat injury** that causes any softening or dark discoloration of the flesh. Heat injury may cause internal or external discoloration, and may or may not be serious. It should not be confused with sunscald, which causes softening or collapse of the tissue and which is always classed as serious damage.

(c) **External growth cracks** that are not well healed, or which are more than three-sixteenths inch in depth, or more than one-half inch in length.

(d) **Sunburn** that causes decided flattening of the fruit, or causes blistering, cracking, or noticeable brownish discoloration of the skin.

(e) **Split pit** that causes a crack at the stem end more than three-sixteenths inch in length, including any part which may be covered by the stem, or which affects the shape to the extent that the fruit is badly misshapen.

(f) **Hail marks** that are more than three-sixteenths inch in depth, or which aggregate more than one-half inch in diameter.

(g) **Drought spots or external gum spots** that total more than one-half inch in diameter.

(h) **Russetting** that is not excessively rough when aggregating more than one-third of the fruit surface, or that is excessively rough when aggregating more than one-half inch in diameter.

(i) **Scars** that are very dark or excessively rough and aggregate more than one-half inch in diameter, or which are more than three-sixteenths inch in depth.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-040 (~~What is a "~~Washington No. 1 grade(~~" Italian prune?~~)). (~~To be labeled "~~Washington No. 1 grade(~~," Italian~~)) shall consist of prunes (~~(must be)~~) that are:

- (1) Of one variety;
- (2) A purplish color over at least 2/3 of their surface;
- (3) Well-formed;
- (4) At least 1-1/4 inches in diameter unless otherwise specified;

- (5) Mature but not overripe, soft or shriveled;
- (6) Free from decay and sunscald; and
- (7) Free from damage caused by:
 - (a) Broken skins;
 - (b) Heat injury;
 - (c) Growth cracks;
 - (d) Sunburn;
 - (e) Split pits;
 - (f) Hail marks;
 - (g) Drought spots;
 - (h) Russeting;
 - (i) Scars; or
 - (j) Dirt, other foreign material, disease, insects or mechanical or other means.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-045 ((What tolerances apply to Italian prunes?)) Tolerances. The following tolerances apply to prunes in any container and are adopted to allow for variations that are incidental to proper grading and handling(¿).₂

((1) Tolerances that apply at the shipping point:	(2) Tolerances that apply to the destination or en-route to the destination:
(a) Other than color and size, no more than ten percent, by count, may fail to meet the grade requirements for defects.	(a) No more than eighteen percent, by count, may fail to meet grade requirements.
(b) No more than five percent, by count, may have serious damage defects.	(b) No more than ten percent, by count, may fail to meet grade requirements due to other permanent defects.
(c) No more than one percent, by count, may be decayed.	(c) No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay.
(d) No more than ten percent, by count, may fail to meet the color requirements.	(d) No more than ten percent, by count, may fail to meet color requirements.
(e) No more than ten percent, by count, may fail to meet the size specifications.	(e) No more than ten percent, by count, may fail to meet minimum size requirements.
(f) The combined tolerance for all defects must not exceed fifteen percent by count.))	

(1) Tolerances that apply at the shipping point: No more than ten percent of prunes, by count, may fail to meet the grade requirements for defects other than color and size. No more than five percent, by count, may have serious damage defects. No more than one percent, by count, may have decay. No more than ten percent, by count, may fail to meet the color requirements. No more than ten percent, by count, may fail to meet the size specifications. The combined tolerance for all defects must not exceed fifteen percent by count.

(2) Tolerances that apply to the destination or en-route to the destination: No more than eighteen percent of prunes, by count, may fail to meet grade requirements. No more than ten percent of prunes, by count, may fail to meet grade requirements due to other permanent defects. No more than seven percent, by count, may have defects that cause serious damage, including no more than five percent for permanent defects and no more than two percent for decay. No more than ten percent, by count, may fail to meet color requirements. No more than ten percent, by count, may fail to meet minimum size requirements.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-060 ((How does the department apply its Italian prune tolerances during an inspection?)) Application of tolerances. ((If the averages for an entire lot are within the specified tolerances, the following limitations apply to the contents of the individual containers in the lot. Based upon sample inspections, the individual containers in the lot:)) Provided, that the average for an entire lot of prunes are within the specified tolerances, the contents of individual containers in the lot, based on sample inspection, are subject to the following limitations. Individual containers:

- (1) May contain at least one defective and one under-sized prune.
- (2) Must have no more than one and one-half times the tolerance specified when a tolerance is ten percent or more.
- (3) Must have no more than double the tolerance specified when a tolerance is less than ten percent.

AMENDATORY SECTION (Amending WSR 05-10-093, filed 5/4/05, effective 6/4/05)

WAC 16-445-070 ((What are the "Standard pack(" requirements for Italian prunes?)) (1) A standard pack of Italian prunes must:

- (a) Contain prunes of fairly uniform size;
 - (b) Be tightly packed ((according to industry approved methods)); and
 - (c) Contain prunes in the top layer that are not noticeably superior in quality or size to those below the top layer.
- (2) In order to allow for variations incident to proper packing, no more than ten percent of the containers in any lot, by count, may fail to meet the standard pack requirements of this section.

WSR 14-19-005

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed September 4, 2014, 8:10 a.m., effective October 5, 2014]

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

Purpose: Amending chapter 16-463 WAC is to provide specific notice regarding how cherries infected by cherry fruit fly larvae which cannot be disinfected are subject to destruction or, in the alternative, how infected cherries may be transported and used as allowed under RCW 15.08.070.

The amendments to WAC 16-463-010 include recognizing RCW 15.08.070 as providing a statutory exception for the transporting and use of cherry fruit fly infested cherries to be manufactured into by-products or to be shipped to a by-products plant, and providing clarification as to the Latin name for the specific cherry fruit fly larvae.

Citation of Existing Rules Affected by this Order: Amending WAC 16-463-010.

Statutory Authority for Adoption: RCW 15.08.070.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 14-14-093 on June 30, 2014.

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

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

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

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

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

Date Adopted: September 4, 2014.

Don R. Hover
Director

AMENDATORY SECTION (Amending Order 1099, filed 8/30/68, effective 9/30/68)

WAC 16-463-010 Conditions for shipment, transfer and sale of cherries. Except as allowed under RCW 15.08.-070, no person shall ship or transfer from the area of production, or within the area of production, or offer for sale for human consumption, any cherries that are infested with live western cherry fruit fly (*Rhagoletis indifferens*) larvae.

WSR 14-19-010

PERMANENT RULES

SPOKANE REGIONAL
CLEAN AIR AGENCY

[Filed September 4, 2014, 1:33 p.m., effective October 5, 2014]

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

Purpose: The proposal clarifies that it's the applicant's responsibility to submit a request and receive approval from both ecology and Spokane Regional Clean Air Agency (SRCAA) if a variance pertains to state and local regulations. The proposal clarifies that for variances that require ecology approval, ecology's approval is required before SRCAA will begin processing the request. The proposal explains that applications must be complete and accurate before SRCAA's sixty-five day timeline begins for approving or denying a variance. It also requires that certain information be included with variance requests (e.g., specific laws/regulations from which variance is being sought, maps of the site subject to the variance, etc.). It notes that for variances from state rules, SRCAA may determine that the thirty day public notice and public hearing conducted by ecology satisfies the provisions in WAC 173-400-171. In addition, there is a new \$150 filing fee and actual legal fees incurred by the agency are included in the variance fees.

Citation of Existing Rules Affected by this Order: Amending SRCAA Regulation I, Article III.

Statutory Authority for Adoption: RCW 70.94.141, 70.94.380(2), 70.94.181.

Other Authority: Chapter 70.94 RCW.

Adopted under notice filed as WSR 14-15-084 on July 17, 2014.

A final cost-benefit analysis is available by contacting Matt Holmquist, 3104 East Augusta Avenue, Spokane, WA 99207, phone (509) 477-4727, fax (509) 477-6828, e-mail mholmquist@spokanecleanair.org. This is a local agency rule and RCW 34.05.328 does not apply pursuant to RCW 70.94.141(1).

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

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

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

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

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

Date Adopted: September 4, 2014.

Matt Holmquist
Compliance Administrator

AMENDATORY SECTION

SPOKANE REGIONAL CLEAN AIR AGENCY (SRCAA) REGULATION I, ARTICLE III - VARIANCES

SECTION 3.01 VARIANCES - APPLICATION FOR - CONSIDERATIONS - LIMITATIONS - RENEWALS - REVIEWA. Applicability (RCW 70.94.181)

Any person, or group of persons, who (~~own or is in control of any plant, building, structure, establishment, processor equipment~~) is directly impacted by any SRCAA rule or regulation, may apply to the Board for a variance from rules or regulations governing the quality, nature, duration or extent of discharges of air contaminants. The application shall be accompanied by such information and data as the Board may require. (~~The Board may grant such variance, provided that variances to state rules shall require Ecology's approval, prior to being issued by the Board.~~) The total time period for a variance and renewal of such variance shall not exceed one year.

B. General Process

The Board may grant a variance to SRCAA rules or regulations. However, if the variance sought also requires a variance from state rules, Ecology must first issue its approval.

1. If the variance pertains to a SRCAA regulation only, the applicant must submit the variance application to SRCAA and the decision to approve or deny the variance will be made by the Board.

2. If the variance pertains to a SRCAA regulation and a state rule, the applicant must submit the variance application concurrently to both SRCAA and Ecology. If approved by Ecology, the variance application may then be reviewed and processed by SRCAA with the decision to approve or deny the variance being made by the Board. Approval of such a variance is contingent upon approval by both Ecology and SRCAA. If denied by Ecology, SRCAA will not review the variance.

a. Per 40 CFR 52.2476(b), any change to a provision of the state implementation plan described in 40 CFR 52.2476(a) must be submitted by Ecology for approval by EPA in accordance with the requirements of 40 CFR 51.104. In accordance with 40 CFR 51.104, variances approved under this Article shall not be included in orders or permits provided for in RCW 70.94.152 (Notice of Construction) or RCW 70.94.161 (Operating Permits) until such time as the variance has been accepted by the EPA as part of an approved State Implementation Plan in 40 CFR Part 52, subpart WW.

C. Conditions for Granting a Variance

Pursuant to RCW 70.94.181(1), (~~(V)~~) variances may be issued by (~~either Ecology, where Ecology has retained jurisdiction, or~~) the Board (~~, but only after public involvement per WAC 173-400-171,~~) if it finds that:

1. The emissions occurring or proposed to occur do not endanger public health, safety, or the environment; and
2. Compliance with the rules or regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

The interests of the applicant, other owners of property likely to be affected by the emissions, and the general public must also be considered pursuant to Section 3.01.E and RCW 70.94.181(2).

(~~B~~) D. Complete Application

In addition to the requirements of Section 3.01.A above, applicants (~~those~~) seeking a variance must submit an accurate and complete application. Application must be made using forms provided by SRCAA. An application is not deemed complete until all of the information identified below is received. At a minimum, applicants must submit all of the following information: (~~shall not be considered complete unless the applicant provides:~~)

1. A list of interested parties and neighbors within 500 feet or more of the property on which the variance is proposed to occur, including mailing addresses, or as deemed necessary by the Control Officer.

2. The specific laws and/or regulations from which a variance is being sought.

3. How compliance with rules or regulations from which the variance is sought would produce serious hardship to the applicant without equal or greater benefits to the public.

4. An explanation of the time period for which the variance is sought; not to exceed one year.

5. How the applicant will comply with the applicable laws and/or regulations following expiration of the variance so as to alleviate the need for a renewal of a variance, if one is approved.

6. An explanation, if applicable, as to why there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved.

7. If alternatives are available, what the cost of the alternatives are. Supporting documentation must be provided.

8. Detailed maps of the site subject to the variance application.

9. Any additional information requested by SRCAA prior to, during, or following submittal of the application.

10. The variance application must be complete and accurate and a statement to this effect by the applicant must be included in the application. Incomplete or inaccurate applications may be returned to the applicant for completion or correction.

11. If the variance application requires Ecology's approval pursuant to Section 3.01.B, the applicant must demonstrate to SRCAA that a variance application has been approved by Ecology (i.e. submit a copy of Ecology's written decision to approve the variance to SRCAA).

(~~C~~) E. Public Notice and Public Hearing

Variance may be issued only after public involvement per WAC 173-400-171. No variance shall be granted pursuant to this section until the Board has considered the relative interests of the applicant, other owners of property likely to be affected by the discharges, and the general public. The Board shall conduct a fact-finding public hearing, upon due notice being published and sent to all interested parties within 500 feet of the property on which the variance is proposed. The Control Officer may require notice to parties beyond 500 feet, if deemed necessary. A 30-day advance public notice shall be published in a newspaper of general circulation in the area of the proposed variance and shall include the following information:

1. The time, date, and place of the hearing;
2. The name and address of the owner or operator and the source;

3. A brief description of the variance request; and

4. The deadline for submitting written comments to ~~((the Agency))~~ SRCAA.

For variances from state rules, SRCAA may determine that public notice and public hearing conducted by Ecology satisfies the provision in WAC 173-400-171.

~~((D))~~ F. Variance Limitations

Any variance or renewal thereof shall be granted within the requirements of Section 3.01.A and C of this Regulation for not more than one (1) year under conditions consistent with the reasons therefore, and within the following limitations:

1. If the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, and subject to the taking of any substitute or alternate measure that the Board may prescribe.

2. If the variance is granted on the ground that compliance with the particular requirement or requirements from which variance is sought will require the taking of measures which, because of their extent or cost, must be spread over a considerable period of time, it shall be for a period not to exceed such reasonable time, as in the view of the Board, is requisite for the taking of the necessary measures. A variance granted on the ground specified herein, shall contain a timetable for the taking of action in an expeditious manner and shall be conditioned on adherence to such timetable.

3. If the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided for in Sections 3.01.~~((D))~~F.1 and 3.01.~~((D))~~F.2 of this Regulation, it shall be for not more than one (1) year.

~~((E))~~ G. Renewal

Any variance granted pursuant to this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Board on account of the variance, no renewal thereof shall be granted unless, following a public hearing on the complaint on due notice, the Board finds that renewal is justified. No renewal shall be granted except on application therefore. Any such application shall be made at least sixty (60) days prior to the expiration of the variance. Immediately upon receipt of a ~~((n))~~ complete and accurate application for renewal, the Board shall give public notice of such application in accordance with rules and regulations of Ecology or ~~((the Authority))~~ SRCAA.

~~((F))~~ H. Appeal Process

A variance or renewal shall not be a right of the applicant or holder thereof, but shall be granted at the discretion of the Board. However, any applicant adversely affected by the denial or the terms and conditions of the granting of an application for a variance or renewal of a variance by the Board, may obtain judicial review thereof only under the provisions of Chapter 34.05 RCW, as ~~((now))~~ of the effective date of this regulation or thereafter amended.

~~((G))~~ I. Emergency Provisions

Nothing in this section and no variance or renewal granted pursuant hereto shall be construed to prevent or limit the application of the emergency provisions and procedures

of RCW 70.94.710 through 70.94.730 (Air Pollution Episodes) to any person or his or her property.

~~((H))~~ J. Processing Period

Unless the applicant and the Board agree to a continuance, ((A)) an application for a variance, or for the renewal thereof, submitted to the Board pursuant to ((this)) Section 3.01.B.1 shall be approved or disapproved by the Board within sixty-five (65) days of ((receipt)) SRCAA determining that the application for a variance is accurate and complete and receiving the filing fee reference in Section 3.02.A((; unless the applicant and the Board agree to a continuance)). If approval from Ecology is required per Section 3.01.B.2, and unless the applicant and the Board agree to a continuance, approval or denial by the Board shall occur within sixty-five (65) days of receipt of all of the following: an accurate and complete application, Ecology's written decision to approve the variance, and the filing fee referenced in Section 3.02.A.

~~((I. Per 40 CFR 52.2476(b), Variances, approved under this Article, shall not be included in orders or permits provided for in RCW 70.94.152 or RCW 70.94.161 until such time as the variance and has been accepted by the EPA as part of an approved SIP, in accordance with 40 CFR 51.104.))~~

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

~~((FILING))~~ **FEES**

A. Fees.

Except as provided in Section 3.02.B, below, the filing fees, all legal fees, legal notice fees, and all hourly fees incurred by SRCAA must be paid by the applicant regardless of whether the variance is granted, denied, or determined to be incomplete.

1. Filing Fees

For applications submitted pursuant to Section 3.01.B.1 (SRCAA-only regulations), a ((A)) filing fee as specified in Section 10.08 of this Regulation and SRCAA's fee schedule shall be submitted at the time of application and shall be applied to the final invoice fee. For applications submitted pursuant to Section 3.01.B.2 (SRCAA regulations and Ecology rules), a filing fee as specified in Section 10.08 of this Regulation and SRCAA's fee schedule shall be submitted at the same time Ecology's written approval is submitted to SRCAA pursuant to Section 3.01.J and shall be applied to the final invoice fee.

2. Legal Fees/Legal Notice Fees.

The applicant shall also be responsible to pay all legal fees incurred by SRCAA directly attributed to the application for a variance and costs associated with any legal notice(s) required pursuant to this Article.

3. Hourly Fees

An hourly fee, as established in Section 10.08((D)) of this Regulation and SRCAA's fee schedule, shall also be assessed to, and paid by, the applicant for applications reviewed by SRCAA pursuant to this Article.

B. Reduced Fees or Refunds.

The applicant may request that some portion of the variance fees be waived or refunded if it is demonstrated to the Board that SRCAA's variance application process didn't fully and accurately inform the applicant of the variance process

described in Sections 3.01-3.02.A of this Regulation. Such request must be made in writing no later than thirty (30) days after denial or approval of the variance by the Board. Any fee reductions or refunds shall be at the full discretion of the Board.

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

WSR 14-19-012
PERMANENT RULES
DEPARTMENT OF HEALTH

[Filed September 4, 2014, 2:16 p.m., effective October 5, 2014]

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

Purpose: WAC 246-976-420 and 246-976-430, trauma registry, the amended rules revise and update the Washington state trauma registry data element requirements in order for the department of health to collect and analyze data on the incidence, severity, and causes of trauma in Washington state.

Citation of Existing Rules Affected by this Order: Amending WAC 246-976-420 and 246-976-430.

Statutory Authority for Adoption: RCW 70.168.060 and 70.168.090.

Adopted under notice filed as WSR 14-12-079 on June 3, 2014.

Changes Other than Editing from Proposed to Adopted Version: The adopted rules have two minor changes that differ from the text of the proposed rules: (1) WAC 246-976-420 (7)(b), the term "and qualified agencies" was added, and (2) WAC 246-976-430(2), this subsection was moved to become subsection (4) to improve readability.

A final cost-benefit analysis is available by contacting Susan Reynolds, P.O. Box 47853, Olympia, WA 98504-7853, phone (360) 236-2872, fax (360) 236-2830, e-mail susan.reynolds@doh.wa.gov.

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

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

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

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

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

Date Adopted: September 2, 2014.

Dennis E. Worsham
Deputy Secretary
for John Wiesman, DrPH, MPH
Secretary

AMENDATORY SECTION (Amending WSR 09-23-083, filed 11/16/09, effective 12/17/09)

WAC 246-976-420 Trauma registry—Department responsibilities. (1) **Purpose:** The department maintains a trauma registry, as required by RCW 70.168.060 and 70.168.090. The purpose of this registry is to:

(a) Provide data for ~~((injury))~~ trauma surveillance, analysis, and prevention programs;

(b) Monitor and evaluate the outcome of care of major trauma patients, in support of statewide and regional quality assurance and system evaluation activities;

(c) Assess compliance with state standards for trauma care;

(d) Provide information for resource planning, system design and management;

(e) Provide a resource for research and education.

(2) **Confidentiality:** It is essential for the department to protect information regarding specific patients and providers. Data elements related to the identification of individual patient's, provider's, and facility's care outcomes ~~((shall))~~ must be confidential, ~~((shall))~~ must be exempt from RCW 42.17.250 through 42.17.450, and ~~((shall))~~ must not be subject to discovery by subpoena or admissible as evidence.

(a) The department may release confidential information from the trauma registry in compliance with applicable laws and regulations. No other person may release confidential information from the trauma registry without express written permission from the department.

(b) The department may approve requests for trauma registry data reports from qualified agencies or individuals, consistent with applicable statutes and rules. The department may charge reasonable costs associated with ~~((such requests))~~ customized reports, prepared in response to such requests.

(c) The data elements indicated in Tables E, F and G below are considered confidential.

(d) The department will establish criteria defining situations in which additional trauma registry information is confidential, in order to protect confidentiality for patients, providers, and facilities.

(e) This paragraph does not limit access to confidential data by approved regional quality assurance programs established under chapter 70.168 RCW and described in WAC 246-976-910.

(3) **Inclusion criteria:**

(a) The department will establish inclusion criteria to identify those injured patients ~~((that))~~ whom designated trauma services must report to the trauma registry.

These criteria will include:

All patients who were discharged with International Classification of Diseases (ICD) diagnosis codes ~~((of 800.0–904.99, 910–959.9 (injuries), 994.1 (drowning), 994.7 (asphyxiation), or 994.8 (electrocution)))~~ for injuries, drowning, burns, asphyxiation, or electrocution per the department's specifications; and:

(i) For whom the hospital trauma resuscitation team (full or modified) was activated; or

(ii) Who were dead on arrival at ~~((your))~~ the facility; or

(iii) Who were dead at discharge from ~~((your))~~ the facility; or

(iv) Who were transferred by ambulance into ~~((your))~~ the facility from another facility; or

(v) Who were transferred by ambulance out of ~~((your))~~ the facility to another acute care facility; or

(vi) Adult patients (age fifteen or greater) who were admitted ~~((as inpatients))~~ to ~~((your))~~ the facility ~~((and have a length of stay greater than two days or))~~ and have a length of stay of more than forty-eight hours; or

(vii) Pediatric patients (ages under fifteen years) who were admitted as inpatients to ~~((your))~~ the facility, regardless of length of stay; or

(viii) All injuries flown from the scene~~((s))~~.

(b) For all licensed rehabilitation services, these criteria will include all patients who were included in the trauma registry for acute care.

(4) **Other data:** The department and regional quality assurance programs may request data from medical examiners and coroners in support of the trauma registry.

~~((Data linking: To link data from different sources, the department will establish procedures to assign a unique identifying number to each trauma patient. All providers reporting to the trauma registry must include this trauma number.~~

~~((6))~~ **Data submission:** The department will establish procedures and format for providers to submit data electronically. These will include a mechanism for the reporting agency to check data for validity and completeness before data is sent to the trauma registry.

~~((7))~~ **Data quality:** The department will establish mechanisms to evaluate the quality of trauma registry data. These mechanisms will include at least:

(a) Detailed protocols for quality control, consistent with the department's most current data quality guidelines.

(b) Validity studies to assess the timeliness, completeness and accuracy of case identification and data collection.

~~((8))~~ **Trauma registry reports:**

(a) Annually, the department will report:

(i) Summary statistics and trends for demographic and related information about trauma care, for the state and for each EMS/TC region;

(ii) Outcome measures, for system-wide evaluation, and regional quality improvement programs;

(iii) Trends, patient care outcomes, and other data, for each EMS/TC region and for the state, for the purpose of regional evaluation;

(iv) Aggregate regional data to the regional EMS/TC council upon request, excluding any confidential or identifying data.

(b) The department will provide reports to facilities and qualified agencies upon request, according to the confidentiality provisions in subsection (2) of this section.

AMENDATORY SECTION (Amending WSR 09-23-083, filed 11/16/09, effective 12/17/09)

WAC 246-976-430 Trauma registry—Provider responsibilities. (1) All trauma care providers must protect the confidentiality of data in their possession and as it is transferred to the department.

~~((All trauma care providers must correct and resubmit records which fail the department's validity tests described in WAC 246-976-420(7). You must send corrected records to the department within three months of notification.~~

~~((3-Licensed))~~ Verified prehospital ~~((services))~~ agencies that transport trauma patients ~~((must))~~ shall:

(a) Provide an initial report of patient care to the receiving facility at the time the trauma patient is delivered as described in WAC 246-976-330.

(b) Within ~~((ten days))~~ twenty-four hours after the trauma patient is delivered, send a complete patient care report to the receiving facility to include the data shown in Table E.

~~((4))~~ (3) Designated trauma services ~~((must))~~ shall:

(a) Have a person identified as responsible for ~~((coordination of))~~ trauma registry activities, and who has completed a department-approved trauma registry training.

(b) Report data elements shown in Table F for all patients defined in WAC 246-976-420.

(c) Report patients with a discharge date in a calendar quarter in a department-approved format by the end of the following quarter.

~~((All designated trauma care facilities shall correct and resubmit records that fail the department's validity tests described in WAC 246-976-420(7). The trauma care facilities shall send corrected records to the department within three months of notification of errors.~~

(5) Designated trauma rehabilitation services ~~((must:))~~ shall provide data to the trauma registry upon request.

~~((a))~~ Data elements shown in Table G~~((: or~~

~~((b) If the service submits data to the Centers for Medicare and Medicaid Services (CMS) for medical rehabilitation, provide a copy of the data to the department))~~ are to be provided to the trauma registry in a format determined by the department.

TABLE E: Prehospital Data Elements for the Washington Trauma Registry

Data Element	Type of patient	Pre-Hosp Transport	Inter-Facility
Incident Information			
Transporting EMS agency number		X	X
Unit en route date/time		X	
Patient care report number		X	X
First EMS agency on scene identification number		X	

TABLE E: Prehospital Data Elements for the Washington Trauma Registry			
Data Element	Type of patient	Pre-Hosp Transport	Inter-Facility
Crew member level		X	X
((Mode)) Method of transport		X	X
Incident county		X	
Incident zip code		X	
Incident location type		X	
((Incident response area type		X))	
Mass casualty incident declared			
Patient Information			
Name		X	X
Date of birth, or Age		X	X
Sex		X	X
Cause of injury		X	
Use of safety equipment (occupant)		X	
Extrication required		X	
((Extrication > 20 minutes))			
Transportation			
Facility transported from (code)			X
Times			
Unit notified by dispatch date/time		X	X
Unit arrived on scene date/time		X	X
Unit left scene date/time		X	X
Vital Signs			
Date/time vital signs taken		X	
Systolic blood pressure (first)		X	
Respiratory rate (first)		X	
Pulse (first)		X	
GCS eye, GCS verbal, GCS motor, GCS total, GCS qualifier		X	
Treatment: Procedure performed			
Procedure performed prior to this unit's care		X	

TABLE F: Hospital-Designated Trauma Services Data Elements for the Washington Trauma Registry
 All ~~((licensed hospitals))~~ designated trauma services must submit the following data for trauma patients ~~((identified in))~~; all other licensed hospitals must submit data upon request per WAC 246-976-420(3):

Record Identification

Identification (ID) of reporting facility;

Date and time of arrival at reporting facility;
 Unique patient identification number assigned to the patient by the reporting facility;

Patient Identification

Name;
 Date of birth;
 Sex;
 Race;
 Ethnicity;

~~((Was the patient pregnant;))~~

Last four digits of Social Security number;

Home zip code;

Prehospital Incident Information

Date and time of incident;

Incident zip code;

Mechanism/type of injury;

First EMS agency on-scene identification (ID) number;

Transporting agency ID and unit number;

Transporting agency patient care report number;

Cause of injury;

Incident county code;

Incident location type;

~~((Incident response area type;))~~

Work related((?));

Use of safety equipment (occupant);

Procedures performed;

Earliest Available Prehospital Vital Signs

Time;

Systolic blood pressure (first);

Respiratory rate (first);

Pulse rate (first);

Glasgow coma score (GCS) eye, ((GCS)) verbal, ((GCS)) motor, ((GCS)) qualifier, ((GCS)) total;

Intubated at time of scene GCS;

Pharmacologically paralyzed at time of scene GCS;

Vitals from first EMS agency on-scene;

Extrication;

~~((Extrication time over twenty minutes;))~~

Transportation Information

Date and time unit dispatched;

Time unit arrived at scene;

Time unit left scene;

Transportation mode;

Crew member level;

Transferred in from another facility;

Transported from (hospital patient transferred from);

Who initiated the transfer(?);

Emergency Department (ED) or Admitting Information

~~((Was patient intubated prior to arrival at hospital?;))~~

Readmission;

Direct admit;

Time ED physician called;

Time ED physician available for patient care;

Trauma team activated;

Level of trauma team activation;

Time of trauma team activation;

Time trauma surgeon called;

Time trauma surgeon available for patient care;

Vital Signs in ED;

First systolic blood pressure;

First temperature;

First pulse rate;

First spontaneous respiration rate;

Controlled rate of respiration;

Lowest systolic blood pressure (SBP);

Lowest SBP confirmed Y/N?;

First hematocrit level;

~~((Controlled rate of respiration;~~

Glasgow coma scores)) GCS (eye, verbal, motor);

Intubated at time of ED GCS;

Pharmacologically paralyzed at time of ED GCS;

MCI disaster plan implemented;

Injury (~~(severity))~~ scores

Injury severity score (ISS);

Revised trauma score (RTS) on admission;

For pediatric patients:

Pediatric trauma score (PTS) on admission;

TRISS;

ED procedures performed;

ED care issues;

Date and time of ED discharge;

ED discharge disposition, including

If transferred out, ID of receiving hospital;

Was patient admitted to hospital?;

If admitted, the admitting service;

Reason for referral (receiving facility);

Reason for transfer (sending facility);

Diagnostic and Consultative Information

Did the patient receive aspirin in the four days prior to the injury?

Did the patient receive clopidogrel (Plavix) in the four days prior to the injury?

Did the patient receive any oral anticoagulation medication in the four days prior to the injury, such as warfarin (Coumadin), dabigatran (Pradaxa), rivaroxaban (Xarelto) or others?

What was the name of the anticoagulation medication?

Date and time of head CT scan;

~~((For patients with diagnosis of brain or facial injury:~~

Was the patient diagnosed with brain or facial injury before transfer?;

Was the diagnosis of brain or facial injury based on either physician documentation or head CT report?;

Did the patient receive Coumadin or warfarin medication in the four days prior to injury?;))

Date/time of first international normalized ratio (INR) performed at your hospital;

Results of first INR done at your hospital;

Date/time of first partial thrombin time (PTT) performed at the hospital;

Results of first PTT done at the hospital;

Source of date and time of CT scan of head;

~~((Was fresh frozen plasma (FFP) or Factor VIIa administered for reversal of))~~ Was an attempt made to reverse anticoagulation?;

What medication (other than Vitamin K) was first used to reverse anticoagulation?;

Date and time of first dose of anticoagulation reversal medication;

Elapsed time from ED arrival;

Date of physical therapy consult;

Date of rehabilitation consult;

Blood alcohol content;

Toxicology screen results;

Drugs found;

Was a brief substance use intervention done?;

Comorbid factors/preexisting conditions;

~~((Surgical))~~ Procedural Information

For the first operation:

Date and time patient arrived in operating room;
 Date and time operation started;
 OR procedure codes;
 OR disposition;
 For later operations:
 Date and time of operation;
 OR procedure codes;
 OR disposition;

Critical Care Unit Information

Patient admitted to ICU;
 Patient readmitted to ICU;
 Date and time of admission for primary stay in critical care unit;
 Date and time of discharge from primary stay in critical care unit;
 Length of readmission stay(s) in critical care unit;

Other in-house procedures performed (not in OR)**Discharge Status**

Date and time of facility discharge;
 Most recent ICD diagnosis codes/discharge codes, including nontrauma codes;
 E-codes, primary and secondary;
 Glasgow Score at discharge;
 Disability at discharge (feeding/locomotion/expression);
 Total ventilator days;

Discharge disposition

Hospital discharge disposition;
 If transferred out, ID of facility the patient was transferred to;
 Rehabilitation facility ID;
 If patient died in ~~((your))~~ the facility;
 Date and time of death;
Location of death:
 Was an autopsy done?;
 Was patient declared brain dead ~~((prior to expiring?;~~
~~Was life support withdrawn))~~?;
 Was organ donation requested?;
 Organs donated((?));
Did the patient have an end-of-life care document before injury?;
Was there any new end-of-life care decision documented during the inpatient stay in the facility?;
Did the patient receive a consult for comfort care, hospice care, or palliative care during the inpatient stay?;
Did the patient receive any comfort care, in-house hospice care, or palliative care during the inpatient stay (i.e., was acute care withdrawn?);

Financial Information (All Confidential)

For each patient
 Total billed charges;
 Payer sources (by category);
 Reimbursement received (by payer category);

TABLE G: Data Elements for Designated Rehabilitation Services

Designated trauma rehabilitation services must provide the following data upon request by the department for patients identified in WAC 246-976-420(3).

Rehabilitation services, Levels I and II**Patient Information**

Facility ID
~~((Facility code))~~
 Patient code
 Date of birth
 Social Security number
 Patient name
 Patient sex

Care Information

Date of admission
 Admission class
 Date of discharge
 Impairment group code
 ASIA impairment scale

Diagnosis ~~((ICD-9)))~~ Codes

Etiologic diagnosis
~~((Other significant diagnoses))~~ Comorbidities
~~Complications((comorbidities))~~
 Diagnosis for transfer or death

Other Information

Date of onset
 Admit from (type of facility)
 Admit from (ID of facility)
 Acute trauma care by (ID of facility)
 Prehospital living setting
~~((Prehospital vocational category))~~
 Discharge-to-living setting

Inpatient Rehabilitation Facility - Patient Assessment Instrument (IRF-PAI) - One set on admission and one on discharge**Self care**

Eating
 Grooming
 Bathing
 Dressing - Upper
 Dressing - Lower
 Toileting

Sphincter control

Bladder
 Bowel

Transfers

Bed/chair/wheelchair
 Toilet
 Tub/shower

Locomotion

Walk/wheelchair
 Stairs

Communication

Comprehension
 Expression

Social cognition

Social interaction
 Problem solving
 Memory

Payment Information (all confidential)

Payer source - Primary and secondary
 Total charges
Total remitted reimbursement ((by category))

Rehabilitation, Level III**Patient Information**

Facility ID
 Patient number
 Social Security number
 Patient name

Care Information

Date of admission

Impairment Group Code**Diagnosis ((~~HCD-9~~)) Codes**

Etiologic diagnosis
 ((~~Other significant diagnoses~~)) Comorbidities
 Complications(~~(comorbidities)~~)

Other Information

Admit from (type of facility)
 Admit from (ID of facility)
 Acute trauma care given by (ID of facility)
 Inpatient trauma rehabilitation given by (ID of facility)
 Discharge-to-living setting

Payment Information (all confidential)

Payer source - Primary and secondary
 Total charges
Total remitted reimbursement ((~~by category~~))

WSR 14-19-018**PERMANENT RULES****DEPARTMENT OF REVENUE**

[Filed September 5, 2014, 3:32 p.m., effective October 6, 2014]

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

Purpose: WAC 458-20-267 Annual reports for certain tax adjustments (Rule 267), is amended at the introduction in subsection (1) of the rule by changing the phrase "aerospace manufacturing" for clarity to "aerospace industry" and adding the phrase "government funded mental health services." Rule 267 is also amended to add the government funded mental health services tax preference to the annual report requirement. Further, subsection (3) of the rule is amended to update the filing requirements and correct caption grammatical errors. Last, subsection (4)(b)(ii)(B) is amended to update the department's contact address to obtain written approval to consolidate manufacturing sites.

Citation of Existing Rules Affected by this Order:
 Amending WAC 458-20-267.

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

Other Authority: RCW 82.04.250, 82.32.600, and 82.32.534.

Adopted under notice filed as WSR 14-14-126 on July 2, 2014.

Changes Other than Editing from Proposed to Adopted Version: References to RCW 82.04.260(10) were changed to RCW 82.04.260(11) pursuant to the change in SSB 6333 (section 401, chapter 97, Laws of 2014). This legislative amendment of the language in RCW 82.04.250 corrected the reference for RCW 82.04.260(10) to 82.04.260(11).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

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

Date Adopted: September 5, 2014.

Dylan Waits
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 10-22-087, filed 11/1/10, effective 12/2/10)

WAC 458-20-267 Annual reports for certain tax adjustments. (1) **Introduction.** In order to take certain tax exemptions, credits, and rates ("tax adjustments"), taxpayers must file an annual report with the department of revenue (the "department") detailing employment, wages, and employer-provided health and retirement benefits. This section explains the reporting requirements for tax adjustments provided to computer data centers, the aerospace ((~~manufacturing~~)) industry, aluminum manufacturing, electrolytic processing, solar electric manufacturing, semiconductor manufacturing, ((~~and~~)) newspaper industries, and government funded mental health services. This section explains who is required to file annual reports, how to file reports, and what information must be included in the reports.

This section contains a number of examples. These examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The results of other situations must be determined after a review of all of the facts and circumstances.

(2) **Who is required to file the report?** A recipient of the benefit of the following tax adjustments must complete and file an annual report with the department:

(a) **Tax adjustments for the aerospace ((~~manufacturing~~)) industry:**

(i) The business and occupation ("B&O") tax rate provided by RCW 82.04.260(11) for manufacturers and processors for hire of commercial airplanes, component parts, and tooling specially designed for use in manufacturing commercial airplanes or components of such airplanes;

(ii) The B&O tax credit provided by RCW 82.04.4461 for qualified development aerospace product expenditures;

(iii) The B&O tax rate for FAR 145 Part certified repair stations under RCW 82.04.250(3);

(iv) The retail sales and use tax exemption provided by RCW 82.08.980 and 82.12.980 for constructing new buildings used for manufacturing superefficient airplanes;

(v) The leasehold excise tax exemption provided by RCW 82.29A.137 for facilities used for manufacturing super-efficient airplanes;

(vi) The property tax exemption provided by RCW 84.36.655 for property used for manufacturing superefficient airplanes; and

(vii) The B&O tax credit for property taxes and leasehold excise taxes paid on property used for manufacturing of commercial airplanes as provided by RCW 82.04.4463.

(viii) An annual report must be filed with the department for any person who takes any of the above tax adjustments of this subsection for employment positions in Washington; however, persons engaged in manufacturing commercial airplanes or components of such airplanes may report per manufacturing job site.

(b) Tax adjustments for the aluminum smelter industry:

(i) The B&O tax rate provided by RCW 82.04.2909 for aluminum smelters;

(ii) The B&O tax credit for property taxes provided by RCW 82.04.4481 for aluminum smelter property;

(iii) The retail sales and use tax exemption provided by RCW 82.08.805 and 82.12.805 for property used at aluminum smelters; and

(iv) The use tax exemption provided by RCW 82.12.022(5) for the use of natural or manufactured gas;

(c) Tax adjustment for the electrolytic processing industry. The public utility tax exemption provided by RCW 82.16.0421 for sales of electricity to electrolytic processing businesses.

(d) Tax adjustment for the solar electric manufacturing industry. The B&O tax rate for manufacturers of solar energy systems using photovoltaic modules, or silicon components of such systems provided by RCW 82.04.294.

(e) Tax adjustments for the semiconductor manufacturing and processing industry.

(i) The B&O tax rate for manufacturers or processors for hire of semiconductor materials provided by RCW 82.04.2404.

(ii) The sales and use tax exemptions for sales of gases and chemicals used by a manufacturer or processor for hire in the production of semiconductor materials provided by RCW 82.08.9651, 82.12.9651, and 82.12.970.

(f) Tax adjustments for various industries.

(i) The B&O tax rate for printing a newspaper, publishing a newspaper, or both provided by RCW 82.04.260(14).

(ii) The sales tax exemption for sales of eligible server equipment to be installed without intervening use in an eligible computer data center as provided by chapters 1 and 23, Laws of 2010 sp. sess.

(3) How to file annual reports.

(a) ~~((Required form. The department has developed a report form that must be used to complete the annual report unless a person obtains prior written approval from the department to file the annual report in an alternative format.~~

~~(b))~~ **Electronic filing.** Reports must be filed electronically unless the department waives this requirement upon a showing of good cause. A report is filed electronically when the department receives the report in an electronic format. A person accesses electronic filing through their department "My Account." To file and submit electronically, go to <http://dor.wa.gov/TaxIncentiveReporting>.

(b) Required paper form. If the department waives the electronic filing requirement for a person upon a showing of good cause, then that person must use the annual report developed by the department unless that person obtains prior written approval from the department to file an annual report in an alternative format.

(c) How to obtain the form. Persons who have received a waiver of the electronic filing requirement from the department or who otherwise would like a paper copy of the report may obtain the report from the department's web site (www.dor.wa.gov). It may also be obtained from the department's district offices, by telephoning the telephone information center (800-647-7706), or by contacting the department's ~~((special programs))~~ taxpayer account administration division at:

Attn: Local Finance Team
Department of Revenue
~~((Special Programs Division))~~
Taxpayer Account Administration
Post Office Box ~~((47477))~~ 47476
Olympia, WA 98504-~~((7477))~~ 7476
Fax: 360-586-~~((2163))~~ 0527

(d) Special requirement for persons who did not file an annual report during the previous calendar year. If a person is a first-time filer or otherwise did not file an annual report with the department during the previous calendar year, the report must include information on employment, wages, and employer-provided health and retirement benefits for the two calendar years immediately preceding the due date of the report.

(e) Due date.

(i) **For reports due in 2011 or later.** For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this section, the report must be filed or postmarked by April 30th following any calendar year in which the person becomes eligible to claim the tax credit, tax exemption, or tax rate.

(ii) **For reports due ~~((prior to))~~ in 2010 or earlier.** For persons claiming any B&O tax credit, tax exemption, or tax rate listed under subsection (2) of this section, with the exception of the tax rate provided by RCW 82.04.2404, the report must be filed or postmarked by March 31st following any calendar year in which the tax credit, tax exemption, or tax rate is claimed. For persons claiming the tax rate provided by RCW 82.04.2404 the report must be filed or postmarked by April 30th following any calendar year in which the tax rate is claimed.

(iii) **Due date extensions.** The department may extend the due date for timely filing annual reports as provided in subsection (18) of this section.

(f) Examples.

(i) An aerospace firm begins taking the B&O tax rate provided by RCW 82.04.260~~((11))~~ (11) for manufacturers and processors for hire of commercial airplanes and component parts on October 1, 2010. By April 30, 2011, the aerospace firm must provide an annual report covering calendar years 2009 and 2010. If the aerospace firm continues to take the B&O tax rate provided by RCW 82.04.260~~((11))~~ (11)

during calendar year 2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(ii) An aluminum smelter begins taking the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters on July 31, 2010. By April 30, 2011, the aluminum smelter must provide an annual report covering calendar years 2009 and 2010. If the aluminum smelter continues to take the B&O tax rate provided by RCW 82.04.2909 during calendar year 2011, a single annual report is due on April 30, 2012, covering calendar year 2011.

(4) What employment positions are included in the annual report?

(a) **General rule.** Except as provided in (b) of this subsection, the report must include information detailing employment positions in the state of Washington.

(b) **Alternative method.** Persons engaged in manufacturing commercial airplanes or their components may report employment positions per job at the manufacturing site.

(i) **What is a "manufacturing site"?** For purposes of the annual report, a "manufacturing site" is one or more immediately adjacent parcels of real property located in Washington state on which manufacturing occurs that support activities qualifying for a tax adjustment. Adjacent parcels of real property separated only by a public road comprise a single site. A manufacturing site may include real property that supports nonqualifying activities such as administration offices, test facilities, warehouses, design facilities, and shipping and receiving facilities.

(ii)(A) **If the person files per job at the manufacturing site, which manufacturing site is included in the annual report for the aerospace manufacturing industry tax adjustments?** The location(s) where a person is manufacturing commercial airplanes or components of such airplanes within this state is the manufacturing site(s) included in the annual report. A "commercial airplane" has its ordinary meaning, which is an airplane certified by the Federal Aviation Administration ("FAA") for transporting persons or property, and any military derivative of such an airplane. A "component" means a part or system certified by the FAA for installation or assembly into a commercial airplane.

(B) **Are there alternative methods for reporting separately for each manufacturing site?** For purposes of completing the annual report, the department may agree to allow a person whose manufacturing sites are within close geographic proximity to consolidate its manufacturing sites onto a single annual report provided that the jobs located at the manufacturing sites have equivalent employment positions, wages, and employer-provided health and retirement benefits. A person may request written approval to consolidate manufacturing sites by contacting the department's ~~((special programs))~~ taxpayer account administration division at:

Attn: Local Finance Team
 Department of Revenue
~~((Special Programs Division))~~
Taxpayer Account Administration
 Post Office Box ~~((47477))~~ 47476
 Olympia, WA 98504-~~((7477))~~ 7476
 Fax: 360-586-~~((2163))~~ 0527

(c) Examples.

(i) ABC Airplanes, a company manufacturing FAA certified airplane landing gear, conducts activities at three locations in Washington state. ABC Airplanes is reporting tax under the B&O tax rate provided by RCW 82.04.260~~((10))~~ (11) for manufacturers and processors for hire of commercial airplanes and component parts. In Seattle, WA, ABC Airplanes maintains its corporate headquarters and administrative offices. In Spokane, WA, ABC Airplanes manufactures the brake systems for the landing gear. In Vancouver, WA, ABC Airplanes assembles the landing gear using the components manufactured in Spokane, WA. If filing per manufacturing site, ABC Airplanes must file separate annual reports for employment positions at its manufacturing sites in Spokane and Vancouver because these are the Washington state locations in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(ii) Acme Engines, a company manufacturing engine parts, conducts manufacturing in five locations in Washington state. Acme Engines is reporting tax under the B&O tax rate provided by RCW 82.04.260(10) for manufacturers and processors for hire of commercial airplanes and component parts. It manufactures FAA certified engine parts at its Puyallup, WA location. Acme Engines' four other locations manufacture non-FAA certified engine parts. If filing per manufacturing site, Acme Engines must file an annual report for employment positions at its manufacturing site in Puyallup because it is the only location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iii) Tacoma Rivets, located in Tacoma, WA, manufactures rivets used in manufacturing airplanes. Half of the rivets Tacoma Rivets manufactures are FAA certified to be used on commercial airplanes. The remaining rivets Tacoma Rivets manufactures are not FAA certified and are used on military airplanes. Tacoma Rivets is reporting tax on its sales of FAA certified rivets under the B&O tax rate provided by RCW 82.04.260~~((10))~~ (11) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Tacoma Rivets must file an annual report for employment positions at its manufacturing site in Tacoma because it is the location in Washington state in which manufacturing occurs that supports activities qualifying for a tax adjustment.

(iv) Dynamic Aerospace Composites is a company that only manufactures FAA certified airplane fuselage materials. Dynamic Aerospace Composites conducts activities at three separate locations within Kent, WA. Dynamic Aerospace Composites is reporting tax under the B&O tax rate provided by RCW 82.04.260~~((10))~~ (11) for manufacturers and processors for hire of commercial airplanes and component parts. If filing per manufacturing site, Dynamic Aerospace Composites must file separate annual reports for each of its three manufacturing sites.

(v) Worldwide Aerospace, an aerospace company, manufactures wing systems for commercial airplanes in twenty locations around the world, but none located in Washington state. Worldwide Aerospace manufactures wing surfaces in San Diego, CA. Worldwide Aerospace sells the wing systems to an airplane manufacturer located in Moses Lake, WA and

is reporting tax on these sales under the B&O tax rate provided by RCW 82.04.260((+0)) (11) for sales, at retail or wholesale, of commercial airplanes, or components of such airplanes, manufactured by that person. Worldwide Aerospace is required to complete the annual report for any employment positions in Washington that are directly related to the qualifying activity.

(5) What jobs are included in the annual report?

(a) The annual report covers all full-time, part-time, and temporary jobs in this state or, for persons filing as provided in subsection (4)(b) of this section, at the manufacturing site as of December 31st of the calendar year for which an applicable tax adjustment is claimed. Jobs that support nonqualifying activities or support both nonqualifying and qualifying activities for a tax adjustment are included in the report if the job is located in the state of Washington or, for persons filing as provided in subsection (4)(b) of this section, at the manufacturing site.

(b) Examples.

(i) XYZ Aluminum, an aluminum smelter company, manufactures aluminum in Tacoma, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.2909 for aluminum smelters. XYZ Aluminum's annual report for its Tacoma, WA location will include all of its employment positions in this state, including its nonmanufacturing employment positions.

(ii) AAA Tire Company manufactures tires at one manufacturing site located in Centralia, WA. The company is reporting tax under the B&O tax rate provided by RCW 82.04.260((+0)) (11) for manufacturers and processors for hire of commercial airplanes and component parts. FAA certified tires comprise only 20% of the products it manufactures and are manufactured in a separate building at the manufacturing site. If filing under the method described in subsection (4)(b) of this section, AAA Tire Company must report all jobs at the manufacturing site, including the jobs engaged in the nonqualifying activities of manufacturing non-FAA certified tires.

(6) How is employment detailed in the annual report?

The annual report is organized by employee occupational groups, consistent with the United States Department of Labor's Standard Occupation Codes (SOC) System. The SOC System is a universal occupational classification system used by government agencies and private industries to produce comparable occupational data. The SOC classifies occupations at four levels of aggregation:

- (a) Major group;
- (b) Minor group;
- (c) Broad occupation; and
- (d) Detailed occupation.

All occupations are clustered into one of twenty-three major groups. The annual report uses the SOC major groups to detail the levels of employment, wages, and employer-provided health and retirement benefits at the manufacturing site. A detailed description of the SOC System is available by contacting the department's special programs division or by consulting the United States Department of Labor, Bureau of Labor Statistics online at www.bls.gov/soc. The annual report does not require names of employees.

(7) What is total employment? The annual report must state the total number of employees for each SOC major group that are currently employed on December 31st of the calendar year for which an applicable tax adjustment is taken. Total employment includes employees who are on authorized leaves of absences such as sick leave, vacation, disability leave, jury duty, military leave, regardless of whether those employees are receiving wages. Leaves of absences do not include separations of employment such as layoffs or reductions in force. Vacant positions are not included in total employment.

(8) What are full-time, part-time and temporary employment positions? An employer must provide information on the number of employees, as a percentage of total employment in the SOC major group, that are employed in full-time, part-time or temporary employment positions on December 31st of the calendar year for which an applicable tax adjustment is claimed. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(a) Full-time and part-time employment positions. In order for a position to be treated as full time or part time, the employer must intend for the position to be filled for at least fifty-two consecutive weeks or twelve consecutive months. A full-time position is a position that satisfies any one of the following minimum thresholds:

- (i) Works thirty-five hours per week for fifty-two consecutive weeks;
- (ii) Works four hundred fifty-five hours, excluding overtime, each quarter for four consecutive quarters; or
- (iii) Works one thousand eight hundred twenty hours, excluding overtime, during a period of twelve consecutive months.

A part-time position is a position in which the employee works less than the hours required for a full-time position. In some instances, an employee may not be required to work the hours required for full-time employment because of paid rest and meal breaks, health and safety laws, disability laws, shift differentials, or collective bargaining agreements, but receives wages equivalent to a full-time job. If, in the absence of these factors, the employee would be required to work the number of hours for a full-time position to receive full-time wages, the position should be reported as a full-time employment position.

(b) Temporary positions. A temporary position is a position that is intended to be filled for period of less than twelve consecutive months. Positions in seasonal employment are temporary positions. Temporary positions include workers furnished by staffing companies regardless of the duration of the placement with the person required to file the annual report.

(c) Examples. Assume these facts for the following examples. National Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. National Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. National Airplane Inc. employs one hundred people. Seventy-five of the employees work directly in the manufacturing operation and are classified as SOC Production Occupations. Five employees work in the engineering and design division and

are classified as SOC Architect and Engineering Occupations. Five employees are sales representatives and are classified as SOC Sales and Related Occupations. Five employees are service technicians and are classified as SOC Installation, Maintenance, and Repair Occupations. Five employees are administrative assistants and are classified as SOC Office and Administrative Support. Five executives are classified as SOC Management Occupations.

(i) Through a college work-study program, National Airplane Inc. employs six interns from September through June in its engineering department. The interns work twenty hours a week. The six interns are reported as temporary employees, and not as part-time employees, because the intern positions are intended to be filled for a period of less than twelve consecutive months. Assuming the five employees classified as SOC Architect and Engineering Occupations are full-time employees, National Airplane Inc. will report a total of eleven employment positions in SOC Architect and Engineering Occupations with 45% in full-time employment positions and 55% in temporary employment positions.

(ii) National Airplane Inc. manufactures navigation systems in two shifts of production. The first shift works eight hours from 8:00 a.m. to 5:00 p.m. Monday thru Friday. The second shift works six hours from 6:00 p.m. to midnight Monday thru Friday. The second shift works fewer hours per week (thirty hours) than the first shift (forty hours) as a pay differential for working in the evening. If a second shift employee transferred to the first shift, the employee would be required to work forty hours with no overall increase in wages. The second shift employees should be reported as full-time employment positions, rather than part-time employment positions.

(iii) On December 1st, ten National Airplane Inc. full-time employees classified as SOC Production Occupations take family and medical leave for twelve weeks. National Airplane Inc. hires five people to perform the work of the employees on leave. Because the ten employees classified as SOC Production Occupations are on authorized leave, National Airplane Inc. will include those employees in the annual report as full-time employment positions. The five people hired to replace the absent employees classified as SOC Production Occupations will be included in the report as temporary employees. National Airplane Inc. will report a total of eighty employment positions in SOC Production Occupations with 93.8% in full-time employment positions and 6.2% in temporary employment positions.

(iv) On December 1st, one full-time employee classified as SOC Sales and Related Occupations resigns from her position. National Airplane Inc. contracts with Jane Smith d/b/a Creative Enterprises, Inc. to finish an advertising project assigned to the employee who resigned. Because Jane Smith is an independent contractor, National Airplane Inc. will not include her employment in the annual report. Because the resignation has resulted in a vacant position, the total number of employment positions National Airplane Inc. will report in SOC Sales and Related Occupations is reduced to four employment positions.

(v) All National Airplane Inc. employees classified as SOC Office and Administrative Support Occupations work forty hours a week, fifty-two weeks a year. On November 1st,

one employee must limit the number of hours worked to thirty hours each week to accommodate a disability. The employee receives wages based on the actual hours worked each week. Because the employee works less than thirty-five hours a week and is not paid a wage equivalent to a full-time position, the employee's position is a part-time employment position. National Airplane Inc. will report a total of five employment positions in SOC Office and Administrative Support Occupations with 80% in full-time employment positions and 20% in part-time employment positions.

(9) **What are wages?** For the purposes of the annual report, "wages" means the base compensation paid to an individual for personal services rendered to an employer, whether denominated as wages, salary, commission, or otherwise. Compensation in the form of overtime, tips, bonuses, benefits (insurance, paid leave, meals, etc.), stock options, and severance pay are not "wages." For employees that earn an annual salary, hourly wages are determined by dividing annual salary by 2080. If an employee is paid by commission, hourly wages are determined by dividing the total amount of commissions paid during the calendar year by 2080.

(10) **How are wages detailed for the annual report?**

(a) An employer must provide information on the number of employees, as a percentage of the total employment in the SOC major group, paid a wage within the following five hourly wage bands:

Up to \$10.00 an hour;
 \$10.01 an hour to \$15.00 an hour;
 \$15.01 an hour to \$20.00 an hour;
 \$20.01 an hour to \$30.00 an hour; and
 \$30.01 an hour or more.

Percentages should be rounded to the nearest 1/10th of 1% (XX.X%). For purposes of the annual report, wages are measured on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(b) **Examples.** Assume these facts for the following examples. Washington Airplane Inc. manufactures FAA certified navigation systems at a manufacturing site located in Tacoma, WA. Washington Airplane Inc. is claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. Washington Airplane Inc. employs five hundred people at the manufacturing site, which constitutes its entire work force in this state. Four hundred employees engage in activities that are classified as SOC Production Occupations. Fifty employees engage in activities that are classified as SOC Architect and Engineer Occupations. Twenty-five employees are engaged in activities classified as SOC Management Occupations. Twenty employees are engaged in activities classified as SOC Office and Administrative Support Occupations. Five employees are engaged in activities classified as SOC Sales and Related Occupations.

(i) One hundred employees classified as SOC Production Occupations are paid \$12.00 an hour. Two hundred employees classified as SOC Production Occupations are paid \$17.00 an hour. One hundred employees classified as SOC Production Occupations are paid \$25.00 an hour. For SOC Production Occupations, Washington Airplane Inc. will report 25% of employment positions are paid \$10.01 an hour

to \$15.00 an hour; 50% are paid \$15.01 an hour to \$20.00 an hour; and 25% are paid \$20.01 an hour to \$30.00 an hour.

(ii) Ten employees classified as SOC Architect and Engineering Occupations are paid an annual salary of \$42,000; another ten employees are paid \$50,000 annually; and the remaining employees are all paid over \$70,000 annually. In order to report wages, the annual salaries must be converted to hourly amounts by dividing the annual salary by 2080 hours. For SOC Architect and Engineering Occupations, Washington Airplane Inc. will report 40% of employment positions are paid \$20.01 an hour to \$30.00 an hour and 60% are paid \$30.00 an hour or more.

(iii) All the employees classified as SOC Sales and Related Occupations are sales representatives that are paid on commission. They receive \$10.00 commission for each navigation system sold. Three sales representatives sell 2,500 navigation systems during the calendar year. Two sales representatives sell 3,500 navigation systems during the calendar year and receive a \$10,000 bonus for exceeding company's sales goals. In order to report wages, the employee's commissions must be converted to hourly amounts by dividing the total commissions by 2080 hours. Washington Airplane Inc. will report that 60% of employment positions classified as SOC Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour. Because bonuses are not included in wages, Washington Airplane Inc. will report 40% of employment positions classified as SOC Sales and Related Occupations are paid \$15.01 an hour to \$20.00 an hour.

(iv) Ten of the employees classified as SOC Office and Administrative Support Occupations earn \$9.50 an hour. The remaining ten employees classified as SOC Office and Administrative Support Occupations earn wages between \$10.01 an hour to \$15.00 an hour. On December 1st, Washington Airplane Inc. announces that effective December 15th, all employees classified as SOC Office and Administrative Support Occupations will earn wages of at least \$10.50 an hour, but no more than \$15.00 an hour. Because wages are measured on December 31st, Washington Airplane Inc. will report 100% of employment positions classified as SOC Office and Administrative Support Occupations Sales and Related Occupations are paid \$10.01 an hour to \$15.00 an hour.

(11) Reporting workers furnished by staffing companies. For temporary positions filled by workers that are furnished by staffing companies, the person filling out the annual report must provide the following information:

(a) Total number of staffing company employees furnished by staffing companies;

(b) Top three occupational codes of all staffing company employees; and

(c) Average duration of all staffing company employees.

(12) What are employer-provided health benefits? For purposes of the annual report, "health benefits" means compensation, not paid as wages, in the form of a health plan offered by an employer to its employees. A health plan that is equally available to employees and the general public is not an "employer-provided" health benefit.

(a) "Dental care services" means services offered or provided by health care facilities and health care providers relat-

ing to the prevention, cure, or treatment of illness, injury, or disease of human teeth, alveolar process, gums, or jaw.

(b) "Dental care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' dental care services.

(c) "Health plan" means any plan, fund, or program established, maintained, or funded by an employer for the purpose of providing for its employees or their beneficiaries, through the purchase of insurance or otherwise, medical care and dental care services. Health plans include any "employee welfare benefit plan" as defined by the Employee Retirement Income Security Act (ERISA), any "health plan" or "health benefit plan" as defined in RCW 48.43.005, any self-funded multiple employer welfare arrangement as defined in RCW 48.125.010, any "qualified health insurance" as defined in Section 35 of the Internal Revenue Code, an "Archer MSA" as defined in Section 220 of the Internal Revenue Code, a "health savings plan" as defined in Section 223 of the Internal Revenue Code, any "health plan" qualifying under Section 213 of the Internal Revenue Code, governmental plans, and church plans.

(d) "Medical care services" means services offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(e) "Medical care plan" means a health plan for the purpose of providing for its employees or their beneficiaries' medical care services.

(13) How are employer-provided health benefits detailed in the annual report? The annual report is organized by SOC major group and by type of health plan offered to or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed.

(a) **Detail by SOC major group.** For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to participate in an employer-provided medical care plan. An employee is "eligible" if the employee can currently participate in a medical care plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, preexisting conditions, and other limitations may prevent an employee from being eligible for coverage in an employer's medical care plan. If an employer provides multiple medical care plans, an employee is "eligible" if the employee can currently participate in one of the medical care plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) **Examples.**

(i) On December 31st, Acme Engines has one hundred employees classified as SOC Production Occupations. It offers these employees two medical care plans. Plan A is available to all employees at the time of hire. Plan B is available to employees after working ninety days. For SOC Production Occupations, Acme Engines will report 100% of its employees are eligible for employer-provided medical benefits because all of its employees are eligible for at least one medical care plan offered by Acme Engines.

(ii) Apex Aluminum has fifty employees classified as SOC Transportation and Material Moving Occupations, all of whom have worked for Apex Aluminum for over five years.

Apex Aluminum offers one medical care plan to its employees. Employees must work for Apex Aluminum for six months to participate in the medical care plan. On October 1st, Apex Aluminum hires ten new employees classified as SOC Transportation and Material Moving Occupations. For SOC Transportation and Material Moving Occupations, Apex Aluminum will report 83.3% of its employees are eligible for employer-provided medical benefits.

(c) **Detail by type of health plan.** The report also requires detailed information about the types of health plans the employer provides. If an employer has more than one type of health plan, it must report each health plan separately. If a person offers more than one of the same type of health plan as described in (c)(i) of this subsection, the person may consolidate the detail required in (c) through (e) of this subsection by using ranges to describe the information. The details include:

(i) A description of the type of plan in general terms such as self-insured, fee for service, preferred provider organization, health maintenance organization, health savings account, or other general description. The report does not require a person to disclose the name(s) of their health insurance carrier(s).

(ii) The number of employees eligible to participate in the health plan, as a percentage of total employment at the manufacturing site or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the health plan, as a percentage of employees eligible to participate in the health plan at the manufacturing site or as otherwise reported. An employee is "enrolled" if the employee is currently covered by or participating in an employer-provided health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The average percentage of premium paid by employees enrolled in the health plan. "Premium" means the cost incurred by the employer to provide a health plan or the continuance of a health plan, such as amounts paid to health carriers or costs incurred by employers to self-insure. Employers are generally legally responsible for payment of the entire cost of the premium for enrolled employees, but may require enrolled employees to share in the cost of the premium to obtain coverage. State the amount of premium, as a percentage, employees must pay to maintain enrollment under the health plan. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(v) If necessary, the average monthly contribution to enrolled employees. In some instances, employers may make contributions to an employee health plan, but may not be aware of the percentage of premium cost borne by the employee. For example, employers may contribute to a health plan sponsored by an employee organization, or may sponsor a medical savings account or health savings account. In those instances where the employee's contribution to the health plan is unknown, an employer must report its average monthly contribution to the health plan by dividing the employer's total monthly costs for the health plan by the total number of employees enrolled in the health plan.

(vi) Whether legal spouses, state registered domestic partners, and unmarried dependent children can obtain cover-

age under the health plan and if there is an additional premium for such coverage.

(vii) Whether part-time employees are eligible to participate in the health plan.

(d) **Medical care plans.** In addition to the detailed information required for each health plan, report the amount of enrolled employee point of service cost-sharing for hospital services, prescription drug benefits, and primary care physician services for each medical care plan. If differences exist within a medical care plan, the lowest cost option to the enrolled employee must be stated in the report. For example, if employee point of service cost-sharing is less if an enrolled employee uses a network of preferred providers, report the amount of point of service cost-sharing using a preferred provider. Employee point of service cost-sharing is generally stated as a percentage of cost, a specific dollar amount, or both.

(i) "Employee point of service cost-sharing" means amounts paid to health carriers directly providing medical care services, health care providers, or health care facilities by enrolled employees in the form of copayments, co-insurance, or deductibles. Copayments and co-insurance mean an amount specified in a medical care plan which is an obligation of enrolled employees for a specific medical care service which is not fully prepaid. A deductible means the amount an enrolled employee is responsible to pay before the medical care plan begins to pay the costs associated with treatment.

(ii) "Hospital services" means covered in-patient medical care services performed in a hospital licensed under chapter 70.41 RCW.

(iii) "Prescription drug benefit" means coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy.

(iv) "Primary care provider services" means nonemergency medical care services provided in an office setting by the employee's primary care provider.

(e) **Dental care plans.** In addition to the health plan information required for each dental care plan, the annual maximum benefit for each dental care plan must be stated in the report. Most dental care plans have an annual dollar maximum benefit. This is the maximum dollar amount a dental care plan will pay toward the cost of dental care services within a specific benefit period, generally one year. The enrolled employee is personally responsible for paying costs above the annual maximum.

(f) **Examples.**

(i) Assume the following facts for the following examples. Mosaic Aerospace employs one hundred employees and offers two medical care plans as health benefits to employees at the time of hire. Plan A is a managed care plan (HMO). Plan B is a fee for service medical care plan.

(A) Forty Mosaic Aerospace employees are enrolled in Plan A. It costs Mosaic Aerospace \$750 a month for each employee covered by Plan A. Enrolled employees must pay \$150 each month to participate in Plan A. If an enrolled employee uses its network of physicians, Plan A will cover 100% of the cost of primary care provider services with employees paying a \$10.00 copayment per visit. If an enrolled employee uses its network of hospitals, Plan A will cover 100% of the cost of hospital services with employees

paying a \$200 deductible. If an enrolled employee does not use a network provider, Plan A will cover only 50% of the cost of any service with a \$500 employee deductible. An enrolled employee must use a network of retail pharmacies to receive any prescription drug benefit. Plan A will cover the cost of prescription drugs with enrolled employees paying a \$10.00 copayment. If an enrolled employee uses the mail-order pharmacy option offered by Plan A, copayment for prescription drug benefits is not required.

Mosaic Aerospace will report Plan A separately as a managed care plan. One hundred percent of its employees are eligible to participate in Plan A. The percentage of eligible employees enrolled in Plan A is 40%. The percentage of premium paid by an employee is 20%. Mosaic Aerospace will also report that employees have a \$10.00 copayment for primary care provider services and a \$200 deductible for hospital services because this is the lowest cost option within Plan A. Mosaic Aerospace will report that employees have a \$10.00 copayment for prescription drug benefit. Mosaic Aerospace cannot report that employees do not have a prescription drug benefit copayment because "prescription drug benefit" is defined as coverage to purchase a thirty-day or less supply of generic prescription drugs from a retail pharmacy, not a mail-order pharmacy.

(B) Fifty Mosaic Aerospace employees are enrolled in Plan B. It costs Mosaic Aerospace \$1,000 a month for each employee covered by Plan B. Enrolled employees must pay \$300 a month to participate in Plan B. Plan B covers 100% of the cost of primary care provider services and 100% of the cost of prescription drugs with employees paying a \$200 annual deductible for each covered service. Plan B covers 80% of the cost of hospital services with employees paying a \$250 annual deductible.

Mosaic Aerospace will report Plan B separately as a fee for service medical care plan. One hundred percent of its employees are eligible to participate in Plan B. The percentage of eligible employees enrolled in Plan B is 50%. The percentage of premium paid by an employee is 30%. Mosaic Aerospace will also report that employees have a \$200 annual deductible for both primary care provider services and prescription drug benefits. Hospital services have a \$250 annual deductible and 20% co-insurance obligation.

(C) On December 1st, Mosaic Aerospace acquires General Aircraft Inc., a company claiming all the tax adjustments available for manufacturers and processors for hire of commercial airplanes and component parts. General Aircraft Inc. had fifty employees, all of whom were retained by Mosaic Aerospace. At General Aircraft Inc., employees were offered one managed care plan (HMO) as a benefit. The former General Aircraft Inc. employees will retain their current managed care plan until the following June when employees would be offered Mosaic Aerospace benefits. On December 31st, Mosaic Aerospace is offering employees two managed care plans. Mosaic Aerospace may report each managed care plan separately or may consolidate the detail required in (c) through (e) of this subsection for this type of medical care plan by using ranges to report the information.

(ii) Aero Turbines employs one hundred employees. It offers employees health savings accounts as a benefit to employees who have worked for the company for six months.

Aero Turbines established the employee health savings accounts with a local bank and makes available to employees a high deductible medical care plan to be used in conjunction with the account. Aero Turbines deposits \$500 a month into each employee's health savings account. Employees deposit a portion of their pretax earnings into a health savings account to cover the cost of primary care provider services, prescription drug purchases, and the high deductible medical care plan for hospital services. The high deductible medical care plan has an annual deductible of \$2,000 and covers 75% of the cost of hospital services. Sixty-six employees open health savings accounts. Four employees have not worked for Aero Turbines for six months.

Aero Turbines will report the medical care plan as a health savings account. Ninety-six percent of employees are eligible to participate in health savings accounts. The percentage of eligible employees enrolled in health savings accounts is 68.8%. Because the amount of employee deposits into their health savings accounts will vary, Aero Turbines will report the average monthly contribution of \$500 rather than the percentage of premium paid by enrolled employees. Because employees are responsible for covering their primary care provider services and prescription drugs costs, Aero Turbines will report that this health plan does not include these services. Because the high deductible medical care plan covers the costs of hospital services, Aero Turbines will report that the medical care plan has an annual deductible of \$2,000 and employees have 25% co-insurance obligation.

(14) What are employer-provided retirement benefits? For purposes of the annual report, "retirement benefits" mean compensation, not paid as wages, in the form of a retirement plan offered by an employer to its employees. A "retirement plan" means any plan, account, deposit, annuity, or benefit, other than a life insurance policy, that provides for retirement income or deferred income to employees for periods extending to the termination of employment or beyond. Retirement plans include pensions, annuities, stock bonus plans, employee stock ownership plans, profit sharing plans, self-employed retirement plans, individual retirement accounts, individual retirement annuities, and retirement bonds, as well as any other plan or program, without regard to its source of funding, and without regard to whether the retirement plan is a qualified plan meeting the guidelines established in the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code. A retirement plan that is equally available to employees and the general public is not an "employer-provided" retirement benefit.

(15) How are employer-provided retirement benefits detailed in the annual report? The annual report is organized by SOC major group and by type of retirement plans offered to employees or with enrolled employees on December 31st of the calendar year for which an applicable tax adjustment is claimed. Inactive or terminated retirement plans are excluded from the annual report. An inactive retirement plan is a plan that is not offered to new employees, but has enrolled employees, and neither enrolled employees nor the employer are making contributions to the retirement plan.

(a) Detail by SOC major group. For each SOC major group, report the number of employees, as a percentage of total employment in the SOC major group, eligible to partic-

ipate in an employer-provided retirement plan. An employee is "eligible" if the employee can currently participate in a retirement plan provided by the employer. Waiting periods, tenure requirements, minimum work hour requirements, and other limitations may prevent an employee from being eligible for coverage in an employer's retirement plan. If an employer provides multiple retirement plans, an employee is "eligible" if the employee can currently participate in one of the retirement plans. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(b) Examples.

(i) Lincoln Airplane has one hundred employees classified as SOC Production Occupations. Fifty employees were enrolled in defined benefit pension at the time of hire. All employees are eligible to participate in a 401(k) Plan. For SOC Production Occupations, Lincoln Airplane will report 100% of its employees are eligible for employer-provided retirement benefits because all of its employees are eligible for at least one retirement plan offered by Lincoln Airplane.

(ii) Fly-Rite Airplanes has fifty employees classified in SOC Computer and Mathematical Occupations. Fly-Rite Airplane offers a SIMPLE IRA to its employees after working for the company one year. Forty-five employees classified in SOC Computer and Mathematical Occupations have worked for the company more than one year. For SOC Computer and Mathematical Occupations, Fly-Rite Airplanes will report 90% of its employees are eligible for retirement benefits.

(c) Detail by retirement plan. The report also requires detailed information about the types of retirement plans an employer offers employees. If an employer offers multiple retirement plans, it must report each type of retirement plan separately. If an employer offers more than one of the same type of retirement plan, but with different levels of employer contributions, it may consolidate the detail required in (i) through (iv) of this subsection by using ranges to describe the information. The report includes:

(i) The type of plan in general terms such as 401(k) Plan, SEP IRA, SIMPLE IRA, cash balance pension, or defined benefit plan.

(ii) The number of employees eligible to participate in the retirement plan, as a percentage of total employment at the manufacturing site, or as otherwise reported. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iii) The number of employees enrolled in the retirement plan, as a percentage of employees eligible to participate in the retirement plan at the manufacturing site. An employee is "enrolled" if the employee currently participates in an employer-provided retirement plan, regardless of whether the employee has a vested benefit. Percentages should be rounded to the nearest 1/10th of 1% (XX.X%).

(iv) The maximum benefit the employer will contribute into the retirement plan for enrolled employees. The maximum benefit an employer will contribute is generally stated as a percentage of salary, specific dollar amount, or both. This information is not required for a defined benefit plan meeting the qualification requirements of Employee Retirement Income Security Act (ERISA) that provides benefits according to a flat benefit, career-average, or final pay formula.

(d) Examples.

(i) General Airspace is a manufacturer of airplane components located in Centralia, WA. General Airspace employs one hundred employees. Fifty employees are eligible for and enrolled in a defined benefit pension with a flat benefit at the time of retirement. Twenty-five employees are eligible for and enrolled in a cash balance pension with General Airspace contributing 7% of an employee's annual compensation with a maximum annual contribution of \$10,000. All General Airspace employees can participate in a 401(k) Plan. Sixty-five employees are participating in the 401(k) Plan. General Airspace does not make any contributions into the 401(k) Plan. Five employees are former employees of United Skyways, a company General Airspace acquired. United Skyways employees were enrolled in a cash balance pension at the time of hire. When General Airspace acquired United Skyways, it did not terminate or liquidate the United Skyways cash balance plan. Rather, General Airspace maintains cash balance plan only for former United Skyways employees, allowing only interest to accrue to the plan.

(A) General Airspace will report that it offers three retirement plans - A defined benefit pension, a cash-balance pension, and a 401(k) Plan. General Airspace will not report the inactive cash balance pension it maintains for former United Skyways employees.

(B) For the defined benefit pension, General Airspace will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

(C) For the cash-balance pension, General Airspace will report 25% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled. General Airspace will report a maximum contribution of \$10,000 or 7% of an employee's annual compensation.

(D) For the 401(k) Plan, General Airspace will report 100% of its total employment positions are eligible to participate in the retirement plan. Of the employment positions eligible to participate, 65% are enrolled. General Airspace will report that it does not make any contributions into the 401(k) Plan.

(ii) Washington Alloys is an aluminum smelter located in Grandview, WA. Washington Alloys employs two hundred employees. Washington Alloys offers a 401(k) Plan to its employees after one year of hire. One hundred seventy-five employees have worked for Washington Alloys for one year or more. Of that amount, seventy-five have worked more than five years. Washington Alloys will match employee contributions up to a maximum 3% of annual compensation. If an employee has worked for Washington Alloys for more than five years, Washington Alloys will contribute 5% of annual compensation regardless of the employee's contribution. One hundred employees receive a 3% matching contribution from Washington Alloys. Fifty employees receive a contribution of 5% of annual compensation.

(A) Washington Alloys can report each 401(k) Plan separately - A 401(k) Plan with a maximum employer contribution of 3% of annual compensation and a 401(k) Plan with a maximum employer contribution to 5% of annual compensation. Alternatively, Washington Alloys can report that it

offers a 401(k) Plan with a maximum employer contribution ranging from 3% to 5% of annual compensation.

(B)(I) If Washington Alloys reports each 401(k) Plan separately, for the 401(k) Plan with a maximum employer contribution of 3% of annual compensation, Washington Alloys will report 50% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 100% are enrolled.

For the 401(k) Plan with a maximum employer contribution of 5% of annual compensation, Washington Alloys will report 37.5% of its total employment positions are eligible to participate. Of the employment positions eligible to participate, 66.6% are enrolled.

(II) If Washington Alloys consolidates its detailed information about its 401(k) Plans, it will report that 87.5% of its total employment positions are eligible to participate in 401(k) Plans. Of the employment positions eligible to participate in the 401(k) Plans, 85.7% are enrolled.

(16) Additional reporting for aluminum smelters and electrolytic processing businesses. For an aluminum smelter or electrolytic processing business, the annual report must indicate the quantity of product produced in this state during the time period covered by the report.

(17) Are annual reports confidential? Except for the additional information that the department may request which it deems necessary to measure the results of, or to determine eligibility for the tax preference, annual reports are not subject to the confidentiality provisions of RCW 82.32.330 and may be disclosed to the public upon request.

(18) What are the consequences for failing to file a complete annual report?

(a) If a person claims a tax adjustment that requires an annual report under this section but fails to submit a complete report by the due date or any extension under RCW 82.32.-590 the amount of the tax adjustment claimed for the previous calendar year becomes immediately due and payable. Interest, but not penalties, will be assessed on these amounts due. The interest will be assessed at the rate provided for delinquent taxes provided for in RCW 82.32.050, retroactively to the date the tax preference was claimed, and accrues until the taxes for which the tax preference was claimed are repaid.

(b) **Complete annual report.** An annual report is complete if:

(i) The annual report is filed on the form required by this section; and

(ii) The person makes a good faith effort to substantially respond to all report questions required by this section.

The answer "varied," "various," or "please contact for information" is not a good faith response to a question.

(c) **Extension for circumstances beyond the control of the taxpayer.** If the department finds that the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will extend the time for filing the report. The extension will be for a period of thirty days from the date the department issues its written notification to the taxpayer that it qualifies for an extension under this section. The department may grant additional extensions as it deems proper.

In making a determination whether the failure of a taxpayer to file an annual report by the due date was the result of circumstances beyond the control of the taxpayer, the department will apply the provisions adopted by the department in WAC 458-20-228 for the waiver or cancellation of penalties when the underpayment of untimely payment of any tax was due to circumstances beyond the control of the taxpayer.

(d) **One-time only extension.** A taxpayer who fails to file an annual report required under this section by the due date of the report is entitled to an extension of the due date. A request for an extension under this subsection must be made in writing to the department.

(i) To qualify for an extension, a taxpayer must have filed all annual reports and surveys, if any, due in prior years by their respective due dates, beginning with annual reports and surveys due in the calendar year 2010.

(ii) An extension is for ninety days from the original due date of the annual report.

(iii) No taxpayer may be granted more than one ninety-day extension.

WSR 14-19-027

PERMANENT RULES

DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

(Community Services Division)

[Filed September 8, 2014, 10:51 a.m., effective October 9, 2014]

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

Purpose: The department is amending WAC 388-436-0002 If my family has an emergency, can I get help from DSHS to get or keep housing or utilities?, to increase the amount of additional requirements for emergent needs (AREN) payments that can be issued from a \$750.00 maximum lifetime limit to a \$750.00 maximum in a twelve-month period.

These changes implement the WorkFirst program changes outlined in the agency detail, rec sums for the supplemental budget (ESSB 6002) that passed the legislature on March 13, 2014.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0002.

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

Adopted under notice filed as WSR 14-14-117 on July 2, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

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

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

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

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

Date Adopted: September 5, 2014.

Katherine I. Vasquez
Rules Coordinator

AMENDATORY SECTION (Amending WSR 12-02-047, filed 12/30/11, effective 2/1/12)

WAC 388-436-0002 If my family has an emergency, can I get help from DSHS to get or keep our housing or utilities? DSHS has a program called additional requirements for emergent needs (AREN). If your family has an emergency and you need assistance to get or keep safe housing or utilities, you may be eligible. The special AREN payment is in addition to the regular monthly cash grant your family may already get.

(1) To get AREN, you must:

(a) Be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or refugee cash assistance (RCA);

(b) Have an emergency housing or utility need;

(c) Have a good reason that you do not have enough money to pay your housing or utility costs; and

(d) Have not previously received the AREN maximum (~~lifetime~~) limit of seven hundred fifty dollars in a 12-month period. We will count all AREN payments received (~~since April 2004~~) in a 12-month period by any adult in your TANF assistance unit, for any assistance unit, when we calculate your (~~lifetime~~) AREN limit.

(2) To get AREN, you must be eligible for TANF, SFA, or RCA. This means you must:

(a) Get benefits through TANF, SFA, or RCA. For RCA you must also be pregnant or have an eligible child; or

(b) Apply for TANF, SFA, and RCA, and meet all eligibility criteria including:

(i) The maximum earned income limit under WAC 388-478-0035;

(ii) The requirement that your unearned income not exceed the grant payment standard;

(iii) The requirement that your countable income as defined under WAC 388-450-0162 must be below the payment standard in WAC 388-478-0020 when you have both earned income and unearned income;

(iv) The resource limits under chapter 388-470 WAC;

(v) The program summary rules for either TANF (WAC 388-400-0005); SFA (WAC 388-400-0010); or RCA (WAC 388-400-0030); and

(vi) The requirement that you must be pregnant or have an eligible child.

(3) If you do not get or do not want to get TANF, SFA or RCA, you cannot get AREN to help with housing or utility costs. We will look to see if you are eligible for diversion cash assistance (DCA) under WAC 388-432-0005.

(4) To get AREN, you must have an emergency housing or utility need. You may get AREN to help pay to:

(a) Prevent eviction or foreclosure;

(b) Get housing if you are homeless or need to leave your home because of domestic violence;

(c) Hook up or prevent a shut off of utilities related to your health and safety. We consider the following utilities to be needed for health and safety:

(i) Electricity or fuel for heating, lighting, or cooking;

(ii) Water;

(iii) Sewer; and

(iv) Basic local telephone service if it is necessary for your basic health and safety. If you receive TANF or SFA, the Washington telephone assistance program (WTAP) may be used to help you pay for basic local telephone service.

(d) Repair damage or defect to your home when it causes a risk to your health or safety:

(i) If you own the home, we may approve AREN for the least expensive method of ending the risk to your health or safety;

(ii) If you do not own the home, you must ask the landlord in writing to fix the damage according to the Residential Landlord-Tenant Act at chapter 59.18 RCW. If the landlord refuses to fix the damage or defect, we may pay for the repair or pay to move you to a different place whichever cost is lower.

(e) If you receive TANF or SFA, WorkFirst support services under WAC 388-310-0800 may be used to help you relocate to new housing to get a job, keep a job, or participate in WorkFirst activities. Nonhousing expenses that are not covered under AREN may be paid under WorkFirst support services. This includes expenses such as car repair, diapers, or clothing.

(5) To get AREN, you must have a good reason for not having enough money to pay for your housing or utility costs. You must prove that you:

(a) Did not have money available that you normally use to pay your rent and utilities due to an emergency situation that reduced your income (such as a long-term illness or injury);

(b) Had to use your money to pay for necessary or emergency expenses. Examples of necessary or emergency expenses include:

(i) Basic health and safety needs for shelter, food and clothing;

(ii) Medical care;

(iii) Dental care needed to get a job or because of pain;

(iv) Emergency child care;

(v) Emergency expenses due to a natural disaster, accident, or injury; and

(vi) Other reasonable and necessary expenses.

(c) Are currently homeless; or

(d) Had your family's cash grant reduced or suspended when we budgeted your expected income for the month, but the income will not be available to pay for the need when the payment is due. You must make attempts to negotiate later payments with your landlord or utility company before you can get AREN.

(6) In addition to having a good reason for not having enough money to pay for your costs, you must also explain

how you will afford to pay for the on-going need in the future. We may deny AREN if your expenses exceed your income (if you are living beyond your means). We may approve AREN to help you get into housing you can afford.

(7) If you meet the above requirements, we decide the amount we will pay based on the following criteria.

(a) AREN payments may be made up to a maximum of seven hundred fifty dollars in a ~~((lifetime))~~ in a 12-month period.

(b) The number of AREN payments you can receive is not limited, as long as the total amount received by all adults in the assistance unit for any assistance unit, does not exceed the seven hundred fifty dollar ~~((lifetime))~~ limit in a 12-month period. If you or another adult in your assistance unit have already received the ~~((lifetime))~~ limit, you may not be eligible to receive additional payments.

(c) We will determine if any adult TANF/SFA recipient living in your household has already received the AREN ~~((lifetime))~~ limit.

(d) We have the discretion to approve an AREN payment above the seven hundred fifty dollar ~~((lifetime))~~ limit when your health and safety are in imminent danger.

(e) The amount of AREN is in addition to the amount of your monthly TANF, SFA, or RCA cash grant.

(f) We will decide the lowest amount we must pay to end your housing or utility emergency. We will contact your landlord, utility company, or other vendor for information to make this decision. We may take any of the following steps when deciding the lowest amount to pay:

(i) We may ask you to arrange a payment plan with your landlord or utility company. This could include us making a partial payment, and you setting up a plan for you to repay the remaining amount you owe over a period of time.

(ii) We may have you use some of the money you have available in cash, checking, or savings to help pay for the expense. We will look at the money you have available as well as your bills when we decide how much we will pay.

(iii) We may consider income that is excluded or disregarded for cash assistance benefit calculations, such as SSI, as available to meet your emergency housing need.

(iv) We may consider money other individuals such as family or friends voluntarily give you. We will not count loans of money that you must repay to friends or family members.

(v) We may consider money from a nonneedy caretaker relative that lives in the home.

(vi) We may look at what other community resources you currently have to help you with your need.

(g) The seven hundred fifty dollar ~~((lifetime))~~ limit applies to the following people even if they leave the assistance unit:

(i) Adults; and

(ii) Minor parents that get AREN when no adults are in the assistance unit.

(8) We pay AREN directly to the landlord, mortgage company, utility, or other vendor.

(9) We may assign you a protective payee for your monthly grant under WAC 388-460-0020.

WSR 14-19-030

PERMANENT RULES

CHARTER SCHOOL COMMISSION

[Filed September 8, 2014, 2:17 p.m., effective October 9, 2014]

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

Purpose: Adds clarification to and prevents confusion within chapter 108-40 WAC: WAC 108-40-200 clarifies that nothing within chapter 108-40 WAC precludes a school board from volunteering to close a school and enter into a termination agreement. As written, chapter 108-40 WAC contains no guidance for school boards volunteering to close a school. The anticipated effect of WAC 108-40-200 is a better understanding for school boards of the charter school commission's rules regarding oversight, corrective action, renewal, nonrenewal, and termination protocol, preventing confusion for those school boards that volunteer to begin the termination protocol.

Statutory Authority for Adoption: RCW 27A.710.070, 27A.710.180, 27A.710.190, 27A.710.200.

Adopted under notice filed as WSR 14-13-115 on June 18, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 0, Repealed 0.

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

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

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 1, Amended 0, Repealed 0.

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

Date Adopted: August 19, 2014.

Colin Pippin-Timco
Executive Assistant

NEW SECTION

WAC 108-40-200 Voluntary school closure. Nothing in these provisions preclude a school board from volunteering to close the school and enter into a termination agreement. The termination agreement sets out the tasks and responsibilities associated with the closure of the school.

WSR 14-19-032

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed September 8, 2014, 9:45 p.m., effective October 9, 2014]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: Fiscal impact statement prepared per RCW 28A.305.135.

Purpose: The purpose of the rules is to implement chapter 217, Laws of 2014 (E2SSB 6552). Provisions requiring rule adoption are:

- Waiver of school districts with fewer than 2,00 [2,000] students from the requirement that school districts provide high school students the opportunity to access at least one career and technical education (CTE) course that is equivalent to a mathematics course or one CTE course equivalent to a science course, as determined by the superintendent of public instruction;
- Amendment of RCW 28A.150.220(2), concerning minimum instructional hour requirements for basic education;
- Elimination of the culminating project as a requirement for high school graduation, effective with the class of 2015; and
- Implementation of the career and college-ready graduation proposal adopted by resolutions of the state board of education (SBE) in November 2010 and January 2014, with certain modifications as required by E2SSB 6552, effective with the class of 2019.

Citation of Existing Rules Affected by this Order: Amending WAC 180-16-200, 180-51-066, 180-51-067, and 180-90-160.

Statutory Authority for Adoption: E2SSB 6552 (chapter 217, Laws of 2014).

Other Authority: RCW 28A.230.090.

Adopted under notice filed as WSR 14-12-098 on June 4, 2014.

Changes Other than Editing from Proposed to Adopted Version: There are no changes from proposed to adopted versions of WAC 180-16-200, 180-51-066, 180-51-067, and 180-90-160.

WAC 180-51-068:

Subsection (2)(a)(iii), requires a third credit of high school mathematics, based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian, or if the parent or guardian is unavailable or does not "indicate a preference for a specific course," rather than does not "respond to a request from the school for approval of a specific course," agreement of the school counselor or principal. Inserts after "principal," "A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section."

The first change was made in response to public comment that the language in the proposed version might imply more administrative process for school districts to implement than intended. The language related to the predominant language of the parent or guardian was added because of concerns from board members and members of the public that language barriers might make some parents unable to participate effectively in decisions about their children's course selection. The use of the word "should" and the phrase "to the extent [extent] feasible" in the sentence express the intent of

the SBE that the school is encouraged, but not required, to request agreement on the course in the predominant language of parents or guardians who predominantly speak a language other than English. The last sentence was added in response to public comment, and clarifies, rather than alters, the intent of the proposed version.

Subsection (2)(b), deletes in its entirety and replaces with a new subsection (13). This is a technical change intended to conform the WAC to current law (RCW 28A.230.097).

Subsection (3), provides that a student may choose the content of the third credit of science, based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian, or if the parent or guardian is unavailable or does not "indicate a preference for a specific course," rather than does not "respond to a request from the school for approval of a specific course," agreement of the school counselor or principal. Inserts after "principal," "A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section." These are the same changes from the proposed to the adopted version as in subsection (2). Please see the explanation of the changes to subsection (2) above.

Subsection (10), after "goals," strikes the remainder of the section, through "student's high and beyond plan." Subsections (a) through (f) are deleted in the adopted version because of concern expressed in some public comment[s] about the SBE's statutory authority to prescribe minimum components of the high school and beyond plan and interest expressed by members of the legislature in developing proposed legislation on this subject for introduction in the 2015 legislative session.

Subsection (12), after "district," inserts "Unless otherwise provided by law,". This change is a clarification to recognize that other, existing law permits the waiving of credits in particular cases, as, for example, for students with special educational needs.

Subsection (13), inserts new subsection (13) as follows: "Equivalent career and technical education (CTE) courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit in place of any of the courses set forth in subsections (1) through (6), if the courses are recorded on the student's transcript using the equivalent academic high school department designation and course title." Please see explanation of change to subsection (2)(b).

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 2, Amended 4, Repealed 0.

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

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

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

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

Date Adopted: July 10, 2014.

Ben Rarick
Executive Director

AMENDATORY SECTION (Amending WSR 01-24-092, filed 12/4/01, effective 1/4/02)

WAC 180-16-200 Total instructional hour requirement. (1)~~((a))~~ Kindergarten total instructional hour requirement - Four hundred fifty hours annual minimum, increased to an annual minimum one thousand instructional hours according to an implementation schedule under RCW 28A.150.315. ~~((See RCW 28A.150.220 (1)(a)-(b)))~~

(2) Grades 1-12 total instructional hour requirement - District-wide annual average of one thousand hours. ~~((See RCW 28A.150.220 (1)(b).) In grades one through twelve school districts may arrange their calendars in any way they determine as long as the district-wide annual average instructional hour requirement is at least one thousand hours.~~

~~(2) The basic education program requirements shall be as described under RCW 28A.150.220(1)),~~ increased beginning in the 2015-16 school year to:

(a) At least a district-wide average of one thousand eighty instructional hours for students enrolled in grades nine through twelve and a district-wide annual average of one thousand instructional hours in grades one through eight; or

(b) A district-wide annual average of one thousand twenty-seven instructional hours in grades one through twelve.

(3) For nonhigh school districts, a district-wide annual average of one thousand instructional hours in such grades as are offered by the district.

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

NEW SECTION

WAC 180-18-100 District waiver from requirement for student access to career and technical education course equivalencies. (1) Any school district reporting, in any school year, an October P223 headcount of fewer than two thousand students as of January of that school year may apply to the state board of education for a waiver of up to two years from the provisions of RCW 28A.230.010(2) for the subsequent school year.

(2) In any application for a waiver under this section, the district shall demonstrate that students enrolled in the district do not have and cannot be provided reasonable access, through high schools, interdistrict cooperatives, skill centers or branch or satellite skill centers, or through online learning or applicable running start vocational courses, to at least one career and technical education course that is considered

equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course as determined by the superintendent of public instruction and the state board of education under RCW 28A.700.070.

(3) On a determination, in consultation with the office of the superintendent of public instruction, that the students enrolled in the district do not and cannot be provided reasonable access to at least one career and technical education course that is considered equivalent to a mathematics course or at least one career and technical education course that is considered equivalent to a science course under subsection (2) of this section, the state board of education shall grant the waiver for the term of years requested.

(4) The state board of education shall post on its web site an application form for use by a district in applying for a waiver under this section. A completed application must be signed by the chair or president of the district's board of directors and superintendent.

(5) In order to provide sufficient notice to students, parents, and staff, the application must be submitted to the state board of education in electronic form no later than January 15th of the school year prior to the school year for which the waiver is requested, and no later than thirty days before the board meeting at which the application will be considered. The board shall post all applications received on its public web site.

AMENDATORY SECTION (Amending WSR 12-03-073, filed 1/13/12, effective 2/13/12)

WAC 180-51-066 Minimum requirements for high school graduation—Students entering the ninth grade on or after July 1, 2009, through June 30, 2012. (1) The state-wide minimum subject areas and credits required for high school graduation for students who enter the ninth grade or begin the equivalent of a four-year high school program as of July 1, 2009, through June 30, 2012, shall total twenty as listed below.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the tenth grade Washington assessment of student learning beginning 2008.

(a) Three **English** credits (reading, writing, and communications) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. Assessment shall include the tenth grade Washington assessment of student learning beginning 2008.

(b) Three **mathematics** credits that align with the high school mathematics standards as developed and revised by the office of superintendent of public instruction and satisfy the requirements set forth below:

(i) Unless otherwise provided for in (b)(iv) through (vii) of this subsection, the three mathematics credits required under this section must include:

- (A) Algebra 1 or integrated mathematics I;
- (B) Geometry or integrated mathematics II; and
- (C) Algebra 2 or integrated mathematics III.

(ii) A student may elect to pursue a third credit of high school-level mathematics, other than algebra 2 or integrated mathematics III if all of the following requirements are met:

(A) The student's elective choice is based on a career oriented program of study identified in the student's high school

and beyond plan that is currently being pursued by the student;

(B) The student's parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection than algebra 2 or integrated mathematics III because it will better serve the student's education and career goals;

(C) A meeting is held with the student, the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable), and a high school representative for the purpose of discussing the student's high school and beyond plan and advising the student of the requirements for credit bearing two- and four-year college level mathematics courses; and

(D) The school has the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) sign a form acknowledging that the meeting with a high school representative has occurred, the information as required was discussed, and the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection given the student's education and career goals.

(iii) Courses in (b)(i) and (ii) of this subsection may be taken currently in the following combinations:

(A) Algebra 1 or integrated mathematics I may be taken concurrently with geometry or integrated mathematics II.

(B) Geometry or integrated mathematics II may be taken concurrently with algebra 2 or integrated mathematics III or a third credit of mathematics to the extent authorized in (b)(ii) of this subsection.

(iv) Equivalent career and technical education (CTE) mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (b)(i) of this subsection if the CTE mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(v) A student who prior to ninth grade successfully completed algebra 1 or integrated mathematics I; and/or geometry or integrated mathematics II, but does not request high school credit for such course(s) as provided in RCW 28A.230.090, may either:

(A) Repeat the course(s) for credit in high school; or

(B) Complete three credits of mathematics as follows:

(I) A student who has successfully completed algebra 1 or integrated mathematics I shall:

- Earn the first high school credit in geometry or integrated mathematics II;
- Earn the second high school credit in algebra 2 or integrated mathematics III; and
- Earn the third high school credit in a math course that is consistent with the student's education and career goals.

(II) A student who has successfully completed algebra 1 or integrated mathematics I, and geometry or integrated mathematics II, shall:

- Earn the first high school credit in algebra 2 or integrated mathematics III; and

- Earn the second and third credits in mathematics courses that are consistent with the educational and career goals of the student.

(vi) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I pursuant to a written district policy, but does not receive credit under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

- Earn the first high school credit in geometry or integrated mathematics II;
- Earn the second high school credit in algebra 2 or integrated mathematics III; and
- Earn the third credit in a mathematics course that is consistent with the student's education and career goals.

(vii) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I and geometry or integrated mathematics II pursuant to a written district policy, but does not receive credit for the courses under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

- Earn the first high school credit in algebra 2 or integrated mathematics III;
- Earn the second and third high school credits in courses that are consistent with the educational and career goals of the student.

(c) Two **science** credits (physical, life, and earth) that at minimum align with grade level expectations for ninth and tenth grade, plus content that is determined by the district. At least one credit in laboratory science is required which shall be defined locally. Assessment shall include the tenth grade Washington assessment of student learning beginning 2010.

(d) Two and one-half **social studies** credits that at minimum align with the state's essential academic learning requirements in civics, economics, geography, history, and social studies skills at grade ten and/or above plus content that is determined by the district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in social studies at the high school level by 2008-09. In addition, districts shall require students to complete a classroom-based assessment in civics in the eleventh or twelfth grade also by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095). The social studies requirement shall consist of the following mandatory courses or equivalencies:

(i) One credit shall be required in United States history and government which shall include study of the Constitution of the United States. No other course content may be substituted as an equivalency for this requirement.

(ii) Under the provisions of RCW 28A.230.170 and 28A.230.090, one-half credit shall be required in Washington state history and government which shall include study of the Constitution of the state of Washington and is encouraged to include information on the culture, history, and government of the American Indian people who were the first inhabitants of the state.

(A) For purposes of the Washington state history and government requirement only, the term "secondary student" shall mean a student who is in one of the grades seven

through twelve. If a district offers this course in the seventh or eighth grade, it can still count towards the state history and government graduation requirement. However, the course should only count as a high school credit if the academic level of the course exceeds the requirements for seventh and eighth grade classes and the course would qualify for high school credit, because the course is similar or equivalent to a course offered at a high school in the district as determined by the school district board of directors (RCW 28A.230.090 (4)).

(B) The study of the United States and Washington state Constitutions shall not be waived, but may be fulfilled through an alternative learning experience approved by the local school principal under written district policy.

(C) Secondary school students who have completed and passed a state history and government course of study in another state may have the Washington state history and government requirement waived by their principal. The study of the United States and Washington state Constitutions required under RCW 28A.230.170 shall not be waived, but may be fulfilled through an alternative learning experience approved by the school principal under a written district policy.

(D) After completion of the tenth grade and prior to commencement of the eleventh grade, eleventh and twelfth grade students who transfer from another state, and who have or will have earned two credits in social studies at graduation, may have the Washington state history requirement waived by their principal if without such a waiver they will not be able to graduate with their class.

(iii) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on current problems may be accepted as equivalencies.

(e) Two **health and fitness** credits that at minimum align with current essential academic learning requirements at grade ten and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in health and fitness at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.095).

(i) The fitness portion of the requirement shall be met by course work in fitness education. The content of fitness courses shall be determined locally under WAC 180-51-025. Suggested fitness course outlines shall be developed by the office of the superintendent of public instruction. Students may be excused from the physical portion of the fitness requirement under RCW 28A.230.050. Such excused students shall be required to substitute equivalency credits in accordance with policies of boards of directors of districts, including demonstration of the knowledge portion of the fitness requirement.

(ii) "Directed athletics" shall be interpreted to include community-based organized athletics.

(f) One **arts** credit that at minimum is aligned with current essential academic learning requirements at grade ten

and/or above plus content that is determined by the local school district. The assessment of achieved competence in this subject area is to be determined by the local district although state law requires districts to have "assessments or other strategies" in arts at the high school level by 2008-09. The state superintendent's office has developed classroom-based assessment models for districts to use (RCW 28A.230.-095). The essential content in this subject area may be satisfied in the visual or performing arts.

(g) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as proposed or adopted in the career and technical education program standards of the office of the superintendent of public instruction. The assessment of achieved competence in this subject area is determined at the local district level.

(h) Five and one-half electives: Study in a world language other than English or study in a world culture may satisfy any or all of the required electives. The assessment of achieved competence in these subject areas is determined at the local district level.

(i) Each student entering ninth grade before July 1, 2010, and graduating before 2015 shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.

(j) Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

(k) Each student shall attain a certificate of academic achievement or certificate of individual achievement. The tenth grade Washington assessment of student learning and Washington alternate assessment system shall determine attainment.

(2) State board of education approved private schools under RCW 28A.305.130(5) may, but are not required to, align their curriculums with the state learning goals under RCW 28A.150.210 or the essential academic learning requirements under RCW 28A.655.070.

AMENDATORY SECTION (Amending WSR 12-03-073, filed 1/13/12, effective 2/13/12)

WAC 180-51-067 State subject and credit requirements for high school graduation—Students entering the ninth grade on or after July 1, 2012, through June 30, 2015. The statewide subject areas and credits required for high school graduation, beginning July 1, 2012, for students who enter the ninth grade or begin the equivalent of a four-year high school program, as of July 1, 2012, through June 30, 2015, except as provided in WAC 180-51-068(11), shall total twenty as provided below. All credits are to be aligned with the state's essential academic learning requirements

(learning standards) for the subject. The content of any course shall be determined by the local school district.

(1) Four **English** credits.

(2) Three **mathematics** credits that satisfy the requirements set forth below:

(a) Unless otherwise provided for in (d) through (g) of this subsection, the three mathematics credits required under this section must include:

(i) Algebra 1 or integrated mathematics I;

(ii) Geometry or integrated mathematics II; and

(iii) Algebra 2 or integrated mathematics III.

(b) A student may elect to pursue a third credit of high school-level mathematics, other than algebra 2 or integrated mathematics III, if all of the following requirements are met:

(i) The student's elective choice is based on a career oriented program of study identified in the student's high school and beyond plan that is currently being pursued by the student;

(ii) The student's parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection than algebra 2 or integrated mathematics III because it will better serve the student's education and career goals;

(iii) A meeting is held with the student, the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable), and a high school representative for the purpose of discussing the student's high school and beyond plan and advising the student of the requirements for credit bearing two- and four-year college level mathematics courses; and

(iv) The school has the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) sign a form acknowledging that the meeting with a high school representative has occurred, the information as required was discussed, and the parent(s)/guardian(s) (or designee for the student if a parent or guardian is unavailable) agree that the third credit of mathematics elected is a more appropriate course selection given the student's education and career goals.

(c) Courses in (a) and (b) of this subsection may be taken currently in the following combinations:

(i) Algebra 1 or integrated mathematics I may be taken concurrently with geometry or integrated mathematics II.

(ii) Geometry or integrated mathematics II may be taken concurrently with algebra 2 or integrated mathematics III or a third credit of mathematics to the extent authorized in (b) of this subsection.

(d) Equivalent career and technical education (CTE) mathematics courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit instead of any of the mathematics courses set forth in (a) of this subsection if the CTE mathematics courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(e) A student who prior to ninth grade successfully completed algebra 1 or integrated mathematics I; and/or geometry or integrated mathematics II, but does not request high school credit for such course(s) as provided in RCW 28A.230.090, may either:

(i) Repeat the course(s) for credit in high school; or

(ii) Complete three credits of mathematics as follows:

(A) A student who has successfully completed algebra 1 or integrated mathematics I shall:

- Earn the first high school credit in geometry or integrated mathematics II;

- Earn the second high school credit in algebra 2 or integrated mathematics III; and

- Earn the third high school credit in a math course that is consistent with the student's education and career goals.

(B) A student who has successfully completed algebra 1 or integrated mathematics I, and geometry or integrated mathematics II, shall:

- Earn the first high school credit in algebra 2 or integrated mathematics III; and

- Earn the second and third credits in mathematics courses that are consistent with the educational and career goals of the student.

(f) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I pursuant to a written district policy, but does not receive credit under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

- Earn the first high school credit in geometry or integrated mathematics II;

- Earn the second high school credit in algebra 2 or integrated mathematics III; and

- Earn the third credit in a mathematics course that is consistent with the student's education and career goals.

(g) A student who satisfactorily demonstrates competency in algebra 1 or integrated mathematics I and geometry or integrated mathematics II pursuant to a written district policy, but does not receive credit for the courses under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

- Earn the first high school credit in algebra 2 or integrated mathematics III;

- Earn the second and third high school credits in courses that are consistent with the educational and career goals of the student.

(3) Two **science** credits, at least one of the two credits must be in laboratory science.

(4) Three **social studies** credits (2.5 credits prescribed courses, plus a .5 credit social studies elective) and a non-credit requirement. The social studies requirement shall consist of the following mandatory courses or equivalencies:

(a) One credit shall be required in United States history.

(b) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170; RCW 28A.230.090 and WAC 392-410-120, and shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state. Successful completion must be noted on each student's transcript. The Washington state history and government requirement may be waived by the principal for students who: (i) Have successfully completed a state history and government course of study in another state; or (ii) are in eleventh or twelfth grade and who have not completed a course of study in Washington's history

and state government because of previous residence outside the state.

(c) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(d) One-half credit shall be required in civics and include at a minimum the content listed in RCW 28A.230.093.

(5) Two **health and fitness** credits (.5 credit health; 1.5 credits fitness). Students may be excused from the fitness requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate proficiency/competency in the knowledge portion of the fitness requirement, in accordance with written district policy.

(6) One **arts** credit. The essential content in this subject area may be satisfied in the visual or performing arts.

(7) One credit in **occupational education**. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the career and technical education (CTE) program standards of the office of the superintendent of public instruction.

(a) Students who earn a graduation requirement credit through a CTE course locally determined to be equivalent to a non-CTE course will not be required to earn a second credit in the non-CTE course subject; the single CTE course meets two graduation requirements.

(b) Students who earn a graduation requirement credit in a non-CTE course locally determined to be equivalent to a CTE course will not be required to earn a second credit in the CTE course subject; the single non-CTE course meets two graduation requirements.

(c) Students satisfying the requirement in (a) or (b) of this subsection will need to earn five elective credits instead of four; total credits required for graduation will not change.

(8) Four credits of electives.

~~(9) ((Each student shall complete a culminating project for graduation. The project shall consist of the student demonstrating both their learning competencies and preparations related to learning goals three and four. Each district shall define the process to implement this graduation requirement, including assessment criteria, in written district policy.~~

~~(10))~~ Each student shall have a high school and beyond plan for their high school experience, including what they expect to do the year following graduation.

~~((11))~~ (10) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230.170, and chapter 28A.230 RCW.

~~((12))~~ (11) A school district may obtain a two-year extension from the effective date for the implementation of the four credits of English and/or the three credits of social studies required under this section upon the filing of a written

resolution by the district's school board with the state board of education stating the district's intent to delay implementation of the increased English and/or social studies requirements effective for the class of 2016. The resolution must be filed by June 1, 2012. A district filing a timely resolution with the state board of education shall maintain the English, social studies, and elective credits in effect under WAC 180-51-066 for the period of the extension.

NEW SECTION

WAC 180-51-068 State subject and credit requirements for high school graduation—Students entering the ninth grade on or after July 1, 2015. The statewide subject areas and credits required for high school graduation, beginning July 1, 2015, for students who enter the ninth grade or begin the equivalent of a four-year high school program, shall total twenty-four as required in this section, except as otherwise provided in subsections (11) and (12) of this section. All credits are to be aligned with the state's essential academic learning requirements developed under RCW 28A.655.070 for the subject. The content of any course shall be determined by the local school district.

(1) Four **English** credits.

(2) Three **mathematics** credits that satisfy the requirements set forth in (a) through (e) of this subsection:

(a) Unless otherwise provided for in (b) of this subsection, the three mathematics credits required under this section must include:

(i) Algebra 1 or integrated mathematics I;

(ii) Geometry or integrated mathematics II; and

(iii) A third credit of high school mathematics, aligning with the student's interests and high school and beyond plan as provided in (10) of this section, and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061, with agreement of the student's parent or guardian, or, if the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement of the school counselor or principal. A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section;

(b) A student who prior to ninth grade successfully completed algebra 1 or integrated mathematics I; and/or geometry or integrated mathematics II, but does not request high school credit for such course(s) as provided in RCW 28A.230.090, may either:

(i) Repeat the course(s) for credit in high school; or

(ii) Complete three credits of mathematics as follows:

(A) A student who has successfully completed algebra 1 or integrated mathematics I shall:

(I) Earn the first high school credit in geometry or integrated mathematics II;

(II) Earn the second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state stan-

dards for graduation under the assessment system in RCW 28A.655.061; and

(B) A student who has successfully completed algebra I or integrated mathematics I, and geometry or integrated mathematics II, shall: Earn the first, second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.

(c) A student who satisfactorily demonstrates competency in algebra I or integrated mathematics I pursuant to a written district policy, but does not receive credit under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence:

(i) Earn the first high school credit in geometry or integrated mathematics II;

(ii) Earn the second and third high school credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.

(d) A student who satisfactorily demonstrates competency in algebra I or integrated mathematics I and geometry or integrated mathematics II pursuant to a written district policy, but does not receive credit for the courses under the provisions of WAC 180-51-050, shall complete three credits of high school mathematics in the following sequence: Earn the first, second and third credits in courses aligning with the student's interests and high school and beyond plan and preparing the student to meet state standards for graduation under the assessment system in RCW 28A.655.061.

(3) Three **science** credits, at least two of which must be in laboratory science as provided in subsection (15)(a) of this section. A student may choose the content of the third credit of science, based on the student's interests and high school and beyond plan, with agreement of the student's parent or guardian, or, if the parent or guardian is unavailable or does not indicate a preference for a specific course, agreement of the school counselor or principal. A request for agreement of the student's parent or guardian should be made in the predominant language of a parent(s) or guardian(s) who predominantly speak a language other than English, to the extent feasible. The school must in all cases give precedence to the direction of the parent(s) or guardian(s), if provided, in election of the third credit to meet the requirements of this section.

(4) Three **social studies** credits (2.5 credits prescribed courses, plus a .5 credit social studies elective) and a non-credit requirement. The social studies requirement shall consist of the following mandatory courses or equivalencies:

(a) One credit shall be required in United States history.

(b) Successful completion of Washington state history and government shall be required, subject to the provisions of RCW 28A.230.170, 28A.230.090 and WAC 392-410-120, and shall consider including information on the culture, history, and government of the American Indian peoples who were the first inhabitants of the state. Successful completion must be noted on each student's transcript. The Washington state history and government requirement may be waived by the principal for students who:

(i) Have successfully completed a state history and government course of study in another state; or

(ii) Are in eleventh or twelfth grade and who have not completed a course of study in Washington's history and state government because of previous residence outside the state.

(c) One credit shall be required in contemporary world history, geography, and problems. Courses in economics, sociology, civics, political science, international relations, or related courses with emphasis on contemporary world problems may be accepted as equivalencies.

(d) One-half credit shall be required in civics and include at a minimum the content listed in RCW 28A.230.093.

(5) Two **health and fitness** credits (.5 credit health; 1.5 credits fitness). Students may be excused from the fitness requirement under RCW 28A.230.050. Such excused students shall be required to demonstrate proficiency/competency in the knowledge portion of the fitness requirement, in accordance with written district policy.

(6) Two **arts** credits. The essential content in this subject area may be satisfied in the visual or performing arts. One of the two arts credits may be replaced with a personalized pathway requirement as provided in subsection (15)(c) of this section.

(7) One credit in **career and technical education**. A career and technical education (CTE) credit means a credit resulting from a course in a CTE program or occupational education credit as contained in the CTE program standards of the office of the superintendent of public instruction. "Occupational education" means credits resulting from a series of learning experiences designed to assist the student to acquire and demonstrate competency of skills under student learning goal four and which skills are required for success in current and emerging occupations. At a minimum, these competencies shall align with the definition of an exploratory course as contained in the CTE program standards of the office of the superintendent of public instruction. An exception may be made for private schools as provided in WAC 180-90-160.

(a) Students who earn a graduation requirement credit through a CTE course determined to be equivalent to a non-CTE course will not be required to earn a second credit in the non-CTE course subject. The single CTE course meets two graduation requirements.

(b) Students who earn a graduation requirement credit in a non-CTE course determined to be equivalent to a CTE course will not be required to earn a second credit in the CTE course subject. The single non-CTE course meets two graduation requirements.

(c) Students satisfying the requirement in (a) or (b) of this subsection will need to earn five elective credits instead of four. Total credits required for graduation will not change.

(8) Two credits in **world languages or personalized pathway requirements**. If the student has chosen a four-year degree pathway under subsection (10) of this section, the student shall be advised to earn two credits in world languages.

(9) Four credits of electives.

(10) Each student shall have a high school and beyond plan to guide his or her high school experience, including plans for post-secondary education or training and career. The process for completing the high school and beyond plan

is locally determined and designed to help students select course work and other activities that will best prepare them for their post-secondary educational and career goals. Students shall create their high school and beyond plans in cooperation with parents/guardians and school staff. School staff shall work with students to update the plans during the years in which the plan is implemented in order to accommodate changing interests or goals.

(11) A school district wishing to implement the requirements for high school graduation for students who enter the ninth grade or begin the equivalent of a four-year high school program on July 1, 2016, or July 1, 2017, rather than July 1, 2015, may apply to the state board of education for a temporary waiver of the requirements of this section. The state board of education shall post an application form on its web site for use by districts seeking this waiver.

(a) An application for a waiver must:

(i) Meet the requirements of chapter 217, Laws of 2014 (E2SSB 6552), which include describing why the waiver is being requested, the specific impediments preventing timely implementation of the high school graduation requirements established in subsections (1) through (9) of this section, and the efforts that will be taken to achieve implementation with the graduating class proposed under the waiver.

(ii) Be accompanied by a resolution adopted by the district board of directors requesting the waiver. The resolution must state the entering freshman class or classes for whom the waiver is requested, and be signed by the board chair or president and the district superintendent.

(b) A district implementing a waiver shall continue to be subject to the requirements of WAC 180-51-067 during the school year or years for which the waiver has been granted.

(c) Nothing shall prevent a district granted a waiver from electing to implement subsections (1) through (10) of this section during the term for which the waiver is granted. A district granted a waiver that elects to implement subsections (1) through (10) of this section shall provide notification of such decision to the state board of education.

(d) The state board of education shall post the application for each waiver on its public web site.

(12) A school district that grants high school diplomas may waive up to two of the credits required for graduation under this section for individual students for reason of unusual circumstances, as defined by the district. Unless otherwise provided in law, students granted a waiver under this subsection must earn the seventeen required subject credits in subsections (1) through (7) of this section, which may be by satisfactory demonstration of competence under WAC 180-51-050. The waiving of credits for individual students for reason of unusual circumstances must be in accordance with written policies adopted by resolution of each board of directors of a district that grants diplomas.

(13) Equivalent career and technical education (CTE) courses meeting the requirements set forth in RCW 28A.230.097 can be taken for credit in place of any of the courses set forth in subsections (1) through (6) of this section, if the courses are recorded on the student's transcript using the equivalent academic high school department designation and course title.

(14) Students who complete and pass all required International Baccalaureate Diploma Programme courses are considered to have satisfied state subject and credit requirements for graduation from a public high school, subject to the provisions of RCW 28A.230.090, 28A.230.170, and chapter 28A.230 RCW.

(15) Definitions:

(a) "Laboratory science" means any instruction that provides opportunities for students to interact directly with the material world, or with data drawn from the material world, using the tools, data collection techniques, models and theories of science. A laboratory science course meeting the requirement of subsection (3) of this section may include courses conducted in classroom facilities specially designed for laboratory science, or coursework in traditional classrooms, outdoor spaces, or other settings which accommodate elements of laboratory science as identified in this subsection;

(b) "Personalized pathway" means a locally determined body of coursework identified in a student's high school and beyond plan that is deemed necessary to attain the post-secondary career or educational goals chosen by the student;

(c) "Personalized pathway requirements" means up to three course credits chosen by a student under subsections (6) and (8) of this section that are included in a student's personalized pathway and prepare the student to meet specific post-secondary career or educational goals.

AMENDATORY SECTION (Amending WSR 03-04-053, filed 1/29/03, effective 3/1/03)

WAC 180-90-160 Minimum standards and certificate form. The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE
WITH STATE STANDARDS
ESD/County/Public
School District
Private School/
District Address

I,, do hereby certify that I am the principal or chief administrator of the above named school; that said school is located at the address listed above, and conducts grades through with a projected enrollment of; and that said school is scheduled to meet throughout the school year, the following standards with the exception only of such deviations, if any, as are set forth in an attachment to this certificate of compliance

or

I,, do hereby certify that I am the superintendent of the above named private school district; and that the private schools under my jurisdiction are scheduled to meet throughout the school year, the following standards with the exception only of such deviations as are set forth in an attachment to this certificate of compliance; and that a list of such schools, including the grades conducted and the projected enrollment for each school, accompanies this certificate:

Following initial approval as a private school by the state board of education, evidence of current accreditation by a state board of education approved accrediting body may be submitted annually in lieu of approval documents described in 1-12.

(1) The minimum school year for instructional purposes consists of no less than 180 school days or the equivalent in annual minimum instructional hour offerings as prescribed in RCW 28A.150.220.

(2) On each school day, pupils enrolled in the school are provided the opportunity to be engaged in educational activity planned by and under the direction of the staff, as directed by the administration and/or governing board; and that pupils are provided a total instructional hour offering as prescribed in RCW 28A.150.220 except that the percentages for basic skills, work skills, and optional subjects and activities prescribed in RCW 28A.150.220 do not apply to private schools and that the total instructional hour offering, except as otherwise specifically provided in RCW 28A.150.220, made available is at least:

- (a) 450 hours for students in kindergarten.
- (b) 1000 hours for students in grades one through twelve.

(3) All classroom teachers hold appropriate Washington State certification except for:

(a) Teachers for religious courses or courses for which no counterpart exists in the public schools: Provided, That a religious course is a course of study separate from the courses of study defined in RCW 28A.195.010 including occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of the appreciation of art and music all in sufficient units for meeting state board of education graduation requirements; and/or

(b) A person of unusual competence who is not certified but who will teach students in an exceptional case under the general supervision of a Washington state certificated teacher or administrator pursuant to WAC 180-90-112. The non-Washington state certificated teacher, the Washington state certificated person who will supervise, and the exceptional circumstances are listed on the addendum to this certificate: Provided, That if a non-Washington state certificated teacher is employed subsequent to the filing of this certificate, this same information shall be forwarded to the superintendent of public instruction within thirty days from the date of employment.

(4) If the school operates an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody, the extension program meets the following requirements:

(a) The parent, guardian, or custodian is supervised by a person certified under chapter 28A.410 RCW and who is employed by the school;

(b) The planning by the certified person and the parent, guardian, or person having legal custody includes objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spends a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the extension program;

(d) Each student's progress is evaluated by the certified person; and

(e) The certified person does not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(6) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(7) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth in chapter 180-51 WAC. A school may substitute courses specific to the mission or focus of the school to satisfy the requirement of WAC 180-51-068(7);

(8) The school or its organized district maintains up-to-date policy statements related to the administration and operation of the school or district;

(9) The school does not engage in a policy of racial segregation or discrimination;

(10) The governing authority of this private school or private school district has been apprised of the requirements of chapter 180-90 WAC relating to the minimum requirements for approval of private schools and such governing authority has further been apprised of all deviations from the rules and regulations of the state board of education and the standards contained in chapter 180-90 WAC. I have reported all such deviations herewith.

(11) Approval by the state board of education is contingent upon on-going compliance with the standards certified herein. The superintendent of public instruction shall be notified of any deviation from these standards which occurs after the action taken by the state board of education. Such notification shall be filed within thirty days of occurrence of the deviation.

(12) Failure to comply with the requirements of this chapter may result in the revocation of the approval of the private school and shall be considered in subsequent application for approval as a private school.

Dated this day of, ((19)) 20

Date Adopted: September 9, 2014.

Don R. Hover
Director

.....
(signed)

.....
(title)

.....
(phone number)

AMENDATORY SECTION (Amending WSR 13-03-054, filed 1/11/13, effective 2/11/13)

WAC 16-662-100 Purpose. (1) This chapter establishes, under the authority of the Washington state department of agriculture (WSDA), requirements for the state of Washington that are reasonably consistent with the uniform rules adopted by the National Conference on Weights and Measures (NCWM) and published by the National Institute of Standards and Technology (NIST). This chapter also establishes requirements for the retail sale and advertising of motor fuel.

(2) This chapter applies specifically to the:

(a) Uniform specifications, tolerances and other technical requirements for weighing and measuring devices addressed in *NIST Handbook 44*;

(b) Uniform regulation for weighing and measuring devices under the national type evaluation program (NTEP) addressed in *NIST Handbook 130*;

~~((c))~~ (c) Uniform procedures for checking the net contents of packaged goods addressed in *NIST Handbook 133*;

~~((d))~~ (d) Uniform packaging and labeling regulation addressed in *NIST Handbook 130*;

~~((e))~~ (e) Uniform regulation for the method of sale of commodities addressed in *NIST Handbook 130*;

~~((f))~~ (f) Uniform examination procedure for price verification addressed in *NIST Handbook 130*;

~~((g))~~ (g) Engine fuels, petroleum products, and automotive lubricants regulation addressed in *NIST Handbook 130*;

~~((h))~~ (h) Specifications and tolerances for reference standards and field standard weights and measures addressed in the *NIST Handbook 105* series; and

~~((i))~~ (i) Requirements for the retail sale and advertising of motor fuel.

(3)(a) *NIST Handbook 44*, *NIST Handbook 130*, *NIST Handbook 133*, and *NIST Handbooks 105* are available on the NIST web site at <http://www.nist.gov/pml/wmd/pubs/handbooks.cfm> or may be purchased ~~((from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 and are available on the National Institute of Standards and Technology web site at <http://www.nist.gov/pml/wmd/pubs/handbooks.cfm>~~

~~((b))~~ on the NCWM web site at <http://www.ncwm.net/publications> or by mail from the National Conference on Weights and Measures, 1135 M Street, Suite 110, Lincoln, Nebraska 68508. Copies of the NIST handbooks and ASTM standards are available for viewing at the Washington State Department of Agriculture, 2nd Floor, Natural Resources Building, 1111 Washington Street S.E., Olympia, WA 98504-2560.

(b) You may search the NTEP data base for certificates of conformance (CC) on the NCWM web site at http://www.ncwm.net/ntep/cert_search.

(c) For information regarding the contents and application of these publications and data base, contact the weights and measures program at the Washington State Department

WSR 14-19-033

PERMANENT RULES

DEPARTMENT OF AGRICULTURE

[Filed September 9, 2014, 8:31 a.m., effective October 10, 2014]

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

Purpose: This rule-making order repeals chapter 16-664 WAC, National type evaluation program; and amends chapter 16-662 WAC, Weights and measures—National handbooks and retail sale of motor fuel by:

(1) Adopting the 2014 edition of NIST Handbook 44 (Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices);

(2) Adopting (with modifications) the 2014 edition of NIST Handbook 130 (Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality);

(3) Adopting (with modifications) the National Type Evaluation Program (NTEP) standard addressed in NIST Handbook 130;

(4) Adopting the 2014 edition of NIST Handbook 133 (Checking the Net Contents of Packaged Goods); and

(5) Modifying the existing text to increase rule clarity and readability.

Citation of Existing Rules Affected by this Order: Repealing chapter 16-664 WAC and WAC 16-662-110; and amending WAC 16-662-100, 16-662-105, 16-662-115, 16-662-120, and 16-662-145.

Statutory Authority for Adoption: RCW 19.94.190, 19.94.195, 19.112.020, and 19.112.140.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 14-14-123 on July 2, 2014.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 5, Repealed 7.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 5, Repealed 7.

of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, telephone number 360-902-1857, or e-mail wts&measures@agr.wa.gov.

AMENDATORY SECTION (Amending WSR 13-03-054, filed 1/11/13, effective 2/11/13)

WAC 16-662-105 Standards adopted by the Washington state department of agriculture (WSDA). Except as otherwise modified in this chapter, ~~(the)~~ WSDA adopts the following national standards:

National standard for:	Contained in the:
(1) The specifications, tolerances, and other technical requirements for the design, manufacture, installation, performance test, and use of weighing and measuring equipment	((2013)) 2014 Edition of <i>NIST Handbook 44 - Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices</i>
(2) The procedures for checking the accuracy of the net contents of packaged goods	((2013)) 2014 Edition of <i>NIST Handbook 133 - Checking the Net Contents of Packaged Goods</i>
(3) The requirements for packaging and labeling, method of sale of commodities, <u>national type evaluation</u> , examination procedures for price verification, and engine fuels, petroleum products and automotive lubricants	((2013)) 2014 Edition of <i>NIST Handbook 130 - Uniform Laws and Regulations in the areas of legal metrology and engine fuel quality</i> . Specifically:
(a) Weights and measures requirements for all food and nonfood commodities in package form	<i>Uniform Packaging and Labeling Regulation</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, ((2013)) 2014 Edition</i> .
(b) Weights and measures requirements for the method of sale of food and nonfood commodities	<i>Uniform Regulation for the Method of Sale of Commodities</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, ((2013)) 2014 Edition</i> .
(c) Weights and measures requirements for price verification	<i>Examination Procedure for Price Verification</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, ((2013)) 2014 Edition</i> .

National standard for:	Contained in the:
(d) Definitions; standard fuel specifications; classification and method of sale of petroleum products; retail storage tanks and dispenser filters; condemned product; product registration; and test methods and reproducibility limits	<i>Uniform Engine Fuels and Automotive Lubricants Regulation</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, ((2013)) 2014 Edition</i> .
<u>(e) Weights and measures requirements for national type evaluation</u>	<i>Uniform Regulation for National Type Evaluation</i> as adopted by the National Conference on Weights and Measures and published in <i>NIST Handbook 130, 2014 Edition</i> .
(4) Specifications and tolerances for reference standards and field standard weights and measures	<i>NIST Handbook 105-1, Specifications and Tolerances for Field Standard Weights (NIST Class F) - 1990;</i> <i>NIST Handbook 105-2, Specifications and Tolerances for Field Standard Measuring Flasks - 1996;</i> <i>NIST Handbook 105-3, Specifications and Tolerances for Graduated Neck Type Volumetric Field Standards - 2010;</i> <i>NIST Handbook 105-4, Specifications and Tolerances for Liquefied Petroleum Gas and Anhydrous Ammonia Liquid Volumetric Provers - 2010;</i> <i>NIST Handbook 105-5, Specifications and Tolerances for Field Standard Stopwatches - 1997;</i> <i>NIST Handbook 105-6, Specifications and Tolerances for Thermometers - 1997;</i> <i>NIST Handbook 105-7, Specifications and Tolerances for Dynamic Small Volume Provers - 1997;</i> <i>NIST Handbook 105-8, Specifications and Tolerances for Field Standard Weight Carts - 2003.</i>

AMENDATORY SECTION (Amending WSR 13-03-054, filed 1/11/13, effective 2/11/13)

WAC 16-662-115 Modifications to NIST Handbook 130. ((The)) (1) WSDA adopts the following modifications to the listed sections of the *Uniform Regulation for the Method of Sale of Commodities* requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3)(b):

Modified Section:	Modification:
((4)) Section 2.20.1. Method of Retail Sale	<p>Modify <u>the existing text in section 2.20.1</u> ((Method of Retail Sale:)) <u>with the following:</u> "Type of Oxygenate must be Disclosed ((to read:))."</p> <p><u>(a) All automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. ((For example, the label may read "contains ethanol.") The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers." In addition, gasoline-methanol blend fuels containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol.</u></p> <p><u>(b) Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel.</u></p> <p><u>(c) Gasoline-ethanol blend fuels containing not more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol."</u></p> <p><u>(d) Ethanol at greater than ten percent by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "Ethanol" (example: E40 Ethanol). E85 fuel</u></p>

Modified Section:	Modification:
	<p><u>ethanol shall be identified and labeled in accordance with section 3.8. E85 Fuel Ethanol.</u></p> <p><u>(e) This information shall be posted on the upper fifty percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type). ((Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel. Ethanol at no less than one percent and no more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol." Ethanol at greater than ten percent by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol." (Example: E85 Ethanol.)))"</u></p>
((2)) Section 2.20.2. Documentation for Dispenser Labeling Purposes	<p><u>((Modify)) Replace the existing text in section 2.20.2. Documentation for Dispenser Labeling Purposes, ((to read)) with: "At the time of delivery of the fuel, the retailer shall be provided, on an invoice, bill of lading, shipping paper, or other documentation a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least 1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen). In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel</u></p>

Modified Section:	Modification:
	before blending. When ethanol and/or methanol is blended at one percent or greater, by volume, in gasoline for use as motor vehicle fuel, documentation must include the volumetric percentage of ethanol and/or methanol."
((3)) Section 2.23. Animal Bedding	((Add a new subsection which reads)) <u>Modify the existing text to add:</u> "2.23.2. Sawdust, Barkdust, Decorative Wood Particles, and Similar Products. As used in this subsection, "unit" means a standard volume equal to 200 cubic feet. When advertised, offered for sale, or sold within Washington state, quantity representations for sawdust, barkdust, decorative wood particles, and similar loose bulk materials must be in cubic measures or units and fractions thereof."
((4)) Section 2.31.2. Labeling of Retail Dispensers	((Add a new subsection which reads)) <u>Modify the existing text to add the following:</u> "2.31.2.5. Labeling of Retail Dispensers Containing Not More Than 5% Biodiesel. <p>(a) Each retail dispenser of biodiesel or biodiesel blend containing not more than five percent biodiesel must be labeled "May contain up to 5% Biodiesel."</p> <p>(b) <u>This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type).</u>"</p> ((Add a new subsection which reads)) <u>Modify the existing text to add the following:</u> "2.31.2.6. Labeling of Retail Dispensers Containing More Than 5% Biodiesel. <p>(a) Each retail dispenser of biodiesel or biodiesel blend containing more than five percent biodiesel must be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel</p>

Modified Section:	Modification:
	fuel and ending with either "biodiesel" or "biodiesel blend" (examples: B100 Biodiesel; B60 Biodiesel Blend). <u>(b) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type).</u> "
((5)) Section 2.31.4. Exemption	<u>Modify the existing text to delete section 2.31.4.</u>
((6)) Section 2.34. Retail Sales of Electricity Sold as a Vehicle Fuel	<u>Modify the existing text to delete section 2.34.</u>

~~((The))~~ (2) WSDA adopts the following modifications to the listed sections of the *Uniform Engine Fuels and Automotive Lubricants Regulation* requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3)(d):

Modified Section:	Modification:
((4)) Section 2.1.2. Gasoline-Ethanol Blends	((Modify)) <u>Replace the existing text in section 2.1.2((-to read)) with the following:</u> "When gasoline is blended with 1 to 10 volume percent ethanol, the ethanol shall meet the requirements of ASTM D4806 and either: <p>(a) The base gasoline used for blending with ethanol shall meet the requirements of ASTM D4814; except that the base gasoline shall meet the minimum temperature for a Vapor-Liquid Ratio of 20 for the applicable vapor lock protection class as follows:</p> <ol style="list-style-type: none"> (1) Class 1 shall be 60°C (140°F) (2) Class 2 shall be 56°C (133°F) (3) Class 3 shall be 51°C (124°F) (4) Class 4 shall be 47°C (116°F) (5) Class 5 shall be 41°C (105°F) <p>or</p>

Modified Section:	Modification:
	<p>(b) The blend shall meet the requirements of ASTM D4814." ((Add a new subsection to read)) <u>Modify the existing text to add the following:</u> " 2.1.2.1. Maximum Vapor Pressure. The maximum vapor pressure of a gasoline-ethanol blend shall not exceed ASTM D4814 limits by more than 1.0 psi for:</p> <p>(a) Only 9 to 10 volume percent ethanol blends from June 1 through September 15.</p> <p>(b) All blends of 1 to 10 volume percent ethanol from September 16 through May 31."</p>
((2)) Section 2.12. Motor Oil	Delete section 2.12.
(3) Section 2.13. Products for Use in Lubricating Manual Transmissions, Gears, or Axles	Delete section 2.13.
(4) Section 2.14. Products for Use in Lubricating Automatic Transmissions	Delete section 2.14.
(5)) Section 3.2.6. Method of Retail Sale	<p>Modify <u>the existing text in</u> section 3.2.6(-to read) <u>with the following:</u> "Type of Oxygenate must be Disclosed.</p> <p>(a) All automotive gasoline or automotive gasoline-oxygenate blends kept, offered, or exposed for sale, or sold at retail containing at least 1.5 mass percent oxygen shall be identified as "with" or "containing" (or similar wording) the predominant oxygenate in the engine fuel. ((For example, the label may read "contains ethanol.")) The oxygenate contributing the largest mass percent oxygen to the blend shall be considered the predominant oxygenate. Where mixtures of only ethers are present, the retailer may post the predominant oxygenate followed by the phrase "or other ethers." In addition, gasoline-methanol blend fuels containing more than 0.15</p>

Modified Section:	Modification:
	<p>mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. ((This information shall be posted on the upper fifty percent of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type).))</p> <p><u>(b)</u> Methanol at one percent or greater, by volume, in gasoline for use as motor vehicle fuel must be labeled with the maximum percentage of methanol contained in the motor vehicle fuel. ((Ethanol at no less than one percent and no))</p> <p><u>(c)</u> Gasoline-ethanol blend fuels <u>containing not</u> more than ten percent, by volume, must be labeled "Contains up to 10% Ethanol."</p> <p><u>(d)</u> Ethanol at greater than ten percent by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol" (example: ((E85)) <u>E40</u> Ethanol). <u>E85 fuel ethanol shall be identified and labeled in accordance with section 3.8. E85 Fuel Ethanol.</u></p> <p><u>(e)</u> This information shall be <u>posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type).</u>"</p>
((6)) Section 3.2.7. Documentation for Dispenser Labeling Purposes	<p>Modify <u>the existing text in</u> section 3.2.7(-to read) <u>with the following:</u> "The retailer shall be provided, at the time of delivery of the fuel, on an invoice, bill of lading, shipping paper, or other documentation, a declaration of the predominant oxygenate or combination of oxygenates present in concentrations sufficient to yield an oxygen content of at least</p>

Modified Section:	Modification:
	1.5 mass percent in the fuel. Where mixtures of only ethers are present, the fuel supplier may identify the predominant oxygenate in the fuel (i.e., the oxygenate contributing the largest mass percent oxygen). In addition, any gasoline containing more than 0.15 mass percent oxygen from methanol shall be identified as "with" or "containing" methanol. This documentation is only for dispenser labeling purposes; it is the responsibility of any potential blender to determine the total oxygen content of the engine fuel before blending. When ethanol and/or methanol is blended at one percent or greater, by volume, in gasoline for use as motor vehicle fuel, documentation must include the volumetric percentage of ethanol and/or methanol."
((7)) Section 3.8.2. Labeling Requirements	Add a new subsection which reads: "(e) Each retail dispenser of greater than ten percent fuel ethanol by volume must be labeled with the capital letter E followed by the numerical value volume percent denatured ethanol and ending with the word "ethanol" (example: E85 Ethanol)."
((8)) Section 3.9.2. Retail Dispenser Labeling	((Add a new subsection which reads)) <u>Modify the existing text in section 3.9.2 to add: "(c) Each retail dispenser of fuel methanol shall be labeled by the capital letter M followed by the numerical value maximum volume percent and ending with the word "methanol." (Example: M85 Methanol.) This information shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u>
((9)) Section 3.13. Oil	Delete section 3.13.
(10) Section 3.14. Automatic Transmission Fluid	Delete section 3.14.

Modified Section:	Modification:
((11)) Section 3.15.2. Labeling of Retail Dispensers	((Add a new subsection which reads:)) <u>Modify the existing text in subsection 3.15.2 to add: "3.15.2.5. Labeling of Retail Dispensers Containing Not More Than 5% Biodiesel. Each retail dispenser of biodiesel blend containing not more than five percent biodiesel must be labeled "May contain up to 5% Biodiesel."</u> ((Add a new subsection which reads:)) <u>Modify the existing text in subsection 3.15.2 to add: "3.15.2.6. Labeling of Retail Dispensers Containing More Than 5% Biodiesel. Each retail dispenser of biodiesel or biodiesel blend containing more than five percent biodiesel must be labeled with the capital letter B followed by the numerical value representing the volume percentage of biodiesel fuel and ending with either "biodiesel" or "biodiesel blend" (examples: B100 Biodiesel; B60 Biodiesel blend)."</u> <u>Modify the existing text in subsection 3.15.2 to add: "3.15.2.7. Placement of label. Labels shall be posted on the upper 50% of the dispenser front panel in a position clear and conspicuous from the driver's position in a type at least 12.7 mm (1/2 in.) in height, 1.5 mm (1/16 in.) stroke (width of type)."</u>
((12)) Section 3.15.4. Exemption	Delete section 3.15.4.

(3) WSDA adopts the following modifications to the listed sections of the Uniform Regulation for National Type Evaluation requirements published in *NIST Handbook 130*, identified in WAC 16-662-105 (3)(e):

Modified Section:	Modification:
<u>Section 2.3. Director</u>	<u>Modify the existing text in section 2.3 with the following: "Director – Means the director of the Washington state department of agriculture."</u>
<u>Section 4. Prohibited Acts and Exemptions</u>	<u>Modify the existing text in section (c) with the following: "A device in service in this state prior to July 5, 1997, that meets the specifications,</u>

Modified Section:	Modification:
	<p><u>tolerances, and other technical requirements of the <i>National Institute of Standards and Technology Handbook 44</i> shall not be required to be traceable to an active CC."</u> <u>Modify the existing text in section (d) with the following: "A device in service in this state prior to July 5, 1997, removed from service by the owner or on which the department has issued a removal order after July 5, 1997, and returned to service at a later date shall be modified to meet all specifications, tolerances, and other technical requirements of the National Institute of Standards and Technology Handbook 44 effective on the date of the return to service. Such a device shall not be required to be traceable to an active CC."</u><u>Modify the existing text in section (e) with the following: "A device in service in this state prior to July 5, 1997, which is repaired after such date shall meet the specifications, tolerances, and other technical requirements of the National Institute of Standards and Technology Handbook 44 and shall not be required to be traceable to an active CC."</u> <u>Modify the existing text in section (f) with the following: "A device in service in this state prior to July 5, 1997, that is still in use may be installed at another location in this state provided the device meets requirements in effect as of the date of installation in the new location; however, the device shall not be required to be traceable to an active CC."</u> <u>Modify the existing text in section (g) with the following: "A device in service in this state prior to July 5, 1997, may be installed in this state; however, the device shall meet the specifications, tolerances, and other technical requirements for weighing and measuring devices in the National Institute of Standards and Technology Handbook 44 and be traceable to an active CC."</u></p>

Modified Section:	Modification:
<u>Section 5. Participating Laboratory and Agreements</u>	<u>Modify the existing text to delete section 5.</u>
<u>Section 6. Revocation of Conflicting Regulations</u>	<u>Modify the existing text to delete section 6.</u>
<u>Section 7. Effective Date</u>	<u>Modify the existing text to delete section 7.</u>

AMENDATORY SECTION (Amending WSR 12-02-021, filed 12/28/11, effective 1/28/12)

WAC 16-662-120 Inspections of the net contents of packaged goods under NIST Handbook 133. WSDA will inspect((s)) packages using either "used dry tare" or "unused dry tare" in accordance with the procedures ((outlined)) in *NIST Handbook 133* and as defined in *Appendix F Glossary*. WSDA does not use "wet tare" in inspecting packages.

AMENDATORY SECTION (Amending WSR 13-03-054, filed 1/11/13, effective 2/11/13)

WAC 16-662-145 Posting of motor fuel prices—Cash and credit sales. The following rules apply to the posting of prices of retail sales of motor fuels. As used herein, motor fuel means any fuel used in motor vehicles including, but not limited to, gasoline, diesel, propane, and alcohol-gasoline blends. As used herein, motor vehicles shall include all wheeled motorized vehicles, and all boats and airplanes.

(1) The posted or advertised price of motor fuel at retail outlets must be available to all consumers. ((The grade of fuel and)) Any condition or qualification required to obtain the posted price must be clearly displayed in letters of contrasting color at least ((one-half)) one-third the size of the posted price and immediately adjacent thereto.

(2) The posted or advertised grade of fuel must be clearly displayed in letters of contrasting color at least one-sixth the size of the posted price and immediately adjacent thereto.

(3) A cash price may be posted or advertised if the posting of the price clearly shows it to be limited to cash purchases. The information shall be in letters at least ((one-half)) one-third the size of the posted price and immediately adjacent thereto.

((3)) (4) If mixed case letters are used to display the grade of the fuel and any condition or qualification, the size requirements of the letters apply to the upper case letters and any lower case letters must be in proportionate scale.

(5) Cash and credit sales. If a retailer elects to establish separate islands or individual dispensers for cash and credit sales, the islands or dispensers shall be clearly marked as such in letters at least six inches in height and of proportional width.

((4)) (6) Posted prices of motor fuels at retail outlets shall include all federal, state, and local taxes.

NEW SECTION

WAC 16-662-150 Unlawful acts—National type evaluation program (NTEP). It shall be unlawful for a person to:

(1) Use a device in commercial application if a certificate of conformance has not been issued for such device, unless exempt under WAC 16-662-105 (3)(e).

(2) Sell a device for use in commercial application if a certificate of conformance has not been issued for such device, unless exempt under WAC 16-662-105 (3)(e).

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-662-110 Modifications to NIST Handbook 44.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 16-664-010 Purpose.
 WAC 16-664-020 Definitions.
 WAC 16-664-030 Certificate of Conformance—When required.
 WAC 16-664-040 Commercial and law enforcement equipment—Certificate of Conformance—Requirements—Exemptions—One-of-a-kind device—Repaired device—Remanufactured device—Device copy—Components.
 WAC 16-664-050 Unlawful acts.
 WAC 16-664-060 Penalty.

WSR 14-19-054
PERMANENT RULES
NORTHWEST CLEAN
AIR AGENCY

[Filed September 11, 2014, 3:57 p.m., effective October 12, 2014]

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

Purpose: The goal of this rule making is four-fold. First is to streamline the publishing of fees for the outdoor burning, agricultural burning, and asbestos programs by removing the fee schedules from the regulation and publishing them as separate board approved documents. Second is to revise to better reflect current implementation and improve clarity for the outdoor burning, agricultural burning, and asbestos programs along with the fugitive dust requirements. Third is to newly adopt by reference two New Source Performance Standard (NSPS) and three National Emissions Standards for Hazardous Air Pollutants (NESHAP) along with two other federal programs. Fourth is to update the effectiveness dates

under NWCAA 104 to ensure the most recent versions of the referenced regulations are adopted.

Citation of Existing Rules Affected by this Order: Amending Sections 104, 324, 502, 504, 550, and 570 of the Regulation of the NWCAA.

Statutory Authority for Adoption: Chapter 70.94 RCW.
 Adopted under notice filed as WSR 14-15-031 on July 9, 2014.

Changes Other than Editing from Proposed to Adopted Version: Added a close parenthesis at the end of NWCAA 502.5 (B)(1) and (9).

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

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

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

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

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

Date Adopted: September 11, 2014.

Mark Buford
 Assistant Director

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-20 issue of the Register.

WSR 14-19-056
PERMANENT RULES
DEPARTMENT OF AGRICULTURE

[Filed September 12, 2014, 8:05 a.m., effective October 13, 2014]

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

Purpose: The department amended chapter 16-06 WAC to update the department's description, organization, and contact information. These amendments also establish a set scanning charge for the reproduction of paper records into electronic format. The department's current rule does not have an established rate and making this change clarifies potential charges when members of the public request scanned records. These amendments also increase the minimum total cost that applies before the department begins to charge for the reproduction of requested public records from the current amount of \$10.00 to \$20.00.

Citation of Existing Rules Affected by this Order: Repealing WAC 16-06-165; and amending WAC 16-06-160, 16-06-180, 16-06-200, 16-06-210, 16-06-220, and 16-06-250.

Statutory Authority for Adoption: RCW 43.17.060 and 42.56.040.

Other Authority: Chapter 34.05 RCW.

Adopted under notice filed as WSR 14-15-017 on July 7, 2014.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 6, Repealed 1.

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

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

Date Adopted: September 12, 2014.

Mark Streuli
Deputy Director

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-160 Description of department (~~organization~~), address and telephone number of Olympia administrative offices. (~~The administrative offices of the Washington state department of agriculture are~~) Headquartered in Olympia and located in the Natural Resources Building, 1111 Washington Street S.E., P.O. Box 42560, Olympia, Washington 98504-2560, the department employs personnel in every county in Washington. The department serves the people of Washington state by supporting the agricultural community and promoting consumer and environmental protection since 1913. The information telephone number is ((360) 902-1800) 360-902-1800. The department is organized into seven (~~divisions~~) functional areas:

- (1) Director's office;
- (2) Administrative services (~~division~~);
- (3) Animal services division;
- (4) Commodity inspection division;
- (5) Food safety and consumer services division;
- (6) Pesticide management division; and
- (7) Plant protection division.

The department maintains service locations or major field offices around the state. (~~Several of these offices are headed by a supervisor or chief.~~) The administrative offices located in Olympia can assist persons in locating office locations around the state. The department's organization chart is available upon request from the Public Records Officer (~~and the Human Resources Office~~), Washington State Department of Agriculture, P.O. Box 42560, Olympia, Washington 98504-2560, phone 360-902-1935, fax 360-902-2092 and also on the agency web site. The public is encouraged to view the organization chart on the web site.

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-180 Public records officer. (1) Any person wishing to request access to the department's public records, or seeking assistance in making a public records request, should contact the public records officer.

(2) You may contact the public records officer (~~by mail~~) at the Washington State Department of Agriculture, 1111 Washington Street SE, P.O. Box 42560, Olympia, Washington 98504-2560, by telephone at ((360) 902-1809) 360-902-1935, by fax at 360-902-2092, or by e-mail at: publicdisclosure@agr.wa.gov.

(3) The name of the department's current public records officer is also on file with the office of the code reviser in accordance with RCW 42.56.580 and is published in the *Washington State Register*.

(4) The public records officer will oversee compliance with the Public Records Act, but a designee of the public records officer may process the request or otherwise fulfill the duties of the public records officer. The public records officer will provide the fullest assistance to requestors.

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-200 Costs of disclosure. (1) No fee will be charged for the inspection of public records.

(2) The department charges a fee of fifteen cents per page of (~~copy~~) photocopy when copy charges exceed (~~ten~~) twenty dollars for providing copies of public records. The department may also charge actual costs of mailing, including the cost of the shipping container. This charge is the amount necessary to reimburse the department for copying costs incident to the disclosure request.

(3) The department may charge the actual cost involved for the duplication of tape recordings, video tapes, photographs, slides, postage, or delivery if these costs exceed (~~ten~~) twenty dollars.

(4) The public records officer may waive the fee when the expenses of processing payment exceeds the costs of providing copies.

(5) Electronic records: The department (~~may charge the actual costs incurred for providing recordings in electronic format, such as the cost of scanning records or the cost of providing records on a CD-ROM~~) charges a fee of five cents per page of scanned copy when the costs exceed twenty dollars and the records are converted from paper to electronic format upon request. There will be no charge for e-mailing electronic records to a requestor unless another cost applies.

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-210 Exemptions. The Public Records Act provides that a number of types of information or records are exempt from public inspection and copying. In addition, records are exempt from disclosure if any other statute exempts or prohibits disclosure. Requestors should be aware of the following exemptions to public disclosure specific to

department records. This list is not exhaustive and other exemptions may apply:

(1) Personal information in any files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy (reference RCW 42.56.230(~~(2)~~)) (3).

(2) Investigative records (reference RCW 42.56.240).

(3) Test questions, scoring keys, and other examination data used to administer a license (reference RCW 42.56.250 (1)).

(4) Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts (reference RCW 42.56.290).

(5) Lists of individuals requested for commercial purposes (reference RCW 42.56.070(9)).

(6) ~~((Social Security numbers are confidential and not subject to disclosure except when expressly required by or governed by other law (reference RCW 41.56.250; for full text, see subsection (9) of this section).))~~ Records related to the entry of prohibited agricultural products imported into Washington state or that had Washington state as a final destination received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(12)).

(7) Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required or governed by other law (reference RCW 42.56.230 (~~((4))~~)) (5).

(8) Applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to the applicant (reference RCW 42.56.250(2)).

(9) Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency (reference RCW 42.56.250(3)).

(10) Information provided for the semi-annual report for fertilizers, minerals and limes that would reveal the business operation of the person making the report (reference RCW 15.54.362(5) and 42.56.380(2)).

(11) The semiannual report required in the Commercial Feed Act is not a public record, and any information given in such report which would reveal the business operation of the person making the report is exempt from disclosure, and information obtained by the department from other governmental agencies or other sources that is used to verify infor-

mation received in the report is exempt from public disclosure (reference RCW 15.53.9018).

(12) The department has the authority to publish reports of official seed inspections, seed certifications, laboratory statistics, verified violations of this chapter, and other seed branch activities which do not reveal confidential information regarding individual company operations or production (reference RCW 15.49.370(8)).

(13) Business related information obtained under the Organic Food Products Act concerning an entity certified under that act or an applicant for certification under RCW 15.86.110, and records whose disclosure is prohibited by the federal Organic Certification Act, 7 U.S.C. Sec. 6515(g) and the rules adopted under that act (reference RCW 42.56.380 (1)).

(14) Consignment information contained on phytosanitary certificates issued by the department under chapters 15.13, 15.17, and 15.49 RCW or federal phytosanitary certificates issued under 7 C.F.R. 353 through cooperative agreements with the animal and plant health inspection service, United States Department of Agriculture, or on applications for phytosanitary certification required by the department (reference RCW 42.56.380(4)).

(15) Financial and commercial information and records supplied by businesses or individuals during application for loans or program services provided by the former chapter 15.110 RCW or chapter 43.325 RCW (the energy freedom loan program) (reference RCW 42.56.270(4)).

(16) Information obtained under RCW 15.19.080 regarding the purchases, sales, or production of an individual American ginseng grower or dealer (reference RCW 42.56.380 (6)).

(17) Financial statement information required to determine whether or not an applicant for a license to operate a warehouse under chapter 22.09 RCW, agriculture commodities, meets minimum net worth requirements (reference RCW 22.09.040(9)).

(18) All financial statement information to determine whether or not an applicant for a license to be a grain dealer under chapter 22.09 RCW meets the minimum net worth requirements (reference RCW 22.09.045(7)).

(19) Information submitted by an individual or business to the department of agriculture under the requirements of chapters 16.36, 16.57, and 43.23 RCW for the purpose of ((participating in a state or national animal identification system)) herd inventory management for animal disease traceability, is exempt from disclosure. This information includes animal ownership, numbers of animals, locations, contact information, movements of livestock, financial information, the purchase and sale of livestock, account numbers or unique identifiers issued by government to private entities, and information related to livestock disease or injury that would identify an animal, a person or location. Disclosure to local, state, and federal officials is not public disclosure. This exemption does not affect the disclosure of information used in reportable animal health investigations under chapter 16.36 RCW once they are complete (reference RCW 42.56.-380(9)).

(20) Results of testing for animal diseases ~~((not required to be reported under chapter 16.36 RCW that is done at the~~

request) from samples submitted by or at the direction of the animal owner or the owner's designee and that can be identified to a particular business or individual is exempt from disclosure (reference RCW 42.56.380(10)).

(21) Information that can be identified to a particular business and that is collected under chapter 15.17 RCW, standards of grades and packs, and specifically RCW 15.17.140(2) and 15.17.143 for certificates of compliance (reference RCW 42.56.380(7)).

(22) Financial statement information provided under RCW 16.65.030 (1)(d), public livestock markets, is confidential information and not subject to public disclosure (reference RCW 16.65.030 (1)(d) and 42.56.380(8)).

(23) Privileged or confidential information or data that contains trade secrets, commercial, or financial information and is required and submitted under the Washington Pesticide Control Act (reference RCW 15.58.060 (1)(c) and 15.58.065).

(24) Except for release of statistical information not descriptive of any readily identifiable person or persons, all financial and commercial information and records supplied by persons to the department with respect to export market development projects (reference RCW 43.23.270 and 42.56.270(3)).

(25) Information submitted by an applicant under chapter 17.24 RCW that is privileged or confidential because it contains trade secrets or commercial or financial information (reference RCW 17.24.061).

(26) Production or sales records required to determine assessment levels and actual assessment payments to commodity boards and commissions formed under chapters 15.24, 15.26, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, and 16.67 RCW, or required by the department to administer these chapters or the department's programs (reference RCW 42.56.380(3)).

(27) Financial and commercial information and records supplied by persons:

(a) To the department for the purpose of conducting a referendum for the potential establishment of a commodity board or commission; or

(b) To the department or commodity boards or commissions formed under chapters 15.24, 15.28, 15.44, 15.65, 15.66, 15.74, 15.88, 15.89, 15.100, or 16.67 RCW, with respect to domestic or export marketing activities or individual producer's production information (reference RCW 42.56.380(5)).

(28) Farm plans developed by conservation districts, unless the farm plan is used for the application or issuance of a permit (reference RCW 42.56.270(17)).

(29) Under RCW 42.56.610 and 90.64.190, information identifying the number of animals; volume of livestock nutrients generated; number of acres covered by the plan or used for land application of livestock nutrients; livestock nutrients transferred to other persons; and crop yields in plans, records, and reports obtained by state and local agencies from dairies, animal feeding operations, and concentrated animal feeding operations not required to apply for a National Pollutant Discharge Elimination System permit is disclosable in the following ranges:

(a) Number of animals: Beef cattle

1 to 19
20 to 159
160 to 299
300 to 999
1,000 to 5,999
6,000 to 10,999
11,000 to 15,999
16,000 to 20,999
21,000 to 25,999
26,000 to 31,199
31,200 to 37,439
37,440 to 44,999
45,000 and above

(b) Number of animals: Mature dairy cattle

1 to 37
38 to 199
200 to 699
700 to 1,699
1,700 to 2,699
2,700 to 3,699
3,700 to 4,699
4,700 to 5,699
5,700 to 6,839
6,840 and above

(c) Number of animals: Dairy heifers

1 to 49
50 to 149
150 to 299
300 to 999
1,000 to 1,999
2,000 to 2,999
3,000 to 3,999
4,000 and above

(d) Number of animals: Swine (fifty-five pounds or greater)

1 to 19
20 to 159
160 to 399
400 to 749
750 to 2,499
2,500 to 4,249
4,250 to 5,999
6,000 to 7,749
7,750 and above

(e) Number of animals: Swine (less than fifty-five pounds)

1 to 99
100 to 499
500 to 1,099
1,100 to 1,999
2,000 to 2,999
3,000 to 9,999
10,000 to 16,999
17,000 to 23,999
24,000 to 30,999
31,000 and above

(f) Number of animals: Layers (all ages)

1 to 199
200 to 999

1,000 to 10,999
 11,000 to 24,999
 25,000 to 81,999
 82,000 to 138,999
 139,000 to 195,999
 196,000 to 252,999
 253,000 to 309,999
 310,000 to 371,999
 372,000 to 446,399
 446,400 to 535,679
 535,680 to 642,815
 642,816 to 771,379
 771,380 to 925,655
 925,656 to 1,110,787
 1,110,788 to 1,332,945
 1,332,946 and above

(g) Number of animals: Broilers (all ages)

1 to 199
 200 to 999
 1,000 to 17,999
 18,000 to 37,499
 37,500 to 124,999
 125,000 to 212,499
 212,500 to 299,999
 300,000 and above

(h) Number of animals: Horses

1 to 19
 20 to 79
 80 to 149
 150 to 499
 500 to 849
 850 to 1,199
 1,200 to 1,549
 1,550 and above

(i) Livestock nutrients generated or exported by volume

(ft³/day)

1 to 74
 75 to 134
 135 to 299
 300 to 449
 450 to 749
 750 to 1,499
 1,500 to 2,499
 2,500 to 4,999
 5,000 to 8,499
 8,500 to 11,999
 12,000 to 15,999
 16,000 and above

(j) Livestock nutrients generated or exported by weight

(tons/year)

1 to 5,256
 5,257 to 10,512
 10,513 to 21,024
 21,025 to 42,048
 42,049 to 84,096
 84,097 to 164,184
 164,185 to 262,734
 262,735 to 394,200
 394,201 to 558,384
 558,385 to 722,634

722,635 to 919,734
 919,735 to 1,051,134
 1,051,135 and above

(k) Number of acres covered by the plan or used for land application of livestock nutrients

0 to 25
 26 to 65
 66 to 120
 121 to 300
 301 to 550
 551 to 900
 901 to 1,300
 1,301 to 1,800
 1,801 to 2,500
 2,501 to 3,200
 3,201 to 4,000
 4,001 to 6,000
 6,001 to 9,000
 9,001 to 11,500
 11,501 to 14,000
 14,001 and above

(l) Crop yields - tons/acre

0 to 1
 1.1 to 2
 2.1 to 3.5
 3.6 to 5
 5.1 to 7
 7.1 to 9
 9.1 to 12
 12.1 to 14.5
 14.6 to 17
 17.1 to 19.5
 19.6 to 22
 22.1 to 26
 26.1 and above

(30) Records of international livestock importation that can be identified to a particular animal, business, or individual received from the United States Department of Homeland Security or the United States Department of Agriculture that are not disclosable by the federal agency under federal law including 5 U.S.C. Sec. 552 (reference RCW 42.56.380(11)).

(31) A person aggrieved by a violation of chapter 17.21 RCW or the rules adopted under that chapter is entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available to persons outside the department except as provided in RCW 17.21.340 (1)(a)(ii).

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-220 Review of denial of request for inspection or copying of public records. (1) Any person who objects to the initial denial of a records request may petition in writing to the ~~((public records officer))~~ administrative regulations program manager for a review of that decision. The petition shall include a copy of, or reasonably identify, the written statement by the department denying the request.

(2) The ~~((public records officer))~~ administrative regulations program manager will immediately consider the petition and either affirm or reverse the denial within two business days following the department's receipt of the petition, or within such other time as the department and the requestor mutually agree to.

(3) Under RCW 42.56.530, if the department denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) Any person may obtain court review of a denial of a public records request under RCW 42.56.550 at the conclusion of two business days after the initial denial, regardless of any internal administrative appeal.

AMENDATORY SECTION (Amending WSR 09-03-032, filed 1/12/09, effective 2/12/09)

WAC 16-06-250 Processing of public records requests—Electronic records. (1) Requesting electronic records: The process for requesting electronic public records is the same as for requesting paper public records.

(2) Providing electronic records:

(a) The department has the discretion to determine whether to provide records electronically or in paper form.

(b) When a requestor requests records in an electronic format, the public records officer will endeavor to provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the department and is generally commercially available, or in a format that is reasonably translatable from the format in which the department keeps the record.

(c) When electronic records require redaction, or are contained in a proprietary data base, or otherwise cannot be reasonably provided in an electronic format, the department will provide paper copies of the records to the requestor.

(3) Customized access to data bases: With the consent of the requestor, the department may provide customized access under RCW ~~((43.105.280))~~ 43.41A.130 if the record is not reasonably locatable or not reasonably translatable into the format requested. The department may charge a fee consistent with RCW ~~((43.105.280))~~ 43.41A.130 for customized access.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-06-165 Department organization description by division and program.

WSR 14-19-071 PERMANENT RULES DEPARTMENT OF

SOCIAL AND HEALTH SERVICES

(Aging and Long-Term Support Administration)

[Filed September 12, 2014, 3:44 p.m., effective October 13, 2014]

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

Purpose: The department is adopting these rules as a result of 3ESSB 5034. These rules will provide licensing requirements for enhanced services facilities. The legislature has directed that residents be placed in enhanced services facilities in 2014.

Statutory Authority for Adoption: Chapter 70.97 RCW.

Adopted under notice filed as WSR 14-12-081 on June 3, 2014.

Changes Other than Editing from Proposed to Adopted Version: The changes are shown with new language underlined and deleted "text" lined through.

WAC 388-107-0001:

"Applicant" means the ~~person~~ individual or entity.

"Licensee" means the ~~person~~ individual or entity.

WAC 388-107-0200 Quality of care:

(3)(j) Special needs, including but not limited to.

(iii) Colostomy, ~~ureterostomy~~ urostomy.

WAC 388-107-0250:

(2)(c) Meets the long-term worker training and certification requirements ~~of~~ as described in chapter 388-112 WAC.

WAC 388-107-0320:

(2) The enhanced services facility must ensure residents receive their medications as prescribed, subject to the resident's right to refuse as described in this chapter.

WAC 388-107-0360 Medication refusal—Antipsychotics:

~~(2) The enhanced services facility can not give the anti-psychotic medication in an override of the resident's refusal.~~

WAC 388-107-0560 Resident records—Clinical records:

(3) Maintain resident records and preserve their confidentiality in accordance with the applicable state and federal statutes and rules, including chapters 70.02 and ~~70.129~~ 70.96A RCW.

WAC 388-107-1320 Annual renewal:

To renew an enhanced services facility license, the enhanced services facility must, ~~submit a completed~~ when renewal of license ~~renewal application on forms designated~~ by notification is received, submit the department annual license fee, at least thirty days prior to the license expiration date.

~~(2) Sign the application;~~

~~(3) Submit the annual license fee; and~~

~~(4) If the licensee's agent prepares a renewal application on the licensee's behalf, the licensee must review, sign and attest to the accuracy of the information contained on the renewal application.~~

WAC 388-107-1432 Circumstances that may result in enforcement remedies:

(c) Failed or refused to comply with the requirements of chapter 70.97 ~~48.20~~ RCW, applicable provisions of chapters 70.96A and 71.05 ~~70.429~~ RCW or this chapter;

WAC 388-107-1150 Application process:

(f) Submit verification that construction plans have been approved by construction review services and verify that the department has received an approved inspection by the state fire marshal.

WAC 388-107-1050 Unlicensed operations—Application of Consumer Protection Act:

Operation of a facility without a license in violation of this chapter and discrimination against Medicaid recipients are is a matter vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

WAC 388-107-0630 Training and home care aide certification requirements:

(1) Under RCW 18.88B.041 and chapter 246-980 WAC, certain individuals including registered nurses, licensed practical nurses, certified nursing assistants, or persons who are in an approved certified nursing assistant program are exempt form [from] long-term care worker training requirements.

(2) Continuing education requirements are outlined in chapter 388-112 WAC; registered nurses and licensed practical nurses are exempt from the long-term care worker continuing education requirement.

(3) The enhanced services facility must ensure staff persons meet training requirements in effect on the date hired, including requirements described in chapter 388-112 WAC, unless exempt under RCW 18.88B.041.

(4) The enhanced services facility must ensure all enhanced services facility administrators, or their designees, and caregivers who are not exempt under subsection (1) of this section meet the long-term care worker training requirements of chapter 388-112 WAC, including but not limited to:

WAC 388-107-0710:

(3) If the facility does construction to meet enhanced services facility requirements.

WAC 388-107-1390 Change in licensee/change of ownership—Relinquishment of license:

(1) On the effective date of the change in licensee, the current enhanced services facility licensee is required to relinquish its ~~their~~ enhanced service facility license.

WAC 388-107-1440 Enforcement orders—Hearings:

(3) Subject to the requirements of subsection (2) of this section, all hearings under this chapter and judicial review of such determinations must be in accordance with the Administrative Procedure Act, chapter 34.05 RCW and chapter 388-02 WAC.

WAC 388-107-1580 Policies and procedures:

(3)(v)(i) Medication refusals, including refusals of court ordered medication.

WAC 388-107-1500 Disputing a preliminary finding:

(3) The office of administrative hearings must receive the individual's written request for an administrative hearing within thirty calendar days of the date of mailing of the notice

of the preliminary finding; except under the circumstances described in subsection.

A final cost-benefit analysis is available by contacting Melissa G. Lovell, P.O. Box 45600, Olympia, WA 98513, phone (360) 725-2408, fax (360) 438-7903, e-mail Melissa.lovell@dshs.wa.gov.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 179, Amended 0, Repealed 0.

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

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

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 179, Amended 0, Repealed 0.

Date Adopted: September 11, 2014.

Kevin Quigley
Secretary

Reviser's note: The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 14-21 issue of the Register.

WSR 14-19-107

PERMANENT RULES

STATE BOARD OF EDUCATION

[Filed September 16, 2014, 5:53 p.m., effective October 17, 2014]

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

Other Findings Required by Other Provisions of Law as Precondition to Adoption or Effectiveness of Rule: A fiscal impact statement was prepared by the office of superintendent of public instruction and presented per RCW 28A.305.135.

Purpose: This filing amends seven sections of chapter 180-19 WAC, Charter schools. The purposes of the amendments are:

- Modify due dates, in five sections (WAC 180-19-020, 180-19-030, 180-19-040, 180-19-070, and 180-19-080), for various charter actions to ensure sufficient time for charter authorizers, entities applying to be charter authorizers, and charter applicants to carry out their responsibilities in a high quality way.
- Set in rule (WAC 180-19-040) the process for evaluation of authorizer applications and decisions to approve or deny.
- Clarify WAC 180-19-090 to provide that the lottery for certification of approved charters, when required under RCW 28A.710.150, applies to charters approved for operation in any single year that are in excess of the maximum that may be established in any single year.

- Make technical corrections and improvements, particularly to WAC 180-19-020 and 180-19-030; and deletions and amendments to terms defined in WAC 180-19-010.

Citation of Existing Rules Affected by this Order: Amending WAC 180-19-010 through 180-19-040 and 180-19-070 through 180-19-090.

Statutory Authority for Adoption: RCW 28A.710.090, 28A.710.130, 28A.710.140, 28A.710.150.

Adopted under notice filed as WSR 14-16-103 on August 5, 2014.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 7, Repealed 0.

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 7, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 7, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 7, Repealed 0.

Date Adopted: September 10, 2014.

Ben Rarick
Executive Director

AMENDATORY SECTION (Amending WSR 13-07-065, filed 3/19/13, effective 4/19/13)

WAC 180-19-010 Definitions. (1) (~~"Authorizer" shall have the same meaning as set forth in RCW 28A.710.010(3).~~)

(2) ~~"Authorizer application" or "application" means the form developed by the state board of education that must be completed and timely filed as set forth in these rules with the state board of education by a school district seeking approval to be a charter school authorizer.~~

(3) ~~"Board" means the state board of education.~~

(4) (2) ~~"School district" or "district" means a school district board of directors.~~

(3) ~~"NACSA Principles and Standards" means the "Principles and Standards for Quality Charter Authorizing (2012 Edition)" developed by the National Association of Charter School Authorizers.~~

AMENDATORY SECTION (Amending WSR 13-07-065, filed 3/19/13, effective 4/19/13)

WAC 180-19-020 Notice of intent to submit an authorizer application.

(Effective until May 15, 2015)

A school district intending to file an application during a calendar year to be approved as a charter school authorizer must submit to the state board of education a notice of intent to file such application by October 1st of ~~(the prior)~~ that

~~same year~~ (~~(; provided, however, that a district seeking approval as an authorizer in 2013 must provide such notice of intent to submit an application by April 1, 2013)~~). A district may not file an authorizer application in a calendar year unless it has filed a timely notice of intent as provided for herein. A notice of intent shall not be construed as an obligation to submit an application under these rules. The board shall post on its public web site a form for use by districts in submitting notice of intent, and shall post ~~((on its web site))~~ all notices of intent upon receipt.

(Effective May 15, 2015)

A school district intending to file an application during a calendar year to be approved as a charter school authorizer must submit to the state board of education a notice of intent to file such application by June 15th of that same year. A district may not file an authorizer application in a calendar year unless it has filed a timely notice of intent as provided for herein. A notice of intent shall not be construed as an obligation to submit an application under these rules. The board shall post on its public web site a form for use by districts in submitting notice of intent, and shall post all notices of intent upon receipt.

AMENDATORY SECTION (Amending WSR 13-07-065, filed 3/19/13, effective 4/19/13)

WAC 180-19-030 Submission of authorizer application.

(Effective until May 15, 2015)

(1) The state board of education shall develop and make available on its web site, no later than October 1st of each year, an "authorizer application" that must be used by school districts seeking to be approved as a charter school authorizer (~~(; provided, however, that the board shall make available on its web site the authorizer application for those districts seeking approval in 2013 by April 1, 2013)~~). The application may include such attachments as deemed required by the board to support and complete the application.

(2) A school district seeking approval to be a charter school authorizer must submit an "authorizer application" to the state board of education by December 31st of the year ~~((in which))~~ prior to the year the district seeks approval as an authorizer (~~(; provided, however, that a district application for approval to be a charter school authorizer in 2013 must be submitted to the board, as provided herein, no later than July 1, 2013)~~). The district's completed application must be ~~((sent))~~ submitted via electronic mail to sbe@k12.wa.us ~~((with the original hand delivered or mailed to the board at the following address:~~

Washington State Board of Education
600 Washington St. S.E.
Olympia, WA 98504

~~The original and electronic version of the application must be received by the board no later than the date provided above))~~ by the date specified in this section. The board shall post on its web site each application received from a school district.

(3) A school district must provide sufficient and detailed information regarding all of the following in the authorizer application submitted to the board:

(a) **The district's strategic vision for chartering.** The district must state the purposes that it expects to fulfill in being an authorizer of charter schools, with (specific) reference to the (statutory purposes) findings and intents set forth in RCW 28A.710.005, as well as any district-specific purposes that are a (particular) priority for the district; the characteristics of the school or schools it is most interested in authorizing, while maintaining a commitment to considering all charter applicants based on the merits of their proposals and the likelihood of success (how the school or schools it wishes to authorize might differ from the schools the district currently operates with regard to such features as staffing, schedule, curriculum, and community engagement); the educational goals it wishes to achieve; how it will give priority to serving at-risk students, as defined in RCW 28A.710.010(2), or students from low-performing schools; and how it will (protect) respect the autonomy and (promote) ensure the accountability of the charter schools it oversees.

(b) **A plan to support the vision presented,** including explanations and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing. "Budget and personnel capacity" means the district's capability of providing sufficient (assistance) oversight (and) monitoring and assistance to ensure that the charter schools it authorizes will meet all fiscal, academic and operational requirements under chapter 28A.710 RCW and comply with all applicable state and federal laws. A district's evidence of budget and personnel capacity shall consist, at a minimum, of a detailed description of the following:

(i) Staff resources to be devoted to charter authorizing and oversight under chapter 28A.710 RCW, in full-time equivalent employees, at a level sufficient to fulfill its authorizing responsibilities in accordance with the (")NACSA Principles and Standards (for Quality Charter Authorizing" developed by the National Association of Charter School Authorizers) and the provisions of chapter 28A.710 RCW;

(ii) Job titles, job descriptions, and (qualifications) brief bios and resumes of district personnel with anticipated authorizing responsibilities under RCW 28A.710.030, demonstrating the district's access to (competent and necessary) expertise in all areas essential to charter school oversight including, but not limited to: School leadership; curriculum, instruction and assessment; special education, English language learners (and) other diverse learning needs; performance management (and) law, finance and facilities, through staff and any contractual relationships or (inter-agency collaborations) partnerships with other public entities; and

(iii) An estimate, supported by verifiable data, of the financial needs of the authorizer and a projection, to the extent feasible, of sufficient financial resources, supported by the authorizer oversight fee under RCW 28A.710.110 and any other resources, to carry out its authorizing responsibilities in accordance with (National) the NACSA Principles and Standards (developed by the National Association of

Charter School Authorizers) and the provisions of chapter 28A.710 RCW.

(c) **A draft or preliminary outline of the request for proposal~~(s)~~** that the district would, if approved as an authorizer, issue to solicit charter school (applicants) applications. The draft or preliminary outline of the request for proposal(s) shall meet all of the requirements set forth in RCW 28A.710.130 (1)(b) and demonstrate that the (applicant intends to) district will implement a comprehensive charter application process that follows fair procedures and rigorous criteria, and an evaluation and oversight process based on a performance framework meeting the requirements of (chapter 28A.710) RCW 28A.710.170.

(d) **A draft of the performance framework** that the district would, if approved as an authorizer, use to guide the (establishment) execution of a charter contract and for ongoing oversight and performance evaluation of charter schools. The draft of the performance framework shall, at a minimum, meet the requirements of RCW 28A.710.170(2) including descriptions of each indicator, measure and metric enumerated therein (and), and shall provide that student academic proficiency, student academic growth, achievement gaps in both proficiency and growth, graduation rates, and postsecondary readiness are measured and reported in conformance with the achievement index developed by the state board of education under RCW 28A.657.110.

(e) **A draft of the district's proposed renewal, revocation, and nonrenewal processes,** consistent with RCW 28A.710.190 and 28A.710.200. The draft provided must, at a minimum, provide for the implementation of transparent and rigorous processes that:

(i) Establish clear standards for renewal, nonrenewal, and revocation of charters it may authorize under RCW 28A.710.100;

(ii) Set reasonable and effective timelines for actions that may be taken under RCW 28A.710.190 and 28A.710.200;

(iii) Describe how academic, financial and operational performance data will be used in making decisions under RCW 28A.710.190 and 28A.710.200;

(iv) Outline a plan to take appropriate corrective actions, or exercise sanctions short of revocation, in response to identified deficiencies in charter school performance or legal compliance, in accordance with the charter contract and the provisions of (chapter 28A.710) RCW 28A.710.180.

(4) A district must sign a statement of assurances submitted with its application, (that) which shall be included as an attachment to the authorizing contract executed between the approved district and the state board of education, stating that it seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of chapter 28A.710 RCW, and that if approved as an authorizer it will:

(a) Seek opportunities for authorizer professional development, and assure that personnel with significant responsibilities for authorizing and oversight of charter schools will participate in any authorizer training provided or required by the state;

(b) Provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures;

(c) Solicit applications for both new charter schools and conversion charter schools, while appropriately distinguishing the two types of charter schools in proposal requirements and evaluation criteria;

(d) Ensure that any charter school it oversees shall have a fully independent governing board and exercise autonomy in all matters, to the extent authorized by chapter 28A.710 RCW, in such areas as ~~((budget))~~ budgeting, personnel and ~~((educational programs))~~ instructional programming and design;

(e) Ensure that any contract it may execute with the governing board of an approved charter school under RCW 28A.710.160 provides that the school will provide educational services to students with disabilities, students who are limited English proficient, and any other special populations of students as required by state and federal laws;

(f) Include in any charter contract it may execute with the governing board of an approved charter school, in accordance with RCW 28A.710.160(2), educational services that at a minimum meet the basic education standards set forth in RCW 28A.150.220.

(Effective May 15, 2015)

(1) The state board of education shall develop and make available on its web site, no later than May 15th of each year, an "authorizer application" that must be used by school districts seeking to be approved as a charter school authorizer. The application may include such attachments as deemed required by the board to support and complete the application.

(2) A school district seeking approval to be a charter school authorizer must submit an "authorizer application" to the state board of education by October 15th of the year prior to the year the district seeks approval as an authorizer. The district's completed application must be submitted via electronic mail to sbe@k12.wa.us by the date specified in this section. The board shall post on its web site each application received from a school district.

(3) A school district must provide sufficient and detailed information regarding all of the following in the authorizer application submitted to the board:

(a) **The district's strategic vision for chartering.** The district must state the purposes that it expects to fulfill in being an authorizer of charter schools, with reference to the findings and interests set forth in RCW 28A.710.005, as well as any district-specific purposes that are a priority for the district; the characteristics of the school or schools it is most interested in authorizing, while maintaining a commitment to considering all charter applicants based on the merits of their proposals and the likelihood of success; the educational goals it wishes to achieve; how it will give priority to serving at-risk students, as defined in RCW 28A.710.010(2), or students from low-performing schools; and how it will respect the autonomy and ensure the accountability of the charter schools it oversees.

(b) **A plan to support the vision presented,** including explanations and evidence of the applicant's budget and personnel capacity and commitment to execute the responsibilities of quality charter authorizing. "Budget and personnel capacity" means the district's capability of providing suffi-

cient oversight, monitoring, and assistance to ensure that the charter schools it authorizes will meet all fiscal, academic and operational requirements under chapter 28A.710 RCW and comply with all applicable state and federal laws. A district's evidence of budget and personnel capacity shall consist, at a minimum, of a detailed description of the following:

(i) Staff resources to be devoted to charter authorizing and oversight under chapter 28A.710 RCW, in full-time equivalent employees, at a level sufficient to fulfill its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW;

(ii) Job titles, job descriptions, and brief bios and resumes of district personnel with anticipated authorizing responsibilities under RCW 28A.710.030, demonstrating the district's access to expertise in all areas essential to charter school oversight including, but not limited to: School leadership; curriculum, instruction and assessment; special education, English language learners and other diverse learning needs; performance management and law, finance and facilities, through staff and any contractual relationships or partnerships with other public entities; and

(iii) An estimate, supported by verifiable data, of the financial needs of the authorizer and a projection, to the extent feasible, of sufficient financial resources, supported by the authorizer oversight fee under RCW 28A.710.110 and any other resources, to carry out its authorizing responsibilities in accordance with the *NACSA Principles and Standards* and the provisions of chapter 28A.710 RCW.

(c) **A draft or preliminary outline of the request for proposal** that the district would, if approved as an authorizer, issue to solicit charter school applications. The draft or preliminary outline of the request for proposal(s) shall meet all of the requirements set forth in RCW 28A.710.130 (1)(b) and demonstrate that the district will implement a comprehensive charter application process that follows fair procedures and rigorous criteria, and an evaluation and oversight process based on a performance framework meeting the requirements of RCW 28A.710.170.

(d) **A draft of the performance framework** that the district would, if approved as an authorizer, use to guide the execution of a charter contract and for ongoing oversight and performance evaluation of charter schools. The draft of the performance framework shall, at a minimum, meet the requirements of RCW 28A.710.170(2) including descriptions of each indicator, measure and metric enumerated therein, and shall provide that student academic proficiency, student academic growth, achievement gaps in both proficiency and growth, graduation rates, and postsecondary readiness are measured and reported in conformance with the achievement index developed by the state board of education under RCW 28A.657.110.

(e) **A draft of the district's proposed renewal, revocation, and nonrenewal processes,** consistent with RCW 28A.710.190 and 28A.710.200. The draft provided must, at a minimum, provide for the implementation of transparent and rigorous processes that:

(i) Establish clear standards for renewal, nonrenewal, and revocation of charters it may authorize under RCW 28A.710.100;

(ii) Set reasonable and effective timelines for actions that may be taken under RCW 28A.710.190 and 28A.710.200;

(iii) Describe how academic, financial and operational performance data will be used in making decisions under RCW 28A.710.190 and 28A.710.200;

(iv) Outline a plan to take appropriate corrective actions, or exercise sanctions short of revocation, in response to identified deficiencies in charter school performance or legal compliance, in accordance with the charter contract and the provisions of RCW 28A.710.180.

(4) A district must sign a statement of assurances submitted with its application, which shall be included as an attachment to the authorizing contract executed between the approved district and the state board of education, stating that it seeks to serve as an authorizer in fulfillment of the expectations, spirit, and intent of chapter 28A.710 RCW, and that if approved as an authorizer it will:

(a) Seek opportunities for authorizer professional development, and assure that personnel with significant responsibilities for authorizing and oversight of charter schools will participate in any authorizer training provided or required by the state;

(b) Provide public accountability and transparency in all matters concerning charter authorizing practices, decisions, and expenditures;

(c) Solicit applications for both new charter schools and conversion charter schools, while appropriately distinguishing the two types of charter schools in proposal requirements and evaluation criteria;

(d) Ensure that any charter school it oversees shall have a fully independent governing board and exercise autonomy in all matters, to the extent authorized by chapter 28A.710 RCW, in such areas as budgeting, personnel and instructional programming and design;

(e) Ensure that any contract it may execute with the governing board of an approved charter school under RCW 28A.710.160 provides that the school will provide educational services to students with disabilities, students who are limited-English proficient, and any other special populations of students as required by state and federal laws;

(f) Include in any charter contract it may execute with the governing board of an approved charter school, in accordance with RCW 28A.710.160(2), educational services that at a minimum meet the basic education standards set forth in RCW 28A.150.220.

AMENDATORY SECTION (Amending WSR 13-07-065, filed 3/19/13, effective 4/19/13)

WAC 180-19-040 Evaluation and approval or denial of authorizer applications.

(Effective until May 15, 2015)

(1) The board shall evaluate an application submitted by a school district seeking to be an authorizer and issue a decision approving or denying the application by April 1st of each year (~~;- provided, however, that the board shall issue a decision approving or denying a district's application timely submitted for approval in 2013 by no later than September 12, 2013. The state board may utilize the services of external~~

~~reviewers with expertise in educational, organizational and financial matters in evaluating applications. The board may, at its discretion, require personal interviews with district personnel for the purpose of reviewing an application).~~

(2) ~~((For an application to be approved, the state board must find it to be satisfactory in providing all of the information required to be set forth in the application.))~~ In evaluating each application, the board will rate each part of the application as set forth in WAC 180-19-030 (3)(a) through (e) as well-developed, partially developed, or undeveloped, based on criteria for evaluation included in the authorizer application developed and made publicly available pursuant to WAC 180-19-030(1).

(a) "Well-developed" shall mean that the application response meets the expectations established by the board and the *NACSA Principles and Standards* in material respects and warrants approval subject to execution of an authorizing contract with the board.

(b) "Partially developed" shall mean that the application response contains some aspects of a well-developed practice, is limited in its execution, or otherwise falls short of satisfying the expectations established by the board and the *NACSA Principles and Standards*.

(c) "Undeveloped" shall mean that the application response is wholly inadequate in that the applicant district has not considered or anticipated the well-developed practice at all, or proposes to carry out its authorizing duties in a way that is not recognizably connected to the expectations established by the board and the *NACSA Principles and Standards*.

(3) ~~In its evaluation the board will ((also)) consider whether the district's proposed ((policies)) policies and practices are consistent with the *NACSA Principles and Standards* ((for quality charter school authorizing developed by the National Association of Charter School Authorizers)), as required by RCW 28A.710.100(3), in at least the following areas:~~

(a) Organizational capacity: Commit human and financial resources necessary to conduct authorizing duties effectively and efficiently;

(b) Solicitation and evaluation of charter applications: Implement a comprehensive application process that includes clear application questions and rigorous criteria, and grants charters only to applicants who demonstrate strong capacity to establish and operate a charter school;

(c) Performance contracting: Execute contracts with charter schools that articulate the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(d) Ongoing charter school oversight and evaluation: Conduct contract oversight that competently evaluates performance and monitors compliance, ensures schools' legally entitled autonomy, protects student rights, informs intervention, revocation and renewal decisions, and provides annual reports as required by chapter 28A.710 RCW; and

(e) Charter renewal and revocation processes: Design and implement a transparent and rigorous process that uses comprehensive academic, financial and operational performance data to make merit-based renewal decisions, and

revokes charters when necessary to protect student and public interests.

(4) The board shall develop and post on its public web site rubrics for determination of the extent to which each criterion for evaluation has been met.

(5) The board may utilize the services of external reviewers with expertise in educational, organizational or financial matters in evaluating applications.

(6) Prior to approving any application, the board shall require an in-person interview with district leadership for the purpose of reviewing and evaluating the application. The in-person interview will be used to supplement or clarify information provided by the district in the written application. The information received in the in-person interview shall be considered in formulating the overall ratings of the application under subsection (2) of this section.

(7) For an application to be approved, the board must find it to be well developed in each part of the application as set forth in WAC 180-19-030(3). A determination that an application does not ((provide the required information, or does not)) meet standards of quality authorizing in any ((component)) part, shall constitute grounds for disapproval. If the state board disapproves an application, it shall state in writing the reasons for the disapproval, with specific reference to the criteria included in the authorizer application.

~~((3))~~ (8) The ((state)) board ((of education)) shall post on its public web site the applications of all school districts approved as authorizers. A school district approved as an authorizer shall post its application on a public web site.

~~((4))~~ If the state board disapproves an application, it shall state in writing the reasons for the disapproval, with specific reference to the criteria established in these rules.)

(Effective May 15, 2015)

(1) The board shall evaluate an application submitted by a school district seeking to be an authorizer and issue a decision approving or denying the application by February 1st of each year.

(2) In evaluating each application, the board will rate each part of the application as set forth in WAC 180-19-030(3)(a) through (e) as well-developed, partially developed, or undeveloped, based on criteria for evaluation included in the authorizer application developed and made publicly available pursuant to WAC 180-19-030(1).

(a) "Well-developed" shall mean that the application response meets the expectations established by the board and the *NACSA Principles and Standards* in material respects and warrants approval subject to execution of an authorizing contract with the board.

(b) "Partially developed" shall mean that the application response contains some aspects of a well-developed practice, is limited in its execution, or otherwise falls short of satisfying the expectations established by the board and the *NACSA Principles and Standards*.

(c) "Undeveloped" shall mean that the application response is wholly inadequate in that the applicant district has not considered or anticipated the well-developed practice at all, or proposes to carry out its authorizing duties in a way that is not recognizably connected to the expectations established by the board and the *NACSA Principles and Standards*.

(3) In its evaluation the board will consider whether the district's proposed policies and practices are consistent with the *NACSA Principles and Standards* as required by RCW 28A.710.100(3), in at least the following areas:

(a) Organizational capacity: Commit human and financial resources necessary to conduct authorizing duties effectively and efficiently;

(b) Solicitation and evaluation of charter applications: Implement a comprehensive application process that includes clear application questions and rigorous criteria, and grants charters only to applicants who demonstrate strong capacity to establish and operate a charter school;

(c) Performance contracting: Execute contracts with charter schools that articulate the rights and responsibilities of each party regarding school autonomy, funding, administration and oversight, outcomes, measures for evaluating success or failure, performance consequences, and other material terms;

(d) Ongoing charter school oversight and evaluation: Conduct contract oversight that competently evaluates performance and monitors compliance, ensures schools' legally entitled autonomy, protects student rights, informs intervention, revocation and renewal decisions, and provides annual reports as required by chapter 28A.710 RCW; and

(e) Charter renewal and revocation processes: Design and implement a transparent and rigorous process that uses comprehensive academic, financial and operational performance data to make merit-based renewal decisions, and revokes charters when necessary to protect student and public interests.

(4) The board shall develop and post on its public web site rubrics for determination of the extent to which each criterion for evaluation has been met.

(5) The board may utilize the services of external reviewers with expertise in educational, organizational or financial matters in evaluating applications.

(6) Prior to approving any application, the board shall require an in-person interview with district leadership for the purpose of reviewing and evaluating the application. The in-person interview will be used to supplement or clarify information provided by the district in the written application. The information received in the in-person interview shall be considered in formulating the overall ratings of the application under subsection (2) of this section.

(7) For an application to be approved, the board must find it to be well developed in each part of the application as set forth in WAC 180-19-030(3). A determination that an application does not meet standards of quality authorizing in any part shall constitute grounds for disapproval. If the state board disapproves an application, it shall state in writing the reasons for the disapproval, with specific reference to the criteria included in the authorizer application.

(8) The board shall post on its public web site the applications of all school districts approved as authorizers. A school district approved as an authorizer shall post its application on a public web site.

AMENDATORY SECTION (Amending WSR 13-12-055, filed 6/1/13, effective 7/2/13)

WAC 180-19-070 Charter school—Request for proposals.

(Effective until January 16, 2016)

No later than April 15th, each authorizer shall annually issue requests for proposals for charter schools meeting the requirements of RCW 28A.710.130. ((For the year 2013, a request for proposal must be issued by no later than September 22, 2013. Requests for proposals in all subsequent years must be issued no later than April 15th.))

(Effective January 16, 2016)

No later than March 1st, each authorizer shall annually issue requests for proposals for charter schools meeting the requirements of RCW 28A.710.130.

AMENDATORY SECTION (Amending WSR 13-12-055, filed 6/1/13, effective 7/2/13)

WAC 180-19-080 Charter school applications—Submission, approval, or denial.

(Effective until January 16, 2016)

(1) An applicant, as defined in RCW 28A.710.010, seeking approval must:

(a) Submit a nonbinding notice of intent to be approved as a proposed charter school not less than thirty days before the last date for submission of an application to an authorizer as provided in this section. An applicant may not ~~((file))~~ submit a charter school application in a calendar year unless it has filed timely notice of intent as provided herein; and

(b) Submit an application for a proposed charter school to an authorizer by no later than July 15th of the year in which the applicant seeks approval. ~~((Provided, however, that an applicant seeking approval to operate a charter school in 2014 must submit an application to an authorizer by no later than November 22, 2013.))~~

(2) An authorizer receiving an application for a proposed charter school must either approve or deny the proposal by no later than ~~((October 15th of the year in which the application is received))~~ ~~((: Provided, however, that for applications received in 2013, the authorizer must approve or deny the proposal by no later than February 24, 2014)).~~

(3) The authorizer must provide the state board of education with a written report of the approval or denial of an applicant's proposal for a charter school within ten days of such action ~~((, but no later than October 25th, whichever is sooner. Provided, however, that for proposals for charter schools received in 2013, the report must be received within ten days of the action, but no later than March 6, 2014, whichever is sooner)).~~ The notice must comply with the requirements set forth in RCW 28A.710.150(2). The report shall be sent to the board via electronic mail to sbe@k-12.wa.us.

(Effective January 16, 2016)

(1) An applicant, as defined in RCW 28A.710.010, seeking approval must:

(a) Submit a nonbinding notice of intent to be approved as a proposed charter school by May 1st of the year in which approval is sought. An applicant may not submit a charter school application in a calendar year unless it has filed timely notice of intent as provided herein; and

(b) Submit an application for a proposed charter school to an authorizer by no later than June 1st of the year in which the applicant seeks approval.

(2) An authorizer receiving an application for a proposed charter school must either approve or deny the proposal by no later than September 1st of the year in which the application is received.

(3) The authorizer must provide the state board of education with a written report of the approval or denial of an applicant's proposal for a charter school within ten days of such action. The notice must comply with the requirements set forth in RCW 28A.710.150(2). The report shall be sent to the board via electronic mail to sbe@k-12.wa.us.

AMENDATORY SECTION (Amending WSR 13-12-055, filed 6/1/13, effective 7/2/13)

WAC 180-19-090 Board certification of charter schools—Lottery. (1) Upon receipt of notice from an authorizer that a charter school has been approved, the chair of the state board of education shall certify whether the approval is in compliance with the limits in RCW 28A.710.150 ~~((s in RCW 28A.710.150))~~ schools that may be established. Certification from the ~~((state))~~ ~~((of education))~~ board must be obtained before final authorization of a charter school. The certification of a charter school shall be posted on the board's web site.

(2) If the board receives notification of charter approvals under this section on the same day, and the total number of approvals exceeds the limits in RCW 28A.710.150(1) on the maximum number of charter schools that may be established for operation in any single year, the board will select approved charters for certification through a lottery process as follows:

(a) The board shall notify the authorizer that the approved charter school has not been certified by the board for operation and must be selected for certification through a lottery.

(b) Within thirty days after determining that the limit for charter schools has been exceeded, the board shall conduct a lottery, as required by RCW 28A.710.150(3), at a publicly noticed meeting to select and certify approved charters for implementation. The board shall randomly draw the names of charter schools from the available pool of approved charter schools that have not been certified until the maximum allowable total number of charter schools has been selected.

~~((i))~~ ~~A charter school shall be certified by the board for operation commencing in the following school year so long as the total number of charter schools that may be established in any single year under RCW 28A.710.150 is not exceeded.~~

~~((ii))~~ (c) Once the total number of charter schools that may be established in any single year under RCW 28A.710.150 is exceeded, the board shall certify a charter school for operation in a subsequent year in which a charter school may

be established within the limits set forth in RCW 28A.710.-150(1), based upon the charter's selection in the lottery.

**WSR 14-19-123
PERMANENT RULES
GAMBLING COMMISSION**

[Order 704—Filed September 17, 2014, 10:51 a.m., effective November 1, 2014]

Effective Date of Rule: November 1, 2014.

Purpose: At their September 2014 meeting, the commissioners adopted a license and I.D. stamp fee increase of approximately six percent.

Citation of Existing Rules Affected by this Order: Amending WAC 230-05-020, 230-05-025, 230-05-030, and 230-05-035.

Statutory Authority for Adoption: RCW 9.46.070.

Adopted under notice filed as WSR 14-16-079 on August 1, 2014.

Changes Other than Editing from Proposed to Adopted Version:

- After the proposal was filed in July 2014, staff found one mathematical error in WAC 230-05-030(10); defective punch board/pull-tab cost recovery fee had not been increased; therefore, it was updated from \$100 to \$106.
- License fees in odd dollar amounts, \$800 and higher, were increased by one dollar to an even dollar amount (there were forty-seven) to accommodate the two-part payment plan.

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

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

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 4, Repealed 0.

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

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: September 17, 2014.

Susan Newer
Rules Coordinator

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-05-020 Charitable or nonprofit organization fees. Bona fide charitable and nonprofit organizations must pay the following fees to us when applying for gambling licenses, permits, miscellaneous changes, or inspection services:

1. Amusement games

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	\$((58)) <u>61</u>
Class B	Up to \$10,000	\$((58)) <u>61</u>
Class C	Up to \$25,000	\$((319)) <u>338</u>
Class D	Up to \$50,000	\$((513)) <u>544</u>
Class E	Over \$50,000	\$((894)) <u>948</u>

2. Bingo

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$25,000	\$((58)) <u>61</u>	\$1,000
Class B	Up to \$75,000	\$((185)) <u>196</u>	\$1,000
Class C	Up to \$150,000	\$((380)) <u>403</u>	\$2,000
Class D	Up to \$350,000	\$((1,026)) <u>1,088</u>	\$4,000
Class E	Up to \$650,000	\$((1,732)) <u>1,836</u>	\$8,000
Class F	Up to \$1,500,000	\$((3,486)) <u>3,696</u>	\$15,000
Class G	Up to \$2,000,000	\$((5,028)) <u>5,330</u>	\$23,000
Class H	Up to \$3,000,000	\$((6,722)) <u>7,126</u>	\$30,000
Class I	Up to \$4,000,000	\$((8,400)) <u>8,904</u>	\$38,000
Class J	Up to \$5,000,000	\$((10,078)) <u>10,684</u>	\$45,000
Class K	Up to \$6,000,000	\$((11,306)) <u>11,984</u>	\$53,000
Class L	Up to \$7,000,000	\$((12,922)) <u>13,698</u>	\$60,000
Class M	Up to \$8,000,000	\$((14,542)) <u>15,416</u>	\$65,000
Class N	Up to \$9,000,000	\$((15,818)) <u>16,768</u>	\$70,000
Class O	Up to \$10,000,000	\$((17,454)) <u>18,502</u>	\$75,000
Class P	Up to \$11,000,000	\$((19,090)) <u>20,236</u>	\$80,000
Class Q	Up to \$12,000,000	\$((22,908)) <u>24,282</u>	\$85,000
Class R	Up to \$13,000,000	\$((26,180)) <u>27,752</u>	\$90,000
Class S	Up to \$14,000,000	\$((29,454)) <u>31,222</u>	\$95,000

*See chapter 230-06 WAC, Exceeding license class.

3. Card games

License	Description	Fee
Class A	Nonhouse-banked - fee to play	\$((644)) <u>679</u>
Class B	Limited card games - hearts, rummy, pitch, pinochle, and cribbage - fee to play	\$((185)) <u>196</u>
Class C	Tournament only - no more than thirty consecutive days per tournament	\$((58)) <u>61</u>
Class D	Nonhouse-banked - no fee to play	\$((58)) <u>61</u>

4. Fund-raising event

License	Description	Fee
Class A	One event - not more than 24 consecutive hours	
	First time applicant	\$((380)) <u>403</u>
	Previously licensed applicant	\$((223)) <u>236</u>
Class B	One event - not more than 72 consecutive hours	
	First time applicant	\$((644)) <u>679</u>
	Previously licensed applicant	\$((393)) <u>417</u>
Class C	Additional participant in joint event - not lead organization	\$((185)) <u>196</u>
Class D	Limited fund-raising event - one event - not more than six consecutive hours	
	First time applicant	\$((167)) <u>177</u>
	Previously licensed applicant	\$((111)) <u>118</u>
Class E	Fund-raising event equipment distributor - rents or leases equipment no more than ten times per year	\$((253)) <u>268</u>
Class F	Fund-raising event equipment distributor - rents or leases equipment more than ten times per year	\$((644)) <u>679</u>

5. Punch boards/pull-tabs

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$50,000	\$((611)) <u>648</u>	\$5,000
Class B	Up to \$100,000	\$((1,090)) <u>1,156</u>	\$5,000
Class C	Up to \$200,000	\$((2,062)) <u>2,186</u>	\$10,000
Class D	Up to \$300,000	\$((2,998)) <u>3,178</u>	\$10,000
Class E	Up to \$400,000	\$((3,874)) <u>4,106</u>	\$10,000
Class F	Up to \$500,000	\$((4,676)) <u>4,958</u>	\$10,000
Class G	Up to \$600,000	\$((5,420)) <u>5,746</u>	\$10,000
Class H	Up to \$700,000	\$((6,100)) <u>6,466</u>	\$10,000

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class I	Up to \$800,000	\$((6,722)) <u>7,126</u>	\$10,000
Class J	Up to \$1,000,000	\$((7,620)) <u>8,078</u>	\$20,000
Class K	Up to \$1,250,000	\$((8,460)) <u>8,968</u>	\$25,000
Class L	Up to \$1,500,000	\$((9,240)) <u>9,794</u>	\$25,000
Class M	Up to \$1,750,000	\$((9,880)) <u>10,474</u>	\$25,000
Class N	Up to \$2,000,000	\$((10,466)) <u>11,094</u>	\$25,000
Class O	Up to \$2,500,000	\$((11,500)) <u>12,190</u>	\$30,000
Class P	Up to \$3,000,000	\$((12,218)) <u>12,952</u>	\$35,000
Class Q	Up to \$4,000,000	\$((14,400)) <u>15,264</u>	\$40,000
Class R	Up to \$5,000,000	\$((16,362)) <u>17,344</u>	\$50,000
Class S	Up to \$6,000,000	\$((18,544)) <u>19,658</u>	\$60,000
Class T	Up to \$7,000,000	\$((20,728)) <u>21,972</u>	\$70,000
Class U	Up to \$8,000,000	\$((22,908)) <u>24,282</u>	\$80,000
Class V	Over \$8,000,000	\$((25,090)) <u>26,596</u>	\$80,000

*See chapter 230-06 WAC, Exceeding license class.

6. Raffles

License	Annual Gross Gambling Receipts	Fee
Class A	Up to \$5,000	\$((58)) <u>61</u>
Class B	Up to \$10,000	\$((185)) <u>196</u>
Class C	Up to \$25,000	\$((380)) <u>403</u>
Class D	Up to \$50,000	\$((644)) <u>679</u>
Class E	Up to \$75,000	\$((1,026)) <u>1,088</u>
Class F	Over \$75,000	\$((1,540)) <u>1,632</u>

7. Enhanced raffles

License	Fee
Annual	\$((6,000)) <u>6,360</u>
Additional fee per enhanced raffle	\$((7,800)) <u>8,268</u>

8. Combination license

License	Description	Fee
Class A	Allows gross gambling receipts of up to \$25,000 from bingo, \$7,500 from raffles, and \$7,500 from amusement games, not to exceed \$30,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$(115)) 122
Class B	Allows gross gambling receipts of up to \$60,000 from bingo, \$15,000 from raffles, and \$15,000 from amusement games, not to exceed \$75,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$(300)) 318
Class C	Allows gross gambling receipts of up to \$125,000 from bingo, \$30,000 from raffles, and \$30,000 from amusement games, not to exceed \$150,000 combined gross gambling receipts from all such activities. Allows Class D card games.	\$(696)) 738

9. Special property bingo

Once annually	\$(27)) 29
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10. Permits

Recreational gaming activity	\$(58)) 61
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11. Changes

Type	Fee
Name	\$(27)) 29
Location	\$(27)) 29
Fund-raising event date or time	\$(27)) 29
License class	\$(27)) 29
Duplicate license	\$(27)) 29

12. Other fees

Type	Fee
Replacement identification stamps	\$(27)) 29
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$(26)) 28
Review, inspection and/or evaluation of equipment, paraphernalia, services, or schemes	Deposit and fees as required

13. Two-part payment plan participation

Annual participation	\$(27)) 29
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AMENDATORY SECTION (Amending WSR 07-23-083, filed 11/20/07, effective 1/1/08)

WAC 230-05-025 Commercial stimulant fees. All commercial stimulant license applicants must pay the following fees to us when applying for gambling licenses:

1. Card games - Nonhouse-banked

License	Description	Fee
Class B	Up to five tables of limited card games - hearts, rummy, pitch, pinochle, and/or cribbage - fee to play	\$(189)) 200
Class C	Tournament only, no more than thirty consecutive days per tournament	
C-5	Up to five tables	\$(189)) 200
C-10	Up to ten tables	\$(346)) 367
C-15	Up to fifteen tables	\$(576)) 611
Class D	Up to five tables - no fee to play	\$(59)) 63
Class E	Fee to play	
E-1	One table only	\$(460)) 488
E-2	Up to two tables	\$(792)) 840
E-3	Up to three tables	\$(1,318)) 1,398
E-4	Up to four tables	\$(2,644)) 2,804
E-5	Up to five tables	\$(3,980)) 4,220
Additional tables	Per table - up to a maximum of fifteen tables	\$(1,152)) 1,222
Class F	Endorsement/upgrade of Class E includes permission to use alternative fee collections and use of player-supported jackpots	\$(1,732)) 1,836

2. Card games - House-banked

All tables within a card room operating any house-banked card game must be licensed under this license class.

License	Fee
Annual	\$(6,944)) 7,362
Additional fee per table - up to fifteen tables	\$(1,732)) 1,836

3. Punch boards and pull-tabs

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class A	Up to \$50,000	\$(628)) 666	\$5,000
Class B	Up to \$100,000	\$(1,122)) 1,190	\$5,000
Class C	Up to \$200,000	\$(2,116)) 2,244	\$10,000

License	Annual Gross Gambling Receipts	Fee	One Time Variance*
Class D	Up to \$300,000	\$((3,080)) <u>3,266</u>	\$10,000
Class E	Up to \$400,000	\$((3,980)) <u>4,220</u>	\$10,000
Class F	Up to \$500,000	\$((4,806)) <u>5,094</u>	\$10,000
Class G	Up to \$600,000	\$((5,570)) <u>5,904</u>	\$10,000
Class H	Up to \$700,000	\$((6,270)) <u>6,646</u>	\$10,000
Class I	Up to \$800,000	\$((6,906)) <u>7,320</u>	\$10,000
Class J	Up to \$1,000,000	\$((7,832)) <u>8,302</u>	\$20,000
Class K	Up to \$1,250,000	\$((8,692)) <u>9,214</u>	\$25,000
Class L	Up to \$1,500,000	\$((9,494)) <u>10,064</u>	\$25,000
Class M	Up to \$1,750,000	\$((10,156)) <u>10,766</u>	\$25,000
Class N	Up to \$2,000,000	\$((10,756)) <u>11,402</u>	\$25,000
Class O	Up to \$2,500,000	\$((11,820)) <u>12,530</u>	\$30,000
Class P	Up to \$3,000,000	\$((12,218)) <u>12,952</u>	\$35,000
Class Q	Up to \$4,000,000	\$((14,400)) <u>15,264</u>	\$40,000
Class R	Up to \$5,000,000	\$((16,362)) <u>17,344</u>	\$50,000
Class S	Up to \$6,000,000	\$((18,544)) <u>19,658</u>	\$60,000
Class T	Up to \$7,000,000	\$((20,728)) <u>21,972</u>	\$70,000
Class U	Up to \$8,000,000	\$((22,908)) <u>24,282</u>	\$80,000
Class V	Over \$8,000,000	\$((25,090)) <u>26,596</u>	\$80,000

*See chapter 230-06 WAC, Exceeding license class.

AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-05-030 Fees for other businesses. All other business license applicants must pay the following fees to us when applying for gambling licenses, miscellaneous changes, or inspection services:

1. Commercial amusement games

License	Annual Gross Gambling Receipts	Fee
Class A	Premises only	*\$((327/\$150)) <u>347/\$159</u>
Class B	Up to \$50,000	\$((460)) <u>488</u>
Class C	Up to \$100,000	\$((1,184)) <u>1,256</u>

License	Annual Gross Gambling Receipts	Fee
Class D	Up to \$250,000	\$((2,644)) <u>2,804</u>
Class E	Up to \$500,000	\$((4,640)) <u>4,918</u>
Class F	Up to \$1,000,000	\$((7,968)) <u>8,446</u>
Class G	Over \$1,000,000	\$((9,970)) <u>10,568</u>

* We reduce the license fee by \$177 when you apply for additional licenses at the same business premises, apply for multiple licenses at the same business premises, or a licensee is renewing an annual license.

2. Distributor

License	Annual Gross Sales	Fee
Class A	Nonpunch board/pull-tab only	\$((659)) <u>699</u>
Class B	Up to \$250,000	\$((1,318)) <u>1,398</u>
Class C	Up to \$500,000	\$((1,980)) <u>2,100</u>
Class D	Up to \$1,000,000	\$((2,644)) <u>2,804</u>
Class E	Up to \$2,500,000	\$((3,446)) <u>3,654</u>
Class F	Over \$2,500,000	\$((4,242)) <u>4,498</u>

3. Fund-raising event equipment distributor

License	Description	Fee
Class A	Rents or leases equipment for fund-raising event or recreational gaming activity up to 10 times per year.	\$((260)) <u>276</u>
Class B	Rents or leases equipment for fund-raising event or recreational gaming activity more than 10 times per year.	\$((659)) <u>699</u>

4. Gambling service supplier

License	Fee
Annual	\$((687)) <u>728</u>
Financing, consulting, and management contract review	\$((143)) <u>152</u>

5. Linked bingo prize provider

License	Fee
Annual	\$((4,414)) <u>4,680</u>

6. Call centers for enhanced raffles

License	Fee
Annual	\$((4,500)) <u>4,770</u>

7. Manufacturer

License	Annual Gross Sales	Fee
Class A	Pull-tab dispensing devices only	\$((659)) <u>699</u>
Class B	Up to \$250,000	\$((1,318)) <u>1,398</u>
Class C	Up to \$500,000	\$((1,980)) <u>2,100</u>
Class D	Up to \$1,000,000	\$((2,644)) <u>2,804</u>
Class E	Up to \$2,500,000	\$((3,446)) <u>3,654</u>
Class F	Over \$2,500,000	\$((4,242)) <u>4,498</u>

8. Permits

Type	Description	Fee
Agricultural fair	One location and event only	\$((27)) <u>29</u>
Agricultural fair annual permit	Annual permit for specified different events and locations	\$((189)) <u>200</u>
Recreational gaming activity		\$((59)) <u>63</u>
Manufacturer's special sales permit		\$((211)) <u>224</u>
Punch board and pull-tab service business permit	Initial application fee	\$((236)) <u>250</u>
Punch board and pull-tab service business permit	Renewal	\$((56)) <u>59</u>

9. Changes

Application	Description	Fee
Name		\$((27)) <u>29</u>
Location		\$((27)) <u>29</u>
Business classification	Same owners	\$((59)) <u>63</u>
Exceeding license class	New class fee, less previous fee paid, plus	\$((27)) <u>29</u>
Duplicate license		\$((27)) <u>29</u>
Corporate stock/limited liability company shares/units		\$((59)) <u>63</u>
License transfers		\$((59)) <u>63</u>

10. Other fees

Type	Fee
Defective punch board/pull-tab cost recovery fees	Up to \$((100)) <u>106</u>

Type	Fee
Failing to apply for license class upgrade	Up to fifty percent of the difference between our fees for the licensee's present license class and the new license class or one thousand dollars, whichever is less, plus \$((27)) <u>29</u>
Review of gambling equipment, supplies, services, or games	Cost reimbursement

11. Identification stamps

Type	Fee
(a) Punch boards and pull-tabs	
(i) Standard	Wagers fifty cents and below \$((28)) <u>.30</u>
	Wagers over fifty cents \$((111)) <u>118</u>
(ii) Progressive jackpot pull-tab series	Per series \$((1119)) <u>11.86</u>
(iii) Pull-tab series with carry-over jackpots and cumulative prize pool pull-tab series	Per series \$((111)) <u>1.18</u>
(b) Pull-tab dispensing devices	
(i) Mechanical and electro-mechanical	\$((28)) <u>.30</u>
(ii) Electronic	Dispensing devices that require initial and ongoing evaluation of electronic components or functions, such as reading encoded data on pull-tabs, accounting for income or prizes \$((112.04)) <u>118.76</u> annually
Replacement of identification stamps	\$((26)) <u>28</u>
(c) Disposable bingo cards	
(i) Single game sets of individual cards or sheets of cards	\$((28)) <u>.30</u>
(ii) Multigame card packets	\$((122)) <u>1.29</u>
(iii) Cards used to play for linked bingo prizes	Fee per 250 cards \$((44)) <u>.47</u>
(iv) Cards used to play for linked bingo prizes	Fee per 5,000 cards \$((896)) <u>9.50</u>
(d) Coin or token-activated amusement games	
Annually - operated at any Class A amusement game license location	\$((28.00)) <u>29.68</u>
(e) Electronic bingo card daubers	
Annual	\$((1119)) <u>11.86</u>
(f) Electronic card facsimile table	
Annual	\$((381.50)) <u>404.39</u>

12. Two-part payment plan participation

Annual participation	\$((27)) <u>29</u>
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AMENDATORY SECTION (Amending WSR 13-19-056, filed 9/16/13, effective 10/17/13)

WAC 230-05-035 Individuals license fees. Individuals must pay the following fees to us when they apply for gambling licenses, permits, miscellaneous changes:

1. Charitable or nonprofit gambling manager

License	Fee
Original	\$((185)) <u>196</u>
Renewal	\$((88)) <u>93</u>
Change of employer	\$((88)) <u>93</u>

2. Linked bingo prize provider representative

License	Fee
Original	\$((260)) <u>276</u>
Renewal	\$((158)) <u>167</u>

3. Commercial gambling manager

License	Fee
Original	\$((189)) <u>200</u>
Renewal	\$((90)) <u>95</u>
Change of employer	\$((90)) <u>95</u>

4. Distributor's or gambling services supplier's representative

License	Fee
Original	\$((260)) <u>276</u>
Renewal	\$((158)) <u>167</u>

5. Representatives for manufacturers or call centers for enhanced raffles

License	Fee
Original	\$((260)) <u>276</u>
Renewal	\$((158)) <u>167</u>

6. Public card room employee

License	Fee
Class A - Performs card room employee duties in a Class E card room	

License	Fee
Original	\$((189)) <u>200</u>
Renewal	\$((90)) <u>95</u>
Class B - Performs card room employee duties in enhanced and house-banked card rooms	
Original, in-state	\$((258)) <u>273</u>
Original, out-of-state	\$((320)) <u>339</u>
Renewal	\$((158)) <u>167</u>
Transfer/additional employee/conversion/emergency waiver request	\$((64)) <u>65</u>

7. Other fees

Change of name	\$((27)) <u>29</u>
Duplicate license	\$((27)) <u>29</u>

8. Military personnel returning from service

If a license expires while an individual is on active military service, the individual may apply to have their license reissued at the renewal fee. The application must be received within six months after completing their active military service. The applicant must provide evidence of the completion date of active military service.