

**WSR 15-16-002**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
(Washington Apple Health)  
[Filed July 23, 2015, 8:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-12-012.

Title of Rule and Other Identifying Information: WAC 182-533-0600 Planned home births and births in birthing centers.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Conference Room, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on September 8, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than September 9, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by September 8, 2015.

Assistance for Persons with Disabilities: Contact Jeff Stender by September 4, 2015, TTY (800) 848-5429 or (360) 725-1307 or e-mail [jeff.stender@hca.wa.gov](mailto:jeff.stender@hca.wa.gov).

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule reflects state requirements that hospitals and health care providers attending births inform parents of required newborn screening tests and prophylactic eye ointment. The proposed rule also requires that these providers inform parents of the risks and benefits of vitamin K injection. During the course of this review, the agency has also revised language to improve readability and replace outdated references to "MAA."

Reasons Supporting Proposal: The agency aims to clarify requirements for providers attending births.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 70.83.020; SHB 1285, chapter 37, Laws of 2015, 64th Legislature 2015; WAC 246-100-202.

Statute Being Implemented: RCW 70.83.020; SHB 1285, chapter 37, Laws of 2015, 64th Legislature 2015; WAC 246-100-202.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 42716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Nancy Hite, P.O. Box 45506, Olympia, WA 98504-5506, (360) 725-1611.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative [rules] review committee has not requested the filing of a small business economic impact statement, and these rules do not impose a disproportionate cost impact on small businesses.

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

July 23, 2015  
Wendy Barcus  
Rules Coordinator

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

**WAC 182-533-0600 Planned home births and births in birthing centers.** (1) ~~((MAA))~~ **Client eligibility.** The medicaid agency covers planned home births and births in birthing centers for ~~((its))~~ clients ~~((when the client and the maternity care provider))~~ who choose to ~~((have a home birth or to))~~ give birth at home or in an ~~((MAA))~~ agency-approved birthing center and ~~((the client))~~:

(a) ~~((Is))~~ Are eligible for ~~((CM or MN))~~ the alternative benefit package under WAC 182-501-0060, categorically needy or medically needy scope of care ~~((see WAC 388-533-400(2)))~~ under WAC 182-533-0400(2);

(b) ~~((Has a MAA approved))~~ Have an agency-approved medical provider who has accepted responsibility for the planned home birth or birth in birthing center ~~((as provided in))~~ under this section;

(c) ~~((Is))~~ Are expected to deliver the child vaginally and without complication (i.e., with a low risk of adverse birth outcome); and

(d) ~~((Passes MAA's))~~ Pass the agency's risk screening criteria. ~~((MAA))~~ The agency provides these risk-screening criteria to qualified medical services providers.

(2) ~~((MAA approves))~~ **Qualified providers.** Only the following provider types ~~((to provide MAA covered))~~ may be reimbursed for planned home births and births in birthing centers:

(a) Physicians licensed under chapters 18.57 or 18.71 RCW;

(b) Nurse midwives licensed under chapter 18.79 RCW; and

(c) Midwives licensed under chapter 18.50 RCW.

(3) **Birthing center requirements.**

(a) Each participating birthing center must:

~~((a))~~ (i) Be licensed as a childbirth center by the department of health (DOH) under chapter 246-349 WAC;

~~((b))~~ (ii) Be specifically approved by ~~((MAA))~~ the agency to provide birthing center services;

~~((c))~~ (iii) Have a valid core provider agreement with ~~((MAA))~~ the agency; and

~~((d))~~ (iv) Maintain standards of care required by DOH for licensure.

~~((4 MAA))~~ (b) The agency suspends or terminates the core provider agreement of a birthing center if it fails to maintain DOH standards cited in ~~((subsection (3)))~~ (a) of this ~~((section))~~ subsection.

~~((5))~~ (4) **Home birth or birthing center providers.**

Home birth or birthing center providers must:

(a) Obtain from the client a signed consent form in advance of the birth;

(b) Follow ~~((MAA's))~~ the agency's risk screening criteria and consult with ~~((and/))~~, or refer the client or newborn to a physician or hospital when medically appropriate;

(c) Have current, written, and appropriate plans for consultation, emergency transfer and transport of a client ~~((and/))~~ or newborn to a hospital;

(d) Make appropriate referral of the newborn for pediatric care and medically necessary follow-up care;

(e) Inform parents of ~~((the benefits of a))~~ required prophylactic eye ointment and newborn screening tests ~~((and offer to))~~ for heritable or metabolic disorders, and congenital heart defects, and send the newborn's blood sample to the ~~((department of health))~~ DOH for testing; ~~((and))~~

(f) Inform parents of the benefits and risks of Vitamin K injections for newborns; and

(g) Have evidence of current cardiopulmonary resuscitation (CPR) training for:

(i) Adult CPR; and

(ii) Neonatal resuscitation.

~~((6))~~ (5) Planned home birth providers. Planned home birth providers must:

(a) Provide medically necessary equipment, supplies, and medications for each client;

(b) Have arrangements for twenty-four hour per day coverage;

(c) Have documentation of contact with local area emergency medical services to determine the level of response capability in the area; and

(d) Participate in a formal, state-sanctioned, quality assurance~~(/)~~ improvement program or professional liability review process ~~((e.g., Joint Underwriting Association (JUA), Midwives Association of Washington State (MAWS), etc.))~~.

~~((7) MAA))~~ (6) Limitations. The agency does not cover planned home births or births in birthing centers for women identified with any of the following conditions:

(a) Previous cesarean section;

(b) Current alcohol ~~((and/))~~ or drug addiction or abuse;

(c) Significant hematological disorders~~(/)~~ or coagulopathies;

(d) History of deep venous ~~((thromboses))~~ thrombosis or pulmonary embolism;

(e) Cardiovascular disease causing functional impairment;

(f) Chronic hypertension;

(g) Significant endocrine disorders including preexisting diabetes (type I or type II);

(h) Hepatic disorders including uncontrolled intrahepatic cholestasis of pregnancy ~~((and/))~~ or abnormal liver function tests;

(i) Isoimmunization, including evidence of Rh sensitization~~(/)~~ or platelet sensitization;

(j) Neurologic disorders or active seizure disorders;

(k) Pulmonary disease;

(l) Renal disease;

(m) Collagen-vascular diseases;

(n) Current severe psychiatric illness;

(o) Cancer affecting ~~((site of delivery))~~ the female reproductive system;

(p) ~~((Known))~~ Multiple gestation;

(q) ~~((Known))~~ Breech presentation in labor with delivery not imminent; or

(r) Other significant deviations from normal as assessed by the provider.

## WSR 15-16-008

### PROPOSED RULES

#### DEPARTMENT OF AGRICULTURE

[Filed July 23, 2015, 1:39 p.m.]

Supplemental Notice to WSR 15-15-171.

Preproposal statement of inquiry was filed as WSR 15-04-127.

Title of Rule and Other Identifying Information: WAC 16-301-490 through 16-301-580, crucifer seed quarantine.

Hearing Location(s): Department of Agriculture, Conference Room 238, 21 North First Avenue, Yakima, WA 98902, on September 14, at 11:00 a.m.

Date of Intended Adoption: September 25, 2015.

Submit Written Comments to: Teresa Norman, P.O. Box 42560, Olympia, WA 98504-2560, e-mail WSDARulesComments@agr.wa.gov, fax (360) 902-2092, by 5:00 p.m., August 28, 2015.

Assistance for Persons with Disabilities: Contact agency receptionist by September 8, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: A public hearing to amend the crucifer quarantine rules was held on July 7, 2015. Public comments were received at that time that prompted the department to continue the rule-making process with additional language that provides a better option for growers of organic seed in the regulated area and exempts seed grown in the regulated area and tested free of disease from treatment against the black leg and black rot pathogens.

Reasons Supporting Proposal: Additional options for producers of organic seed will help preserve that market and eliminating the requirement for treatment of seed originating in the regulated area and found free of disease will allow for greater efficiencies.

Statutory Authority for Adoption: RCW 15.49.005, 17.24.041, chapter 34.05 RCW.

Statute Being Implemented: Chapters 15.49 and 17.24 RCW.

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

Name of Proponent: Columbia Basin Vegetable Seed Association and Columbia Basin Vegetable Seed Field Representatives Association, private.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Victor Shaul, Yakima, (509) 249-6955.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared as this proposal will not create significant additional costs to the industry.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state department of agriculture is not a listed agency under RCW 34.05.328 (5)(a)(i).

July 22, 2015  
 Brad J. Avy  
 Assistant Director

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-495 Definitions.** Definitions for some terms in this chapter can be found in chapter 15.49 RCW and chapter 16-301 WAC. In addition, the following definitions apply to this chapter:

"**Approved treatment methods**" include hot water, hot chlorine or any other methods that can eliminate the presence of regulated pathogens.

"**Crucifer**" means all plants in the family Brassicaceae (also known as Cruciferae) and specifically includes all *Brassica* species, *Raphanus sativus* - Radish, *Sinapis alba* and other mustards.

"**Crucifer production**" means any planting of crucifer seed or seedlings for the purpose of producing seed, oil, commercial vegetables or cover crops.

"**Crucifer seed**" includes any part of a plant capable of propagation including, but not necessarily limited to, seeds, roots, and transplants.

"**Department**" means the Washington state department of agriculture (WSDA).

"**Director**" means the director of the Washington state department of agriculture or the director's designee.

"**Dormant seed**" means viable true seed that displays a delay in or lack of germination when provided favorable germination conditions for the type of seed in question.

"**Owner**" means the person having legal ownership, possession or control over a regulated article covered by this chapter including, but not limited to, the owner, shipper, consignee, grower, seed dealer, landowner or their agent.

"**Person**" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

"**Regulated area**" means those geographic areas that are protected from the introduction of specified plant pests by the provisions of this quarantine.

"**Regulated article**" means with the exception of the exemptions listed in WAC 16-301-525(4), all crucifer seed; seedlings; roots; transplants intended for seed production, oil production, commercial vegetable production or cover crop use; and crop residue remaining from the harvest of infected crucifer plants.

"**Seed lot**" means a designated quantity of seed that is uniquely identified by a lot number.

"**Seed program**" means the Washington state department of agriculture seed program.

"**Trial ground**" means a specific parcel of land approved by the director for experimental or limited production or increase of crucifer seed and for planting seed lots whose quantity of seed is insufficient to allow for pathological testing.

"**True seed**" means a mature fertilized ovule consisting of an embryo, with or without an external food reserve enclosed by a seed coat.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-505 Diseases regulated by this chapter.**

(1) "**Regulated diseases**" means those bacterial and fungal diseases of crucifers listed in this section and any new variations or strains of these diseases.

(2) "**Regulated pathogens**" means those bacterial and fungal organisms identified as the ~~((casual))~~ causal agents for the diseases listed in this section.

(3) The following bacterial and fungal diseases of crucifers, and any new strains or variations of these diseases are regulated by this chapter:

Common Name	Scientific Name
Black leg of crucifers	<i>Phoma lingam</i>
Black rot	<i>Xanthomonas campestris pv. campestris</i>

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-515 Crucifer seed quarantine—Quarantined area.** (1) The quarantine area for the crucifer seed quarantine includes all Washington state counties except Adams, Asotin, Benton, Chelan, Clallam, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Island, Kittitas, Klickitat, Lewis, Lincoln, Okanogan, Pend Oreille, Skagit, Snohomish, ~~((and))~~ Spokane, Stevens, Walla Walla, Whatcom, Whitman, and Yakima counties.

(2) Regulated articles imported into Washington state must comply with the regulations of this chapter before transport into ~~((the))~~ a regulated area. No additional requirements apply within the quarantine area but all regulated articles transported into ~~((the))~~ a regulated area must comply with the regulations of this chapter.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-520 Crucifer seed quarantine—Regulated areas.** Two regulated areas are established for the crucifer quarantine, one in western Washington and one in eastern Washington. Each regulated area has specific requirements and prohibitions related to the regulated articles.

(1) The regulated area in western Washington for this crucifer seed quarantine includes Clallam, Island, Lewis, Skagit, Snohomish, and Whatcom counties.

(2) The regulated area in eastern Washington for this crucifer seed quarantine includes Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Klickitat, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, and Yakima counties.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-525 Crucifer seed quarantine within the regulated areas—Exemptions.** This crucifer quarantine does not apply to:

(1) Experiments or trial grounds of the United States Department of Agriculture;

(2) Experiments or trial grounds of a university such as but not limited to the University of Idaho or Washington State University research stations; or

(3) Trial grounds of any person, firm or corporation that are approved by the director and established in accordance with WAC 16-301-550;

(4) Shipments, movements, or transportation of:

(a) Prepackaged crucifer seed in packages of 1/2 ounce or less if the seeds are free of regulated diseases as required in WAC 16-301-530; or

(b) Vegetable seedlings offered for sale for home garden use in the regulated areas if the seedlings are free of regulated diseases as required in WAC 16-301-530.

(5) Research, variety development, variety maintenance or other crucifer production where the entire crop cycle is confined within a building or greenhouse;

(6) Seed lots with a maximum weight of five pounds that were in inventory prior to January 1, 2007.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-530 Planting crucifer seed in the western Washington regulated area—Requirements.** (1)(a) It is a violation of this chapter to plant or establish crucifer seed that is infected with any regulated disease in the western Washington regulated area.

(b) Any seed of a *Brassica* (~~(☉)~~), *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family planted or established in the western Washington regulated area whose primary use is for any nonvegetable use must be tested for the presence of dormant seed as required by WAC 16-301-510.

(2) Any person who plans to ship, move, or transport any crucifer seed intended for planting purposes into or within the western Washington regulated area must file a Notice of Intent/Quarantine Compliance form with the seed program before planting or offering the seed for sale.

(3) The Notice of Intent/Quarantine Compliance form filed with the seed program must be accompanied by a copy of the:

(a) Laboratory analysis or some other proof (such as a phytosanitary certificate based upon laboratory testing issued from the state or country of production) demonstrating that the lot is free of regulated diseases; and

(b) Seed analysis certificate(s) showing that the lot is free from dormant seed, if required under WAC 16-301-510.

(4) It is a violation of this chapter for any crucifer seed intended for seed production, oil production, commercial vegetable production or cover crop use to be offered for sale within or into the western Washington regulated area unless accompanied by documentation verifying quarantine compliance.

(a) For small packages such as heat sealed envelopes and tins, quarantine compliance may be placed on a sales invoice or other documentation that is provided to the purchaser of seed. Language must be approved by the seed program.

(b) Larger containers must bear a label issued by the seed program indicating that the seed is in compliance with this chapter.

NEW SECTION

**WAC 16-301-531 Planting crucifer seed in the eastern Washington regulated area—Requirements.** (1)(a) It is a violation of this chapter to plant or establish crucifer seed that is infected with any regulated disease in the eastern Washington regulated area.

(b) Any seed of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family to be planted in the eastern Washington regulated area must be laboratory tested and found to be free from black leg of crucifers (*Phoma lingam*).

(2) Any seed of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family from an origin outside the regulated areas to be planted in the eastern Washington regulated area must be treated with either a fungicide appropriate to control black leg, hot water or other treatments authorized by the department.

(3) Any seed of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family to be planted in the eastern Washington regulated area must be tagged with a tag issued by the department indicating that the seed has met the requirements of this chapter.

NEW SECTION

**WAC 16-301-533 Requirements for planting crucifer seed in the eastern Washington regulated area.** Any seed of a *Brassica*, *Raphanus*, *Sinapis* species or any other genera in the *Brassicaceae* family to be planted in the eastern Washington regulated area must be tagged with a tag issued by the department indicating that the seed has met the requirements of this chapter.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-540 Crucifer transplants grown in greenhouses in the regulated areas—Requirements.** (1) All crucifer transplants produced in greenhouses in the regulated areas must be subjected to pest control procedures that reduce the presence of diseases or insects that may inhibit identifying regulated diseases.

(2) The interiors of greenhouses in the regulated areas used to produce crucifer transplants must be free of crucifer weeds.

(3) One hundred meter buffers, free of crucifer weeds, must surround all greenhouses in the regulated areas used to produce crucifer transplants.

AMENDATORY SECTION (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-545 Crucifer seed lots that test positive for any regulated disease—Requirements.** (1) If a crucifer seed lot tests positive for any regulated disease, the infected seed lot may be treated with an approved seed treatment.

(2) After treatment, the seed lot must be tested for the presence of regulated diseases using appropriate pathological testing methods.

(3) If the pathological testing yields negative test results, the seed lot will be considered in compliance with this chapter.

(4) It is a violation of this chapter to plant seed in the regulated areas that tests positive for any regulated disease subsequent to any approved treatment method.

**AMENDATORY SECTION** (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-550 Planting seed in ((\*) the western Washington regulated area—Protocols when certain documentation is unavailable.** When no documentation exists verifying that a crucifer seed lot is free from regulated diseases, the following protocols must be followed before the seed is planted in the western Washington regulated area:

(1) A crucifer seed lot will be classified as a suspect seed lot if the seed lot lacks the documentation verifying that the lot complies with the crucifer seed quarantine requirements of this chapter.

(2) Suspect seed lots must:

(a) Not be offered for sale in the western Washington regulated area.

(b) Be treated by an approved treatment method.

(c) Be sown in a greenhouse and the seedlings must pass inspection by seed program inspectors before transplanting to the field.

(3) Any greenhouse operation used to grow crucifer seedlings for transplant must:

(a) Physically separate suspect seed lots from other crucifer production within that greenhouse.

(b) Monitor and document the location and identity of each suspect seed lot during production.

(4) It is a violation of this chapter for seedlings from a suspect seed lot to be topped, clipped, chopped or undergo any other treatment to toughen them or reduce their size.

(5) All seedlings from a suspect seed lot that exhibit symptoms of regulated diseases must be physically separated from asymptomatic transplants in that lot.

(6) Before shipping seedlings from a suspect seed lot, the seedlings must be inspected by seed program inspectors for the presence of regulated diseases.

(a) If no symptoms of regulated diseases are detected during this inspection, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the western Washington regulated area.

(b) If seedlings display symptoms of regulated diseases, laboratory testing for the diseases is mandatory.

(c) If seedlings from a suspect seed lot test negative for regulated pathogens after appropriate pathological testing, the suspect seed lot is considered in compliance with this chapter and may be sold and planted within the western Washington regulated area.

(d) If the presence of a regulated disease is confirmed by laboratory testing, all seedlings from a suspect seed lot may be subject to a quarantine order or destruction order under WAC 16-301-570.

(7) Any crucifer seed production fields, plant beds, or greenhouse production that will be planted with or receives production from suspect seed lots that are determined to be free from regulated diseases under subsection (6) of this section must be entered into the Washington state phytosanitary inspection program as required under WAC 16-301-235.

(8)(a) It is a violation of this chapter to plant seedlings from a suspect seed lot that tests positive for any regulated disease in the western Washington regulated area.

(b) Any suspect seed lot testing positive for any regulated disease may be subject to a quarantine order or a destruction order under WAC 16-301-570.

**AMENDATORY SECTION** (Amending WSR 14-20-050, filed 9/25/14, effective 10/26/14)

**WAC 16-301-580 Diseased crucifer seeds and infected fields—Regulations.** (1) When the director determines that a field is infected with a regulated pathogen and threatens to infect other fields, the director may issue a notice of destruction prescribing control measures or other requirements needed to prevent the infection of adjacent properties.

(2) Unless the crop is within two weeks of harvest, any crucifer crop within ((the)) a regulated area that is infected with a regulated pathogen may be subject to immediate destruction, in part or in total. The owner is responsible for the expenses incurred to destroy a diseased crucifer crop.

(3) The following requirements apply to crops that are within two weeks of harvest:

(a) Residues must be destroyed or incorporated into the ground immediately after harvest;

(b) Harvested seed must be isolated from other seed lots until it is treated with hot water and/or chlorine seed treatments;

(c) Harvest equipment must be steam cleaned before entering any other fields; and

(d) WSDA personnel in consultation with WSU extension personnel must monitor these postharvest activities.

#### **REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 16-301-500 Crucifer articles regulated by this chapter.

#### **WSR 15-16-018 PROPOSED RULES DEPARTMENT OF HEALTH**

[Filed July 24, 2015, 1:22 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-15-108.

Title of Rule and Other Identifying Information: Chapter 246-834 WAC, Midwives: Creating four new proposed rules regarding the credential renewal requirements for licensed midwives, WAC 246-834-345 License renewal, 246-834-355

Continued competency, 246-834-360 Quality improvement program for midwives, and 246-834-370 Data submission for midwives.

Hearing Location(s): Department of Health, Town Center Two, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on September 10, 2015, at 1:00 p.m.

Date of Intended Adoption: September 24, 2015.

Submit Written Comments to: Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by September 10, 2015.

Assistance for Persons with Disabilities: Contact Kathy Weed by August 26, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules establish the requirements for renewal, continuing education (CE), peer review, and data submission. Upon implementation, the rule will outline the requirements for thirty hours of CE every three years, participation in a department approved peer review process every two years, and annual participation of data submission on perinatal outcomes with a department approved research organization. The proposed rules will provide a clear definition of the renewal requirements and will not affect any existing rules.

Reasons Supporting Proposal: 2SHB 1773 (section 3, chapter 187, Laws of 2014) amended RCW 18.50.102 requiring the department of health to adopt rules for renewal requirements for licensed midwives.

Statutory Authority for Adoption: RCW 18.50.102 and 18.50.135.

Statute Being Implemented: RCW 18.50.102.

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

Name of Proponent: Department of health, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kathy Weed, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4883.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kathy Weed, P.O. Box 47852, Olympia, WA 98504-7852, phone (360) 236-4883, fax (360) 236-2901, e-mail [kathy.weed@doh.wa.gov](mailto:kathy.weed@doh.wa.gov).

July 23, 2015

John Wiesman, DrPH, MPH  
Secretary

#### NEW SECTION

**WAC 246-834-345 License renewal.** A licensed midwife must renew their license every year on his or her birthday. To renew a license, a licensed midwife shall comply with the requirements in:

- (1) RCW 18.50.102 License renewal;
- (2) RCW 18.50.108 Written plan for consultation, emergency transfer, and transport;
- (3) WAC 246-12-030 How to renew a credential;
- (4) WAC 246-834-355 Continuing education;
- (5) WAC 246-834-360 Quality improvement program;
- (6) WAC 246-834-370 Data submission; and
- (7) WAC 246-834-990 Midwifery fees and renewal cycle.

#### NEW SECTION

**WAC 246-834-355 Continuing education.** (1) A licensed midwife shall complete thirty hours of continuing education (CE) every three years and must comply with chapter 246-12 WAC, Part 7. CE course work must contribute to the professional knowledge and development of the licensed midwife.

(a) A minimum of twenty-five hours must be directly related to the clinical practice of midwifery.

(b) Any remaining hours may be in professional development activities that enhance the practice of the licensed midwife.

(2) A licensed midwife shall obtain CE hours through one or more of the categories listed below. Documentation for all activities must include licensee's name, date of activity, and number of hours. Additional specific documentation is defined below:

(a) Acceptable CE course work. A minimum of ten hours is required per reporting period in acceptable CE course work. For the purposes of this section, acceptable CE course work means courses offered or authorized by industry recognized local, state, private, national and international organizations, agencies or institutions of higher learning. The department will not authorize or approve specific CE courses. The required documentation for this category is a certificate or documentation of attendance.

(b) Course work or classes offered by an accredited college or university. The course work must provide skills and knowledge beyond entry-level skills. The required documentation for this category is a transcript or documentation of attendance. A maximum of ten hours is allowed per reporting period for this category.

(c) Research, writing, or teaching. The required documentation for this category is a two page synopsis for each activity written by the licensee. A maximum of fifteen hours is allowed per reporting period for this category.

(d) Documented self-study or life experience. The required documentation for this category is a two page synopsis of each activity written by the licensee. A maximum of five hours is allowed per reporting period for this category.

(e) Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this category is a letter or other documentation from the organization. A maximum of five hours is allowed per reporting period for this category.

(f) Professional manuscript review. The required documentation for this category is a letter from the publishing organization verifying review of the manuscript. A maximum of ten hours is allowed per reporting period for this category.

(g) Professional conference or workshop. The required documentation for this category is a certificate or documentation of attendance. A maximum of ten hours is allowed per reporting period for this category.

(3) Continuing education credit will not be given for the following:

- (a) A cardiopulmonary resuscitation course;
- (b) A neonatal resuscitation course; or
- (c) Participation in data submission on perinatal outcomes.

#### NEW SECTION

##### **WAC 246-834-360 Quality improvement program.**

(1) As a condition of renewing a license, a licensed midwife shall:

(a) Participate in a Washington state coordinated quality improvement program peer review process that complies with the requirements in RCW 43.70.510.

(b) Attest every two years that the midwife has completed peer review for a minimum of five of the midwife's clinical cases over the course of those two years.

(2) A midwife may be excused from or granted an extension of participation in a peer review process due to illness or other extenuating circumstances. The department, upon request, will determine if the requirements may be waived or if an extension may be granted.

(3) For auditing purposes, written confirmation of participation in a peer review process from the approved coordinated quality improvement program shall suffice. The midwife must keep her/his participation records; records must not be sent to the department.

#### NEW SECTION

**WAC 246-834-370 Data submission.** (1) As a condition of renewing a license, a licensed midwife shall report data on all courses of care for every mother and newborn under the midwife's care to a national or state research organization approved by the department. If the mother declines to participate in the collection of data, the midwife shall follow the protocol of the approved national or state research organization.

(2) The licensed midwife shall verify compliance by submitting an attestation to the department annually with the license renewal.

(3) For auditing purposes, written confirmation of full participation in data collection from the approved state or national research organization shall suffice.

(4) The midwife must keep her/his data and participation records; data and participation records will not be submitted directly to the department.

**WSR 15-16-042**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Veterinary Board of Governors)  
 [Filed July 28, 2015, 2:43 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-03-039.

Title of Rule and Other Identifying Information: WAC 246-935-050 Animal health care tasks, the veterinary board of governors (board) is proposing an amendment to increase the level of supervision required for the administration of veterinary biologics for those diseases listed in WAC 16-42-026(1), including rabies, by veterinary technicians and unregistered assistants to align with Washington state department of agriculture (WSDA) rules.

Hearing Location(s): Department of Health, Creekside Two at Center Point, 20425 72nd Avenue South, Room 307, Kent, WA 98032, on October 5, 2015, at 11:00 a.m.

Date of Intended Adoption: October 5, 2015.

Submit Written Comments to: Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by October 1, 2015.

Assistance for Persons with Disabilities: Contact Lorelei Walker by September 28, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 246-935-050 Animal health care tasks, the board is proposing an amendment to increase the level of supervision required for the administration of veterinary biologics for those diseases listed in WAC 16-42-026(1), including rabies, by veterinary technicians and unregistered assistants from indirect supervision of a veterinarian to direct supervision of a veterinarian. The proposal also clarifies information that should appear on a rabies certificate.

Reasons Supporting Proposal: There is a conflict between board rules and WSDA rules regarding the level of supervision required when a veterinary technician administers a rabies injection. RCW 16.36.020(2) gives the director of WSDA the authority to regulate the sale, distribution, and use of veterinary biologics in the state. The board proposes to align its rules with WSDA's requirement for direct supervision by a veterinarian for administration of biologics listed in WAC 16-42-026.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

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

Name of Proponent: Department of health, veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, Program Manager, 111 Israel Road S.W., Tumwater, WA 98501, (360) 236-4947.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4947, fax (360) 236-2901, e-mail [loralei.walker@doh.wa.gov](mailto:loralei.walker@doh.wa.gov).

July 28, 2015  
Kathy J. Schmitt  
Deputy Director  
Health Professions and Facilities

**AMENDATORY SECTION** (Amending WSR 09-15-120, filed 7/17/09, effective 8/17/09)

**WAC 246-935-050 Animal health care tasks.** No individual, other than a licensed veterinary technician, may advertise or offer her/his services in a manner calculated to lead others to believe that she/he is a trained or licensed veterinary technician.

(1) Licensed veterinary technicians and unregistered assistants are prohibited from performing the following activities:

- (a) Surgery except as outlined below;
- (b) Diagnosis and prognosis;
- (c) Prescribing drugs, medication or appliances;
- (d) Initiation of treatment without prior instruction by a veterinarian except as outlined under emergency animal care.

(2) Immediate supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the immediate supervision of a veterinarian: Dental extractions.

(3) Direct supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the direct supervision of a veterinarian:

- (a) Anesthesia:
  - (i) Induction, including preanesthesia;
  - (ii) Maintenance;
  - (iii) Monitoring.
- (b) Application of casts and splints;
- (c) Floating teeth;
- (d) Intraperitoneal injections;
- (e) Blood administration;
- (f) Closure, including suturing, of prepared skin wound or gingival incision;
- (g) Arterial and central venous catheters.

(4) Indirect supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the indirect supervision of a veterinarian:

- (a) Intravenous injections into uncatheterized vein;
- (b) Centesis, including fine needle aspirates;
- (c) Unobstructed bladder catheter;
- (d) Diagnostic procedures:
  - (i) Fecal analysis;
  - (ii) Electrocardiograms;
  - (iii) Blood pressure;
  - (iv) Cytology analysis, including urinalysis and hematology;
  - (v) Microbiology.

(e) Placement and use of nasogastric and orogastric tubes for gavage, lavage, or reflux;

(f) Ophthalmological procedures:

- (i) Tear production testing;
- (ii) Topical anesthetic application;
- (iii) Fluorescein staining of the cornea;
- (iv) Tonometry.

(g) Tasks authorized to be performed under immediate or direct supervision for unregistered assistants, may be performed by licensed veterinary technicians under indirect supervision unless otherwise restricted.

(5) Immediate supervision for unregistered assistants. An unregistered assistant may perform the following tasks only under the immediate supervision of a veterinarian or licensed veterinary technician:

- (a) Place and secure an intravenous catheter;
- (b) Monitor vital signs of an anesthetized patient;
- (c) Dental prophylaxis.

(6) Direct supervision for unregistered assistant. An unregistered assistant may perform the following tasks only under the direct supervision of a veterinarian or licensed veterinary technician:

- (a) Intravenous injection into catheterized vein;
- (b) ~~((Biologics injections (vaccines)))~~ Vaccines (except for rabies and those diseases described in subsection (8) of this section) with the veterinarian's verification signature on an appropriate certificate;
- (c) Imaging procedures;
- (d) Removal of sutures, drain tubes and staples;
- (e) Bandaging;
- (f) Removal of exposed foreign bodies;
- (g) Lab sample collection and test preparation (not evaluation) to include:
  - (i) Venipuncture;
  - (ii) Skin scraping.
- (h) Microchip implantation;
- (i) Enema;
- (j) Ear flush;
- (k) Perform electrocardiogram and blood pressure measurements;
- (l) Intramuscular and subcutaneous injection;
- (m) Massage except where regulated.

(7) Indirect supervision for unregistered assistants. An unregistered assistant must always be under the indirect supervision of a veterinarian or licensed veterinary technician, except as listed in subsections (5) and (6) of this section. Tasks not specifically listed or otherwise restricted may be performed by a licensed veterinary technician or unregistered assistant under the indirect supervision of a veterinarian.

(8) Veterinary biologics. Licensed veterinary technicians and unregistered assistants may only administer veterinary biologics for rabies and those diseases listed in WAC 16-42-026(1) under the direct supervision of a veterinarian.

(9) Rabies vaccinations require an appropriate rabies certificate. The certificate is considered part of the medical record and must contain at least the following information:

- (a) Owner's name, address, and telephone number;
- (b) Species, age, breed, gender, size, name, and predominant colors/markings;
- (c) Month, day, and year of vaccination;



(d) Month, day, and year of next vaccination due date;  
(e) Product name and identification of manufacturer;  
(f) Effective date of vaccine, example: One year, three

years;

(g) Vaccine serial or lot number; and

(h) Veterinarian's name, license number, address, and signature.

(10) To be authorized to dispense pharmaceuticals, unregistered assistants must be registered as a veterinary medication clerk under chapter 246-937 WAC.

~~((9))~~ (11) Emergency animal care. Under conditions of an emergency, a licensed veterinary technician and unregistered assistant may render certain life saving aid to an animal patient.

(a) A licensed veterinary technician may:

(i) Apply emergency cardiopulmonary resuscitation and first-aid procedures and all tasks as listed in subsections (3), (4), (5), and (6) of this section;

(ii) Administer pharmacologic agents and parenteral fluids only after communication with a veterinarian.

(b) An unregistered assistant may:

(i) Apply noninvasive cardiopulmonary resuscitation and basic first aid procedures;

(ii) Provide other aid upon the order of a licensed veterinarian as outlined in this section.

**WSR 15-16-061**  
**PROPOSED RULES**  
**EXECUTIVE ETHICS BOARD**

[Filed July 30, 2015, 9:47 a.m.]

Supplemental Notice to WSR 15-12-095.

Preproposal statement of inquiry was filed as WSR 14-03-074.

Title of Rule and Other Identifying Information: WAC 292-110-010 Use of state resources.

Hearing Location(s): 2425 Bristol Court S.W., 4th Floor Conference Room, Olympia, WA, on September 11, 2015, at 9:00 a.m.

Date of Intended Adoption: September 14, 2015.

Submit Written Comments to: Kate Reynolds, P.O. Box 40149, Olympia, WA 98504-0149, e-mail kater@atg.wa.gov, fax (360) 586-3955, by September 10, 2015.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by September 10, 2015, (360) 586-3265.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To review the permitted uses of state resources as well as update and clarify the rule.

Reasons Supporting Proposal: The board receives many questions regarding the use of state resources. By amending the rule, agency employees will gain a better understanding of the rules and regulations of the Ethics in Public Service Act.

Statutory Authority for Adoption: RCW 42.52.160, 42.52.360.

Statute Being Implemented: RCW 42.52.160.

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

Name of Proponent: Executive ethics board, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Kate Reynolds, Olympia, (360) 586-6759.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The state employees and statewide elected officials that must comply with the proposed rule are not small businesses, pursuant to chapter 19.85 RCW.

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

July 30, 2015

Ruthann Bryant

Administrative Officer

AMENDATORY SECTION (Amending WSR 09-16-046, filed 7/28/09, effective 8/28/09)

**WAC 292-110-010 Use of state resources. (1) Statement of principles** (~~(-stewardship. The proper stewardship of state resources, including funds, facilities, tools, property, and employees and their time, is a responsibility that all state officers and employees share. Accordingly, state employees may not use state resources for personal benefit or gain or for the benefit or gain of other individuals or outside organizations. Responsibility and accountability for the appropriate use of state resources ultimately rests with the individual state officer or state employee, or with the state officer or state employee who authorizes such use. State officers and employees should ensure that any personal use of state resources permitted by this section is the most efficient in terms of overall time and resources.~~

**(2) The following are permitted uses:**

(a) ~~Use of state resources that is reasonably related to the conduct of official state duties, or which is otherwise allowed by statute).~~ All state employees and officers are responsible for the proper use of state resources, including funds, facilities, tools, property, and their time. This section does not restrict the use of state resources as described in subsections (2) and (3) of this section.

**(2) Permitted uses.**

(a) Use of state resources for official state purpose. "Official state purpose" includes use of state resources to conduct official duties, activities reasonably related to the conduct of official state duties, activities related to state employment, and activities otherwise allowed by statute. Examples of official state purposes include:

(i) Training and career development approved by the employing agency under RCW 41.06.410;

(ii) Membership or participation in professional associations that enhance job-related skills of the state officer or employee, so long as use of state resources for this purpose has been authorized in writing;

(iii) State or agency sponsored health, safety, or diversity fairs;

(iv) Management of or access to state-provided or state-sponsored benefits, including health, deferred compensation, insurance, retirement, and the employee assistance program;

(v) Searching and applying for state jobs, including taking an examination or participating in an interview; and

(vi) Placement of nongovernmental web page links on an agency web site for official state purposes as long as the use does not violate RCW 42.52.180.

(b) **Agency approved use.** An agency head or designee may authorize ~~((a use of state resources that is related to an official state purpose, but not directly related to an individual employee's official duty.~~

~~(e) An agency may authorize a specific use that promotes organizational effectiveness or enhances the job-related skills of a state officer or state employee.~~

~~(d)) limited use of agency staff time and resources for the following uses as long as that use is specifically authorized in an agency policy and conforms to that policy:~~

~~(i) Supporting, promoting, or soliciting for charitable activities;~~

~~(ii) Employee recognition, including birthday, retirement, wedding/baby showers, or other similar celebrations;~~

~~(iii) Activities supporting agency organizational effectiveness provided the specific policy is approved by the executive ethics board;~~

~~(iv) Intermittent state or agency sponsored health activities, for example, vaccinations, diabetes screenings, cholesterol screenings, or recording participation in an agency or PEBB sponsored wellness program.~~

**(3) Permitted personal use of state resources.** This subsection applies to any use of state resources not included in subsection (2) of this section.

~~(a) A state officer or ((employee may make an occasional but limited personal)) employee's use of state resources is de minimis only if each of the following conditions are met:~~

~~(i) There is little or no cost to the state;~~

~~(ii) Any use is brief;~~

~~(iii) Any use occurs infrequently;~~

~~(iv) The use does not interfere with the performance of any state officer's or employee's official duties; ((and))~~

~~(v) The use does not compromise the security or integrity of state property, information systems, or software((-~~

~~(3) **Permitted use of computers, electronic mail, the internet, and other technologies.** A state officer or employee may use equipment such as the telephone, the internet, and electronic mail provided such use conforms to ethical standards under subsection (2) of this section, and the use is not otherwise prohibited under subsection (5) of this section));~~

~~(vi) The use is not for the purpose of conducting an outside business, in furtherance of private employment, or to realize a private financial gain; and~~

~~(vii) The use is not for supporting, promoting the interests of, or soliciting for an outside organization or group.~~

(b) A state officer or employee may use state resources for wellness or combined fund drive activities as long as use conforms with (a) of this subsection or as authorized in state law and rule.

**(4) No expectation of privacy.** Technologies such as electronic mail, facsimile transmissions, the internet, and voice mail may create an electronic record. This is what separates these from other forms of communication such as a

telephone conversation. The ethics rules do not distinguish between the various forms of communication. Electronic records are reproducible and therefore cannot be considered private. Such records may be subject to disclosure under the Public Records Act, or may be disclosed for audit or legitimate state operational or management purposes.

~~(5) **(Prohibited uses.**~~

~~(a) Any use for the purpose of conducting an outside business, private employment, or other activities conducted for private financial gain;~~

~~(b) Any use for the purpose of supporting, promoting the interests of, or soliciting for an outside organization or group, including, but not limited to, a private business, or a political party, or supporting, promoting the interests of, or soliciting for a nonprofit organization unless provided for by law or authorized by an agency head or designee;~~

~~(c) Any use for the purpose of assisting a campaign for election of a person to an office or for the promotion of or opposition to a ballot proposition. Such a use of state resources is specifically prohibited by RCW 42.52.180, subject to the exceptions in RCW 42.52.180(2);~~

~~(d) Any use for the purpose of participating in or assisting in an effort to lobby the state legislature, or a state agency head. Such a use of state resources is specifically prohibited by RCW 42.17.190, subject to the exceptions in RCW 42.17.190(3);~~

~~(e) Any use related to conduct that is prohibited by a federal or state law or rule, or a state agency policy; and~~

~~(f) Any private use of any state property that has been removed from state facilities or other official duty stations, even if there is no cost to the state.~~

~~(6) **Reimbursement for personal use.** Establishing a system for reimbursement for private or personal use of state resources undermines the purpose of the Ethics in Public Service Act and imposes significant administrative burdens on state agencies. However, the board recognizes that)) **Reimbursement for personal use.** In some limited situations, such as officers or employees working at remote locations, ((a system of reimbursement may be appropriate. Any system of reimbursement must be established by the agency in advance, and must result in little or no cost to the state, including administrative costs. To be permitted under this section, the board must approve any reimbursement system implemented by an agency)) an agency may allow reimbursement for limited personal use of state resources by the state employee or officer.~~

~~((7)) **(6) Agency policies ((encouraged.** State agencies are encouraged to adopt policies applying these principles to their unique circumstances)). Agency policies that are approved by the board qualify for "safe harbor" under WAC 292-120-035. Nothing in this section is intended to limit the ability of an agency to adopt policies that are more restrictive. However, violation of a more restrictive agency policy by itself will not constitute a violation of RCW 42.52.160, even if it would constitute a violation of agency policy.~~

~~((8)) **(7) Advisory opinions and frequently asked questions ((and examples)).** The executive ethics board ((maintains a list of frequently asked questions and examples that provide additional guidance regarding this section. State officers and employees are encouraged to review this docu-~~

ment at the board's web site [www.ethics.wa.gov](http://www.ethics.wa.gov) or to request a copy of the document through the board's office.

Washington State Executive Ethics Board  
 P.O. Box 40149  
 Olympia, WA 98504-0149

Or by electronic mail at: [ethics@atg.wa.gov](mailto:ethics@atg.wa.gov)) publishes advisory opinions interpreting the Ethics in Public Service Act and/or its rules and provides answers to frequently asked questions regarding the use of state resources that can be found at [www.ethics.wa.gov](http://www.ethics.wa.gov).

**WSR 15-16-086**  
**PROPOSED RULES**  
**BUILDING CODE COUNCIL**

[Filed July 31, 2015, 5:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-075.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 Washington State Residential Code, chapter 51-51 WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10:00 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10:00 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail [sbcc@ga.wa.gov](mailto:sbcc@ga.wa.gov), fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the 2015 edition of the International Code Council (ICC) Residential Code, with state amendments to incorporate proposed changes as adopted by the Washington SBCC; the rules will provide increased clarity and life safety measures for residential construction in Washington state.

2015 IRC

Amendments to chapter 51-51 WAC\*

	WAC	Section	Changes in 2015	Discussion
1	51-51-0101		Scope and administration	2015 International Residential Code adopted
2		R101.2	Scope	New exception - Lodging house sprinkler exemption
	51-51-0102		Applicability	
3		R102.5	Appendices	Appendices R, S, U and V preapproved for local adoption
	51-51-0202	R202	Definitions	
4			Saltwater coastal area	Definition to be determined by local authority
5	51-51-0301		Design criteria	Adds salt water coastal area as local designation
6		R301.5	Minimum uniformly distributed live loads	Aligns live load table to ASCE 7
	51-51-0302		Fire resistant construction	Modified to delete tables
7		R302.1	Table 302.1(1) Exterior walls	Amendment deleted, revert to model code
8			Table 302.1(2) Exterior walls—Dwellings with fire sprinklers	Amendment deleted, revert to model code
9		R302.2.1	Continuity	Modified to add graphic image/illustration
10		R302.3.1	Supporting construction	Deletes one exception
11		R302.13	Fire protection of floors	Defines dimensional lumber in exception 4
	51-51-0303		Light, ventilation and heating	
12		R303.5.1	Intake openings	Modified to include new exceptions
13		R303.7	Stairway illumination	Modified to interior stairway illumination only
14		R303.8	Exterior stairway illumination	New section specific to exterior stairways, requires power supplied by building wiring
	51-51-0307		Toilet, bath and shower spaces	New section
15		R307.1	Space required	Reference to state plumbing code/figure R307.1
	51-51-0308		Glazing	New section

	WAC	Section	Changes in 2015	Discussion
16		R308.4.4	Glazing in guards and railings	Adds requirements for structural glass balusters
	51-51-0310		Emergency escape and rescue openings	New section
17		310.1	Emergency escape and rescue opening required	Provides exception for certain basement sleeping rooms when sprinklers are provided
	51-51-0313		Automatic fire sprinkler systems	Note: currently not adopted in Washington
18		R313.1	Townhouse automatic sprinkler systems	New townhouse construction requires sprinklers; provides an exception for townhouse additions
19		R313.1.1	Design and installation	P2904 or NFPA 13D
20		R313.2	One- and two-family dwellings automatic fire sprinkler systems	This section not adopted
	51-51-0314		Smoke alarms	
21		R314.2.2	Alterations, repairs and additions	Renumbered section re: smoke alarms
22		R314.3	Location	Modifies placement near bathrooms
	51-51-0315		Carbon monoxide alarms	
23		315.1	CO alarms	Modified to require compliance with R315
24		315.1.1	Listings	Reference to UL 2034 and UL 217
25		315.2	Where required	Compliance with R315.2.1 and R315.2.2
26		R315.2.1	New construction	Alarms required for new residential construction
27		R315.2.2	Alterations, repairs and additions	Renovations may trigger alarm requirements
28		R315.3	Location	Specifies location of alarms
29		R315.4	Combination alarms	Allows combination smoke/CO alarms to be used
	51-51-0324		Solar energy systems	New section
		R324.1	General	
		R324.2	Solar thermal systems	
30		R324.3	Photovoltaic systems	Notifies utility provider re: PV system installation
31		R324.3.1	Equipment listing	Refers to UL 1703
32		R324.4	Rooftop-mounted photovoltaic systems	Provides an exception for specific systems
33		R324.4.1	Roof load	Modifies inconsistent language
34		R324.4.2	Wind resistance	New section - provides consistency with PV panel load specs from R907.2
35		R324.5	Building-integrated photovoltaic systems	
36		R324.5.1	Photovoltaic shingles	
37		R324.6	Ground-mounted photovoltaic systems	
38		R324.7	Access and pathways	This section is not adopted
	51-51-0325		Adult family homes	
39		R325.2	Submittal standards	Deleted
	51-51-0328		Mezzanines	
40		R328.2	Mezzanines	Specifies 7 feet clear height
41		R328.5	Openness	Grammatical clarification
	51-51-0329		Swimming pools, spas and hot tubs	New section

	WAC	Section	Changes in 2015	Discussion
42		R329.1	General	Requires compliance with International Swimming Pool and Spa Code
43	51-51-0403		Reserved	State amendment deleted. Revert to model code
44	51-51-0404		Reserved	State amendment deleted. Revert to model code
45	51-51-0501		Reserved	State amendment deleted. Revert to model code
	51-51-0507		Decks	
46		R507.2.2	Alternate deck ledger connections	Exemption retained for decks not more than 30 inches above grade
47		R507.2.4	Deck lateral load connections	State amendment deleted. Adopted in model code
48		Table 507.2.1	Placement of lag screws and bolts	State amendment Footnote e retained
	51-51-0602		Wood wall framing	
49		R602.7.5	Support for headers	This section not adopted
50		R602.10.11	Cripple wall bracing	State amendment retained
51		R602.10.11.2	Cripple wall bracing for Seismic Design Category D <sub>2</sub>	State amendment deleted. Revert to model code
52	51-51-0609	R609.3	Testing and Labeling	Maintains exception for custom doors and windows
53	51-51-0612		Exterior windows and doors	State amendment moved to section 609
54	51-51-0702		Interior covering	Clarifies gypsum product/CPA/ANSI standard
	51-51-0703		Exterior covering	
55		R703.1	General	Exception added for log walls
56		R703.1.1	Water resistance	Retains state amendment in exception 3
57		R703.4	Flashing	Retains modification to exception 1
58		R703.10.2	Fiber-cement lap siding	References manufacturer's instructions
	51-51-0903		Weather protection	
59		R903.4.1	Secondary (emergency overflow) drains or scuppers	Reference to State Plumbing Code 1101 and 1103
60	51-51-1002		Masonry heaters	
61		R1002.2	Installation	Provides additional/optional compliance standard
62	51-51-1307		Section M1307 Appliance installation	
63		M1307.2	Anchorage of appliances	Provides appliance anchorage for earthquake
64	51-51-1413		Section M1413—Evaporative cooling equipment	
65		M1413.1	General	Reference to State Plumbing Code section 603
	51-51-1505		Overhead exhaust hoods	
66		1505.1	General	Hood not required for outdoor broilers
67		M1507.3.1	Mechanical ventilation system design	Compliance through ASHRAE 62.2 allowable
68		M1507.3.2	Control and operation	Provides override control for continuous whole-house ventilation systems; label required
69		M1507.3.3	Mechanical ventilation rate	Provides outdoor air to each dwelling unit

	WAC	Section	Changes in 2015	Discussion
70		M1507.3.4.4	Ventilation openings	Modifies outdoor air openings, allows openable windows. Location of intakes on asphalt roofs addressed
71		M1601.1.1	Above-ground duct systems	State amendment retained, addresses air plenums in floors and walls
	51-54A-2000		Boilers and water heaters	
72		M2005.1	General	New section; standards for water heater compliance, reference to State Plumbing Code
	51-51-2101		Hydronic piping systems installation	
73		M2101.3	Protection of potable water	Reference to State Plumbing Code for backflow protection
74		M2101.7	Prohibited tee applications	Section not adopted
	51-51-2103		Floor heating systems	New section
75		M2103.3	Piping joints	Required pipe specifications, reference to State Plumbing Code
76	51-51-2105		Ground-source heat-pump system loop piping	Reference to State Plumbing Code
77		M2105.9	CPVC plastic pipe	Joint specifications
78		M2105.14	PVC plastic pipe	Joint specifications
79		M2105.18	Protection of potable water	Backflow protection specified
80		M2105.19	Pipe penetrations	Pipe penetration openings
81	51-51-2300		Solar thermal energy systems	Revised scope, photovoltaic systems moved to section 324
82		M2301.2.3	Pressure and temperature relief valves and system components	Reference to State Plumbing Code
83		M2301.2.5	Piping insulation	Reference to State Energy Code
84		M2301.4	Heat transfer gasses or liquids and heat exchangers	Reference to State Plumbing Code
85		M2301.7	Solar thermal systems for heating potable water	Reference to State Plumbing Code
86		M2301.7.1	Indirect systems	Reference to State Plumbing Code
87		M2301.7.2	Direct systems	Reference to State Plumbing Code
88	51-51-4400		Reserved	Deleted chapter 44—Referenced standards, reverts to model code
89	51-51-60105		Appendix Q—Dwelling unit fire sprinkler systems	Renamed section from Appendix R
90	51-51-60106		Appendix U—Solar-ready provisions - detached one- and two-bedroom family dwellings, multiple single-family dwellings (townhouses)	Appendix available for local adoption
91	51-51-60107		Appendix V—Fire sprinklers	Appendix available for local adoption. New appendix designation

Note: Those not listed on the table above remain as adopted in 2012.

Reasons Supporting Proposal: The SBCC is required to update the codes per the state building code update cycle as established in chapter 19.27 RCW.

Statutory Authority for Adoption: Chapter 19.27 RCW.

Statute Being Implemented: Chapter 19.27 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: Washington SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Joanne T. McCaughan, 1500 Jefferson Street, Olympia, (360) 407-9279.

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

#### Small Business Economic Impact Statement

**Description:** SBCC is filing a proposed rule to adopt the updated 2015 edition of the International Residential Code (IRC) (chapter 51-51 WAC). Since 1985 SBCC has been responsible to update to new editions of the Building Code. RCW 19.27.074.

The administrative compliance requirements are under the authority of the local government. RCW 19.27.050. Enforcement activities including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-51 WAC include specific technical requirements for building construction to be consistent with national standards.

The IRC is updated every three years by the ICC. The code development process conducted by the model code organization is open to all interest groups within the design and construction industry and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

**Professional Services:** Washington state has had a state-wide building code in effect since 1974. The local enforcement authority having jurisdiction administers the codes through the building and/or fire departments. Administrative procedures for State Building Code compliance are established and will not be changed by the adoption of the update to the current building codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state building code.

The proposed rule updates the state building code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the building code are existing within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** The cost of compliance incurred by Washington businesses include training and educational materials. A complete set of the 2015 model codes on CD rom costs \$985 for ICC members. The ICC

chapters offer training with continuing education credits to architects, engineers and building inspectors for \$285.

The 2015 edition of the IRC contains four significant amendments with a cost impact. These items were identified through the model code development process, and reviewed by the SBCC building code technical advisory group and the economic workgroup.

1. IRC section R322 Flood resistant construction. These proposals will increase the cost of construction in areas shown on flood insurance rate maps as seaward of the limit of moderate wave action (or if a community elects to designate areas as "Coastal A Zones"). However, the risk of wave induced damage or damage due to erosion and local scour is significantly reduced. The cost of a foundation in Zone A will be marginally higher because of the approximately one additional foot that will have to be added to the foundation. Estimates of the cost increase over the cost to build a foundation at the base flood elevation range from less than one percent to three percent to add one foot of freeboard, where the lower range is applicable to pile or masonry pier foundations and the upper end of the range applies to masonry walls with interior piers (crawl space). The cost increase to add freeboard when placing fill to raise a slab-on-grade foundation is somewhat higher because the fill quantity and therefore costs do not increase linearly with added height. There is no requirement to use fill; lower-cost foundation types can be used. The additional cost to install flood openings will be offset by less frequent failure of breakaway walls. The added cost of an exterior door is offset by reduced damage caused by wave splash, wave run-up, and wind driven rain, some of which is not covered by NFIP flood insurance.

2. IRC section 327 Swimming Pool Code. This section adopts by reference the International Swimming Pool and Spa Code. The barrier requirements are consistent with the rules currently in effect. Pool construction follows industry standards.

3. IRC section R403.1.1 Footings. The minimum width, W, and thickness, T, for concrete footings must be in accordance with new tables, which were expanded to cover more conditions. The tables account for additional soil bearing conditions. The code change proposal may increase the cost of construction.

4. IRC section R602.10.9.1 Braced wall panels. The code change proposal will increase the cost of construction in that it will eliminate the unlikely exception permitting two story structures in Seismic Design Category D2 to have minimal *braced wall panel* support.

The Residential Code technical advisory group (TAG) and the SBCC economic workgroup determined there is a cost for compliance on businesses for the following proposed state amendment. SBCC recommended filing the proposed rule to allow input through the public hearing process.

**Proposal 15-040 IRC 313.1 Townhouse automatic fire sprinkler system:** The proposed rule requires automatic fire sprinkler systems in newly constructed townhouses. The proponent's supporting statement indicates an average cost of installation is \$1.35 per square foot. The statement indicates that ten state codes adopt this requirement (California, Maine, Maryland, Massachusetts, Minnesota, New Hampshire, Oklahoma, Pennsylvania, West Virginia and Wisconsin).

sin, plus the District of Columbia and numerous other jurisdictions), and that there is no indication of negative impacts on home affordability or other issues that are sometimes mentioned as obstacles in these states. The cost of providing fire sprinklers in townhouses could be recaptured through the reduced cost of fire separations between units and other incentives offered by the code, and with no significant cost impact (or perhaps even a cost savings).

A minority report submitted to SBCC provided a statement against adopting the townhouse fire sprinkler proposal. The statement indicates that costs should take into account local conditions. Local costs range from \$2.50 per square foot to \$3.50 per square foot or more. The statement indicates that every \$1000 add [added] to the cost of a home "prices out" over three thousand homebuyers.

**Loss of Sales or Revenue:** The proposed rules make the state code for building construction consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated building code. For these businesses there will be a gain in sales and revenue. The update will result in some cost outlay for some small businesses for specific building projects, for a transition period. Other small businesses would see an increase in revenue. The amendments to the building codes affect over twenty-five thousand small businesses in the state, where construction activity occurs. The primary intent of the amendments is to improve the safety features in buildings and provide consistency and fairness across the state, for a predictable business environment. The amendments should result in enhanced safety and value in buildings.

**Cost of Compliance for Small Businesses:** The majority of businesses affected by the updates to the building codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small businesses. The cost to comply with the updated codes is not a disproportionate impact on small business. Where SBCC found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Reducing the Costs of the Rule on Small Businesses:** The revision history for the 2015 model code amendments shows several hundred amendments proposed by industry and local governments which add flexibility and clarity to the code and coordinate rules, and represent a savings for small business building owners and operators. The SBCC conducted a detailed review process, including participation at the national code development hearings, to document significant economic impacts of the proposed code amendments.

These amendments are proposed to reduce the cost of compliance on small businesses:

**R101.2 Scope live/work units:** This amendment will reduce the cost of construction for live work units by allowing compliance with the IRC.

**R202 Definition of saltwater coastal areas:** Due to requirement[s] for stainless steel fasteners, this amendment provides a definition of "saltwater coastal areas" pertinent to Washington; *modifies 2015 significant change* requiring stainless steel fasteners for wood shakes in saltwater coastal areas.

**R304.1 Minimum area habitable rooms:** This amendment will reduce construction cost by allowing tiny (seventy square feet) dwelling units.

**R324.4 Roof mounted solar photovoltaic systems:** This new section of the IRC is amended to allow small systems meeting prescriptive requirements without further engineering analysis.

**R602.7.5 Table R602.7.5 Supports for headers:** The 2015 IRC requires additional support for headers under specific conditions. This amendment reserves R602.7.5 and associated Table R602.7.5 until further study can determine the full impact of this code change. *Modifies 2015 significant change.*

**R703.10.2 Lap siding:** This amendment concerns the treatment of the lap joints for fiber cement siding products, for certain applications. *Modifies 2015 significant change.*

**R1003.18 Chimney clearances:** Tests have shown that the currently required 12" chimney wall thickness for the chimney to be in contact with combustible trim is overly restrictive. Chimneys with enclosing walls of 8" in contact with combustible material are at least as safe. The code change proposal will not increase the cost of construction, it would reduce the cost.

**M1505.1 Overhead exhaust hoods:** Provides an alternate method for overhead exhaust hoods for outdoor BBQ in IRC settings.

**M1601.4.1 Joints, seams:** Unless sealant or a gasket is used, snap-lock and button-lock type seams will leak significantly. The current exception attempted to prevent unnecessary sealing for joints and seams that leak very little or not at all, but it went too far by including all locking type joints and seams. This proposal reduces the cost of installation.

**Small Businesses Involved in the Development of the Rule:** The SBCC conducted nine open public meetings of the Residential Code TAG, available via telephone conference bridge and over the internet, and allowed comment on every item on every agenda. The SBCC appointed over one hundred representatives of all segments of the business and construction community to serve on the TAGs.

**List of Industries:** Below is a list of industries required to comply with the building code.

NAICS #	Type of Business	Businesses with < 50 employees	Businesses with ≥ 50 employees
236115	NEW SINGLE-FAMILY HOUSING CONSTRUCTION	2523	18
236116	NEW MULTIFAMILY HOUSING CONSTRUCTION	69	4
236118	RESIDENTIAL REMODELERS	4298	3
236210	INDUSTRIAL BUILDING CONSTRUCTION	88	8



NAICS #	Type of Business	Businesses with < 50 employees	Businesses with ≥ 50 employees
236220	COMMERCIAL AND INSTITUTIONAL BUILDING CONSTRUCTION	1151	40
238110	POURED CONCRETE FOUNDATION AND STRUCTURE CONTRACTORS	987	14
238120	STRUCTURAL STEEL AND PRECAST CONCRETE CONTRACTORS	154	10
238130	FRAMING CONTRACTORS	1866	17
238140	MASONRY CONTRACTORS	517	1
238150	GLASS AND GLAZING CONTRACTORS	208	6
238160	ROOFING CONTRACTORS	925	11
238170	SIDING CONTRACTORS	558	1
238190	OTHER FOUNDATION, STRUCTURE, AND BUILDING EXTERIOR CONTR [CONTRACTORS]	145	1
238220	PLUMBING, HEATING, AND AIR-CONDITIONING CONTRACTORS	2245	66
238290	OTHER BUILDING EQUIPMENT CONTRACTORS	315	6
238310	DRYWALL AND INSULATION CONTRACTORS	898	18
238990	ALL OTHER SPECIALTY TRADE CONTRACTORS	1141	15
321213	ENGINEERED WOOD MEMBER (EXCEPT TRUSS) MANUFACTURING	10	4
321214	TRUSS MANUFACTURING	14	4
321911	WOOD WINDOW AND DOOR MANUFACTURING	31	1
327310	CEMENT MANUFACTURING	3	1
327320	READY-MIX CONCRETE MANUFACTURING	41	7
327331	CONCRETE BLOCK AND BRICK MANUFACTURING	13	1
332311	PREFABRICATED METAL BUILDING AND COMPONENT MANUFACTURING	16	4
332312	FABRICATED STRUCTURAL METAL MANUFACTURING	67	8
332321	METAL WINDOW AND DOOR MANUFACTURING	10	1
332322	SHEET METAL WORK MANUFACTURING	69	8
333415	AIR-CONDITIONING AND WARM AIR HEATING EQUIPMENT	13	2
335110	ELECTRIC LAMP BULB AND PART MANUFACTURING	3	
335121	RESIDENTIAL ELECTRIC LIGHTING FIXTURE MANUFACTURING	14	
335122	COMMERCIAL, INDUSTRIAL, AND INSTITUTIONAL ELECTRIC LIGHT	2	1
335129	OTHER LIGHTING EQUIPMENT MANUFACTURING	3	1
423310	LUMBER, PLYWOOD, MILLWORK, AND WOOD PANEL MERCHANT WHOLESALE	196	12
423320	BRICK, STONE, AND RELATED CONSTRUCTION MATERIAL MERCHANT	68	1
423330	ROOFING, SIDING, AND INSULATION MATERIAL MERCHANT WHOLESALE	33	4
423390	OTHER CONSTRUCTION MATERIAL MERCHANT WHOLESALERS	78	
423720	PLUMBING AND HEATING EQUIPMENT AND SUPPLIES (HYDRONICS)	99	6
423730	WARM AIR HEATING AND AIR-CONDITIONING EQUIPMENT AND SUPPLIES	48	1
531110	LESSORS OF RESIDENTIAL BUILDINGS AND DWELLINGS	1525	152

NAICS #	Type of Business	Businesses with < 50 employees	Businesses with ≥ 50 employees
531120	LESSORS OF NONRESIDENTIAL BUILDINGS (EXCEPT MINI-WAREHOUS [MINIWAREHOUSES])	2046	7
541310	ARCHITECTURAL SERVICES	579	19
541330	ENGINEERING SERVICES	2351	82
541340	DRAFTING SERVICES	69	
541350	BUILDING INSPECTION SERVICES	168	1
922160	FIRE PROTECTION	246	31
	<b>Total</b>	25,903	598

**Estimate of the Number of Jobs That Will Be Created or Lost:** The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2016. Building permits issued prior to that date will be vested under the 2012 building code. Permits issued for projects under the 2015 code edition will start with the 2017 construction season.

The construction industry has experienced growth over the period [of] June 2014 to June 2015. Data from current employment statistics (CES).

Wage and salary workers	2015	2014
Residential building construction	25,600	22,400
Specialty trade contractors	114,200	101,400

A copy of the statement may be obtained by contacting Tim Nogler, P.O. Box 41449, Olympia, WA 98504-1449, phone (360) 407-9277, fax (360) 407-9088, e-mail sbcc@ga.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. SBCC is not one of the agencies identified as required to prepare an analysis. However, SBCC intends to prepare an analysis prior to the final adoption of these rules and a copy can be requested using the same information as provided for the small business economic impact statement.

July 29, 2015  
David F. Kokot  
Chair

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-003 International Residential Code.** The ((2012)) 2015 edition of the *International Residential Code* as published by the International Code Council is hereby adopted by reference with the following additions, deletions, and exceptions: Provided that chapters 11 and 25 through 43 of this code are not adopted. Energy Code is regulated by chapter 51-11R WAC; Plumbing Code is regulated by chapter 51-56 WAC; Electrical Code is regulated by chapter 296-46B WAC or Electrical Code as adopted by the local jurisdiction. Appendix F, Radon Control Methods, ((Appendix G, Swimming Pools, Spas and Hot Tubs;)) and Appendix ((R))

Q, Dwelling Unit Fire Sprinkler Systems, are included in adoption of the International Residential Code.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-008 Implementation.** The International Residential Code adopted by chapter 51-51 WAC shall become effective in all counties and cities of this state on July 1, ((2013)) 2016.

**NEW SECTION**

**WAC 51-51-01010 Scope.** The provisions of the *International Residential Code for One- and Two-Family Dwellings* shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings, adult family homes, and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.

- EXCEPTIONS:
1. Live/work units located in townhouses and complying with the requirements of Section 419 of the *International Building Code* shall be permitted to be constructed in accordance with the *International Residential Code for One- and Two-Family Dwellings*. Fire suppression required by Section 419.5 of the *International Building Code* where constructed under the *International Residential Code for One- and Two-Family Dwellings* shall conform to Appendix Q.
  2. Owner-occupied lodging houses with one or two guestrooms shall be permitted to be constructed in accordance with the *International Residential Code for One- and Two-Family Dwellings*.
  3. Owner-occupied lodging homes with three to five guestrooms shall be permitted to be constructed in accordance with the *International Residential Code for One- and Two-Family Dwellings* where equipped with a fire sprinkler system in accordance with Appendix Q.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0102 Section R102—Applicability.**

**R102.5 Appendices.** Provisions in the appendices shall not apply unless specifically referenced in the adopting ordinance. ((Except for Appendix S, Fire Sprinklers;)) An appen-

dix adopted by a local jurisdiction shall not be effective unless approved by the state building code council pursuant to RCW 19.27.060 (1)(a).

**EXCEPTIONS:**

1. The state building code council has determined that a local ordinance (~~(requiring)~~) providing specifications for light straw-clay or strawbale construction, or requiring a solar-ready zone or requiring fire sprinklers in accordance with Appendix ((S)) R, S, U or V of this chapter may be adopted by any local government upon notification of the council.
2. Appendix F, Radon Control Methods, (~~Appendix G, Swimming Pools, Spas and Hot Tubs,~~) and Appendix ((R)) Q, Dwelling Unit Fire Sprinkler Systems, are included in adoption of the International Residential Code.

**R102.7.1 Additions, alterations or repairs.** Additions, alterations or repairs to any structure shall conform to the requirements for a new structure without requiring the existing structure to comply with (~~all of~~) the requirements of this code, unless otherwise stated. Additions, alterations or repairs and relocations shall not cause an existing structure to become unsafe or adversely affect the performance of the building.

**EXCEPTIONS:**

1. Additions with less than 500 square feet of conditioned floor area are exempt from the requirements for Whole House Ventilation Systems, Section M1508.
2. Additions or alterations to existing buildings which do not require the construction of foundations, crawlspaces, slabs or basements shall not be required to meet the requirements for radon protection in Section R327.1 and Appendix F.

**R102.7.2 Moved buildings.** Buildings or structures moved into or within a jurisdiction shall comply with the provisions of this code, the *International Building Code* (chapter 51-50 WAC), the *International Mechanical Code* (chapter 51-52 WAC), the *International Fire Code* (chapter 51-54 WAC), the *Uniform Plumbing Code and Standards* (chapter 51-56 WAC), and the *Washington State Energy Code* (chapter 51-11R WAC) for new buildings or structures.

**EXCEPTION:** Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated. For the purposes of this section a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0202 Section R202—Definitions.**

**ADULT FAMILY HOME** means a dwelling in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

**AIR-IMPERMEABLE INSULATION.** An insulation having an air permeance equal to or less than 0.02 L/s-m<sup>2</sup> at 75 Pa pressure differential tested in accordance with ASTM E2178 or ASTM E283.

**ATTIC, HABITABLE.** A conditioned area complying with all of the following requirements:

1. The occupiable floor area is at least 70 square feet (6.5 m<sup>2</sup>), in accordance with Section R304.
2. The occupiable floor area has a ceiling height in accordance with Section R305.
3. The occupiable space is entirely enclosed by the roof assembly above, knee walls (if applicable) on the sides, and the floor-ceiling assembly below.

A habitable attic is not considered a story.

**CHILD DAY CARE,** shall, for the purposes of these regulations, mean the care of children during any period of a 24 hour day.

**CHILD CARE, FAMILY HOME.** A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

**CONDITIONED SPACE.** An area, room or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

**DWELLING UNIT.** A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling units may also include the following uses:

1. Adult family homes, foster family care homes and family day care homes licensed by the Washington state department of social and health services.
2. Offices, mercantile, food preparation for off-site consumption, personal care salons or similar uses which are conducted primarily by the occupants of the dwelling unit and are secondary to the use of the unit for dwelling purposes, and which do not exceed 500 square feet (46.4 m<sup>2</sup>).
3. One accessory dwelling unit, which need not be considered a separated dwelling unit, provided:
  - a. The accessory dwelling unit is constructed within an existing dwelling unit.
  - b. Either the accessory dwelling unit or primary dwelling unit is owner-occupied.
  - c. All required smoke alarms in the accessory dwelling unit and the primary dwelling unit are interconnected in such a manner that the actuation of one alarm will activate all alarms in both the primary dwelling unit and the accessory dwelling unit.

**FIRE SEPARATION DISTANCE.** The distance measured from the foundation wall or face of the wall framing, whichever is closer, to one of the following:

1. To the closest interior lot line; or
2. To the centerline of a street, an alley or public way; or
3. To an imaginary line between two buildings on the lot.

The distance shall be measured at a right angle from the wall.

**MEZZANINE, LOFT.** An intermediate level or levels between the floor and ceiling of any story.

**SALT WATER COASTAL AREA.** Those areas designated as salt water coastal areas by the local jurisdiction.

**SMALL BUSINESS.** Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

**WHOLE HOUSE VENTILATION SYSTEM.** A mechanical ventilation system, including fans, controls, and ducts, which replaces, by direct or indirect means, air from the habitable rooms with outdoor air.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0301 Design criteria.**

**R301.2 Climatic and geographic design criteria.** Buildings shall be constructed in accordance with the provisions of this code as limited by the provisions of this section. Additional criteria shall be established by the local jurisdiction and set forth in Table R301.2(1). The local jurisdiction shall designate the salt water coastal areas within their jurisdiction.

**R301.2.2.3.1 Height limitations.** Wood-framed buildings shall be limited to three stories above *grade plane* or the limits given in Table R602.10.3(3). Cold-formed, steel-framed buildings shall be limited to less than or equal to three stories above *grade plane* in accordance with AISI S230. *Mezzanines* that comply with Section R328 shall not be considered as stories. Structural insulated panel buildings shall be limited to two stories above *grade plane*.

**R301.5 Live load.** The minimum uniformly distributed live load shall be as provided in Table R301.5.

**TABLE R301.5  
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS  
(in pounds per square foot)**

Use	Live Load
Uninhabitable attics without storage <sup>b</sup>	10
Uninhabitable attics with limited storage <sup>b, g</sup>	20
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks <sup>e</sup>	60
Fire escapes	40
Guards and handrails <sup>d</sup>	200 <sup>h</sup>
Guard in-fill components <sup>f</sup>	50 <sup>h</sup>
Passenger vehicle garages <sup>a</sup>	50 <sup>a</sup>
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40 <sup>c</sup>

(No change to footnotes)

**AMENDATORY SECTION** (Amending WSR 14-24-088, filed 12/1/14, effective 5/1/15)

**WAC 51-51-0302 Section R302—Fire-resistant construction.**

**R302.1 Exterior walls.** Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); or *dwellings* equipped throughout with an *automatic sprinkler system* installed in accordance with Section P2904 shall comply with Table R302.1(2).

- EXCEPTIONS:
1. Walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance.
  2. Walls of dwellings and accessory structures located on the same lot.
  3. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line.
  4. Detached garages accessory to a dwelling located within 2 feet (610 mm) of a lot line are permitted to have roof eave projections not exceeding 4 inches (102 mm).
  5. Foundation vents installed in compliance with this code are permitted.

**((TABLE R302.1(1)  
EXTERIOR WALLS**

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1-hour tested in accordance with ASTM E 119 or UL 263 with exposure from both sides	< 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Projections	Fire-resistance rated	1 hour on the underside <sup>a,b</sup>	≥ 2 feet to < 5 feet
	Not fire-resistance rated	0 hours	≥ 5 feet
Openings in walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area per story	0 hours	3 feet
	Unlimited	0 hours	5 feet
Penetrations	All	Comply with Section R302.4	< 5 feet
		None required	5 feet

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

<sup>a</sup>Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>b</sup>Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.

**Table R302.1(2)**  
**Exterior Walls—Dwellings with Fire Sprinklers**

Exterior Wall Element		Minimum Fire-Resistance Rating	Minimum Fire Separation Distance
Walls	Fire-resistance rated	1 hour tested in accordance with ASTM E 119 or UL 263 with exposure from the outside	0 feet
	Not fire-resistance rated	0 hours	3 feet <sup>a</sup>
Projections	Fire-resistance rated	1 hour on the underside <sup>b,c</sup>	2 feet <sup>a</sup>
	Not fire-resistance rated	0 hours	3 feet
Openings in walls	Not allowed	N/A	< 3 feet
	Unlimited	0 hours	3 feet <sup>a</sup>
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	3 feet <sup>a</sup>

For IS: 1 foot = 304.8 mm. N/A = Not Applicable

<sup>a</sup>For residential subdivisions where all dwellings are equipped throughout with an automatic sprinkler system installed in accordance with P2904, the fire separation distance for nonrated exterior walls and rated projections shall be permitted to be reduced to 0 feet, and unlimited unprotected openings and penetrations shall be permitted, where the adjoining lot provides an open setback yard that is 6 feet or more in width on the opposite side of the property line.

<sup>b</sup>Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave if fire blocking is provided from the wall top plate to the underside of the roof sheathing.

<sup>c</sup>Roof eave fire-resistance rating shall be permitted to be reduced to 0 hours on the underside of the eave provided no gable vent openings are installed.)

**R302.2 Townhouses.** Each *townhouse* shall be considered a separate building and shall be separated by one of the following methods:

1. A common 1-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 and a fire sprinkler system in accordance with Section P2904 in both townhouses shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of

electrical outlet boxes shall be in accordance with Section R302.4.

2. A common 2-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 shall be provided. The cavity of the common wall shall not contain plumbing or mechanical equipment, ducts or vents. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

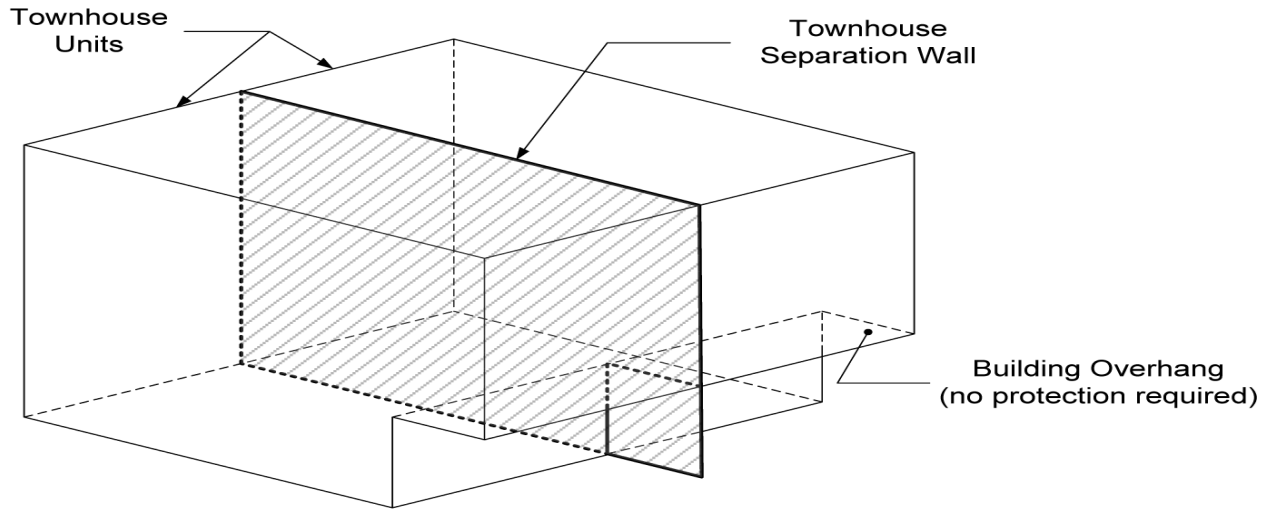
3. Two wall assemblies meeting the requirements of Section R302.1 for exterior walls shall be provided.

**R302.2.1 Continuity.** The fire-resistance-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

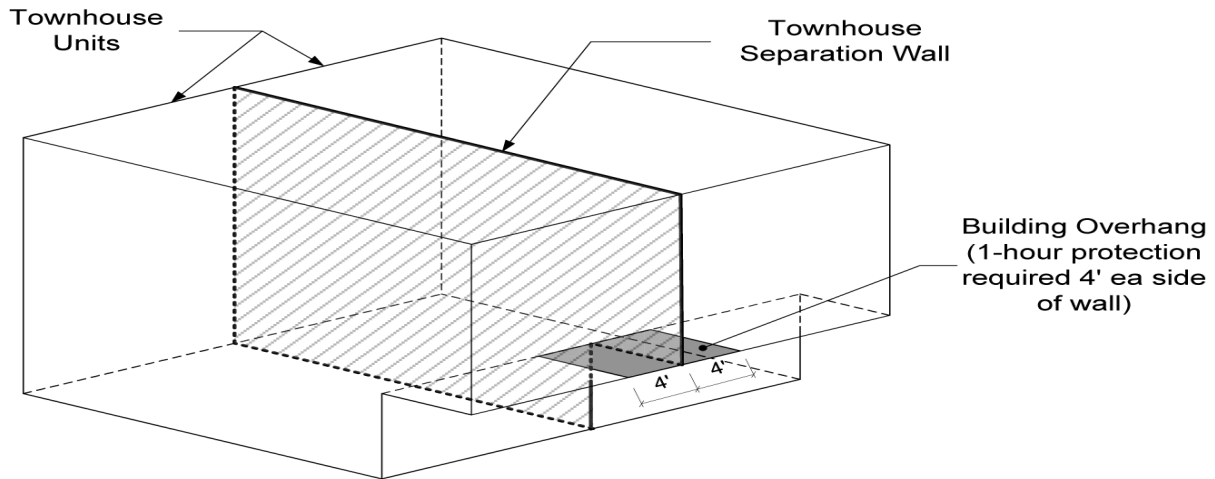
Where a story extends beyond the exterior wall of a story below:

1. The fire-resistance-rated wall or assembly shall extend to the outside edge of the upper story (see Figure R302.2(1)); or

2. The underside of the exposed floor-ceiling assembly shall be protected as required for projections in Section R302 (see Figure R302.2(2)).



**FIGURE R302.2(1)  
EXTENDED TOWNHOUSE SEPARATION WALL**



**FIGURE R302.2(2)  
TOWNHOUSE SEPARATION OVERHANG PROTECTION**

**R302.2.4 Structural independence.** Each individual townhouse shall be structurally independent.

- EXCEPTIONS:
1. Foundation supporting exterior walls or common walls.
  2. Structural roof and wall sheathing from each unit may be fastened to the common wall framing.
  3. Nonstructural wall and roof coverings.
  4. Flashing at termination of roof covering over common wall.
  5. Townhouses separated by a common wall as provided in Section R302.2, Item 1 or 2.

6. Floor sheathing may fasten to the floor framing of both units.

**R302.3.1 Supporting construction.** When floor assemblies are required to be fire-resistance rated by Section R302.3, the supporting construction of such assemblies shall have an equal or greater fire-resistance rating.

EXCEPTION: The supporting construction is not required to be fire-resistance rated where(1) automatic fire sprinklers are installed in accordance with Appendix (R) Q in both dwelling units(2)

or

2. All required smoke alarms in both dwelling units are interconnected in such a manner that the actuation of one alarm will activate all alarms in both dwelling units).

**R302.13 Fire protection of floors.** Floor assemblies that are not required elsewhere in this code to be fire-resistance rated, shall be provided with a 1/2-inch (12.7 mm) gypsum wall-board membrane, 5/8-inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member. Penetrations or openings for ducts, vents, electrical outlets, lighting, devices, luminaires, wires, speakers, drainage, piping and similar openings or penetrations shall be permitted.

EXCEPTIONS:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with Appendix Q, NFPA 13D, or other approved equivalent sprinkler system.
2. Floor assemblies located directly over a crawl space not intended for storage or fuel-fired appliances.
3. Portions of floor assemblies shall be permitted to be unprotected when complying with the following:
  - 3.1. The aggregate area of the unprotected portions shall not exceed 80 square feet per story.
  - 3.2. Fire blocking in accordance with Section R302.11.1 is installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.
4. Wood floor assemblies using dimensional lumber or structural composite lumber with a cross sectional area equal to or greater than 2-inch by 10-inch nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0303 Section R303—Light, ventilation and heating.**

**R303.1 Natural light.** All habitable rooms shall have an aggregate glazing area of not less than 8 percent of the floor area of such rooms.

EXCEPTION: The glazed areas need not be installed in rooms where artificial light is provided capable of producing an average illumination of 6 footcandles (65 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

**R303.2 Adjoining rooms.** For the purpose of determining light requirements, any room shall be considered as a portion of an adjoining room when at least one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room but not less than 25 square feet (2.3 m<sup>2</sup>).

EXCEPTION: Openings required for light shall be permitted to open into a sunroom with thermal isolation or a patio cover, provided there is an openable area between the adjoining room and the sunroom or a patio cover of not less than one-tenth of the floor area of the interior room but not less than 20 square feet (2 m<sup>2</sup>).

**R303.3 Bathrooms.** This section is not adopted.

**R303.4 Minimum ventilation performance.** Dwelling units shall be equipped with local exhaust and whole house ventilation systems designed and installed as specified in Section M1507.

EXCEPTION: Additions with less than 500 square feet of conditioned floor area are exempt from the requirements in this Code for Whole House Ventilation Systems.

**R303.5 Opening location.** Outdoor intake and exhaust openings shall be located in accordance with Sections R303.5.1 and R303.5.2.

**R303.5.1 Intake openings.** Mechanical and gravity outdoor air intake openings shall be located a minimum of 10 feet (3048 mm) from any hazardous or noxious contaminant, such as vents, chimneys, plumbing vents, streets, alleys, parking lots and loading docks, except as otherwise specified in this code. ~~((Where a source of contaminant is located within 10 feet (3048 mm) of an intake opening, such opening shall be located a minimum of 3 feet (914 mm) below the contaminant source.))~~

For the purpose of this section, the exhaust from *dwelling unit* toilet rooms, bathrooms and kitchens shall not be considered as hazardous or noxious.

EXCEPTIONS:

1. The 10-foot (3048 mm) separation is not required where the intake opening is located 3 feet (914 mm) or greater below the contaminant source.
2. Vents and chimneys serving fuel-burning appliances shall be terminated in accordance with the applicable provisions of Chapters 18 and 24.
3. Clothes dryer exhaust ducts shall be terminated in accordance with Section 1502.3.

**R303.5.2 Exhaust openings.** Exhaust air shall not be directed onto walkways. All exhaust ducts shall terminate outside the building. Terminal elements shall have at least the equivalent net free area of the duct work.

**R303.5.2.1 Exhaust ducts.** Exhaust ducts shall be equipped with back-draft dampers. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.

**R303.7 Interior stairway illumination.** ~~((All interior and exterior stairways shall be provided with a means to illuminate the stairs, including the landings and treads. Stairway illumination shall receive primary power from the building wiring.))~~ Interior stairways shall be provided with an artificial light source ~~((located in the immediate vicinity of each landing of the stairway. For interior stairs the artificial))~~ to illuminate the landings and treads. Stairway illumination shall receive primary power from the building wiring. The light source(s) shall be capable of illuminating treads and landings to levels not less than 1 foot-candle (11 lux) measured at the center of treads and landings. There shall be a wall switch at each floor level to control the light source where the stairway has six or more risers.

EXCEPTION: A switch is not required where remote, central or automatic control of lighting is provided.

**R303.8 Exterior stairway illumination.** Exterior stairways shall be provided with an artificial light source located ~~((in the immediate vicinity of))~~ at the top landing of the stairway. Stairway illumination shall receive primary power from the

building wiring. Exterior stairways providing access to a basement from the ~~((outside))~~ outdoor grade level shall be provided with an artificial light source located ~~((in the immediate vicinity of))~~ at the bottom landing of the stairway.

(EXCEPTION: ~~An artificial light source is not required at the top and bottom landing, provided an artificial light source is located directly over each stairway section.~~)

**R303.9 Required heating.** When the winter design temperature in Table R301.2(1) is below 60°F (16°C), every *dwelling unit* shall be provided with heating facilities capable of maintaining a minimum room temperature of 68°F (20°C) at a point 3 feet (914 mm) above the floor and 2 feet (610 mm) from exterior walls in all habitable rooms at design temperature. The installation of one or more portable heaters shall not be used to achieve compliance with this section.

EXCEPTION: Unheated recreational tents or yurts not exceeding 500 square feet provided it is not occupied as a permanent dwelling.

**R303.9.1 Definitions.** For the purposes of this section only, the following definitions apply.

**DESIGNATED AREAS** are those areas designated by a county to be an urban growth area in chapter 36.70A RCW and those areas designated by the U.S. Environmental Protection Agency as being in nonattainment for particulate matter.

**SUBSTANTIALLY REMODELED** means any alteration or restoration of a building exceeding 60 percent of the appraised value of such building within a 12 month period. For the purpose of this section, the appraised value is the estimated cost to replace the building and structure in kind, based on current replacement costs.

**R303.9.2 Primary heating source.** Primary heating sources in all new and substantially remodeled buildings in designated areas shall not be dependent upon wood stoves.

**R303.9.3 Solid fuel burning devices.** No new or used solid fuel burning device shall be installed in new or existing buildings unless such device is U.S. Environmental Protection Agency certified or exempt from certification by the United States Environmental Protection Agency and conforms with RCW 70.94.011, 70.94.450, 70.94.453, and 70.94.457.

EXCEPTIONS: 1. Wood cook stoves.  
2. Antique wood heaters manufactured prior to 1940.

#### NEW SECTION

**WAC 51-51-0307 Section R307—Toilet, bath and shower spaces.**

**R307.1 Space required.** Fixtures shall be spaced in accordance with Figure R307.1, and in accordance with the requirements of the state plumbing code Section 402.5.

#### NEW SECTION

**WAC 51-51-0308 Section R308—Glazing.**

**R308.4.4 Glazing in guards and railings.** Glazing in *guards* and railings, including structural baluster panels and non-structural in-fill panels, regardless of area or height above a

walking surface shall be considered to be a hazardous location.

**R308.4.4.1 Structural glass baluster panels.** Guards with structural glass baluster panels shall be installed with an attached top rail or handrail. The top rail or handrail shall be supported by a minimum of three glass baluster panels, or shall be otherwise supported to remain in place should one glass baluster panel fail.

EXCEPTION: An attached top rail or handrail is not required where the glass baluster panels are laminated glass with two or more glass plies of equal thickness and of the same glass type.

#### NEW SECTION

**WAC 51-51-0310 Section R310—Emergency escape and rescue openings.**

**R310.1 Emergency escape and rescue opening required.** Basements, habitable attics and every sleeping room shall have not less than one operable emergency escape and rescue opening. Where basements contain one or more sleeping rooms, an emergency escape and rescue opening shall be required in each sleeping room. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

EXCEPTIONS: 1. Storm shelters and basements used only to house mechanical equipment not exceeding a total floor area of 200 square feet (18.58 m<sup>2</sup>).  
2. In dwelling units equipped throughout with an automatic sprinkler system installed in accordance with Appendix Q, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following:  
2.1. One means of egress and one emergency escape and rescue opening.  
2.2. Two means of egress.

AMENDATORY SECTION (Amending WSR 10-18-036, filed 8/25/10, effective 9/25/10)

**WAC 51-51-0313 Section R313—Automatic fire sprinkler systems.**

**R313.1 Townhouse automatic fire sprinkler systems.** An automatic residential fire sprinkler system shall be installed in townhouses.

EXCEPTION: An automatic residential fire sprinkler system shall not be required where additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed.

**R313.1.1 Design and installation.** Automatic residential fire sprinkler systems for townhouses shall be designed and installed in accordance with Appendix Q or NFPA 13D.

**R313.2 One- and two-family dwellings automatic fire systems.**

This section is not adopted.



AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0314 Section R314—Smoke alarms.**

**R314.2.2 Alterations, repairs and additions.** Where alterations, repairs or additions requiring a permit occur, or where one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms as required for new dwellings.

**EXCEPTIONS:**

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, the addition or replacement of windows or doors, or the addition of a porch or deck are exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing, electrical or mechanical systems are exempt from the requirements of this section.

**R314.3 Location.** Smoke alarms shall be installed in the following locations:

1. In each sleeping room.
2. Outside each separate sleeping area in the immediate vicinity of the bedrooms.
3. On each additional story of the dwelling, including basements and habitable attics but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.
4. ~~((In napping areas in a family home child care.~~

**R314.3.1 Alterations, Repairs and Additions.** When alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created in existing dwellings, the individual dwelling unit shall be equipped with smoke alarms as required for new dwellings.

**EXCEPTIONS:**

1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck are exempt from the requirements of this section.
2. Installation, alteration or repairs of plumbing, electrical or mechanical systems are exempt from the requirements of this section.)

Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section R314.3.

5. In napping areas in a family home child care.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

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

**R315.1 ((Carbon Monoxide Alarms.** For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units and on each level of the

dwelling and in accordance with the manufacturer's recommendations.

**R315.2 Carbon monoxide detection systems.** Carbon monoxide detection systems that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720-2012, shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075. Where a household carbon monoxide detection system is installed, it shall become a permanent fixture of the occupancy.

**EXCEPTION:** Where carbon monoxide alarms are installed meeting the requirements of Section R315.1, compliance with Section R315.2 is not required.

**R315.3 Where required in existing dwellings.** Existing dwellings shall be equipped with carbon monoxide alarms in accordance with Section R315.1. An inspection will occur when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created.

**EXCEPTIONS:**

1. Work involving only the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits, are exempt from the inspection requirements of this section.
2. Installation, alteration or repairs of nonfuel-burning plumbing or mechanical systems are exempt from the inspection requirements of this section.
3. Owner-occupied single-family residences legally occupied before July 26, 2009. RCW 19.27.530 (2)(b).

**R315.4 Alarm requirements.** Single station carbon monoxide alarms shall be listed as complying with UL 2034 and shall be installed in accordance with this code, NFPA 720-2012 and the manufacturer's installation instructions.) **General.** Carbon monoxide alarms shall comply with Section R315.

**R315.1.1 Listings.** Carbon monoxide alarms shall be listed in accordance with UL 2034. Combination carbon monoxide and smoke alarms shall be listed in accordance with UL 2034 and UL 217.

**R315.2 Where required.** Carbon monoxide alarms shall be provided in accordance with Sections R315.2.1 and R315.2.2.

**R315.2.1 New construction.** For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units and on each level of the dwelling in accordance with the manufacturer's recommendation.

**R315.2.2 Alterations, repairs, and additions.** Existing dwellings shall be equipped with carbon monoxide alarms in accordance with Section R315.2.1. An inspection will occur where alterations, repairs, or additions requiring a permit occur, or where one or more sleeping rooms are added or created.

- EXCEPTIONS:**
1. Work involving only the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, is exempt from the inspection requirements of this section.
  2. Installation, alteration or repairs of nonfuel burning plumbing or mechanical systems or electrical systems are exempt from the inspection requirements of this section.
  3. Owner-occupied single-family residences legally occupied before July 26, 2009. RCW 19.27.530 (2)(b).

**R315.3 Location.** Carbon monoxide alarms in dwelling units shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms on each level of the dwelling and in accordance with the manufacturer's recommendations. Where a fuel burning appliance is located within a bedroom or its attached bathroom, a carbon monoxide alarm shall be installed within the bedroom.

**R315.4 Combination alarms.** Combination carbon monoxide and smoke alarms shall be permitted to be used in lieu of carbon monoxide alarms.

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

**WAC 51-51-0322 ((Section R322—Flood resistant construction.)) Reserved.**

**((R322.2.1 Elevation Requirements.**

1. ~~Buildings and structures in flood hazard areas not designated as Coastal A Zones, shall have the lowest floor elevated to or above the design flood elevation, or a greater elevation as designated by local ordinance.~~

2. ~~Buildings and structures in flood hazard areas designated as Coastal A Zones shall have the lowest floors elevated to or above the base flood elevation plus 1 foot (305 mm), or to the design flood elevation, whichever is higher.~~

3. ~~In areas of shallow flooding (AO Zones), buildings and structures shall have the lowest floor (including basement) elevated at least as high above the highest adjacent grade as the depth number specified in feet on the FIRM, or at least 2 feet (610 mm) if a depth number is not specified.~~

4. ~~Basement floors that are below grade on all sides shall be elevated to or above the design flood elevation.~~

**EXCEPTION:** ~~Enclosed areas below the design flood elevation, including basements whose floors are not below grade on all sides, shall meet the requirements of Section R322.2.2.)~~

**NEW SECTION**

**WAC 51-51-03240 Section R324—Solar energy systems.**

**R324.1 General.** Solar energy systems shall comply with the provisions of this section.

**R324.2 Solar thermal systems.** Solar thermal systems shall be designed and installed in accordance with Chapter 23 and the *International Fire Code*.

**R324.3 Photovoltaic systems.** Installation, modification, or alteration of solar photovoltaic power systems shall comply

with this section and the *International Fire Code*. Section R104.11 alternate materials and methods of this code shall be considered when approving the installation of solar photovoltaic power systems. Photovoltaic systems shall be designed and installed in accordance with Sections R324.3.1 through R324.6 and chapter 19.28 RCW. Inverters shall be listed and labeled in accordance with UL 1741. Systems connected to the utility grid shall use inverters listed for utility interaction.

**EXCEPTION:** Detached, nonhabitable Group U structures shall not be subject to the requirements of this section.

**R324.3.1 Equipment listing.** Photovoltaic panels and modules shall be listed and labeled in accordance with UL 1703.

**R324.4 Rooftop-mounted photovoltaic systems.** Rooftop-mounted photovoltaic panel systems installed on or above the roof covering shall be designed and installed in accordance with Section 907.

**R324.4.1 Roof load.** Portions of roof structures not covered with photovoltaic panel systems shall be designed for dead loads and roof loads in accordance with Sections R301.4 and R301.6. Portions of roof structures covered by photovoltaic panel systems shall be designed for the following load cases:

1. Dead load (including photovoltaic panel weight) plus snow load in accordance with Table R301.2(1).

2. Dead load (excluding photovoltaic panel weight), plus roof live load or snow load, whichever is greater, in accordance with Section R301.6.

**R324.4.2 Wind resistance.** Rooftop-mounted photovoltaic panel or module systems and their supports shall be designed to resist the component and cladding loads specified in Table R301.2(2), adjusted for height and exposure in accordance with Table R301.2(3).

**EXCEPTION:** The roof structure shall be deemed adequate to support the load of the rooftop solar photovoltaic system if all of the following requirements are met:

1. The solar photovoltaic panel system shall be designed for the wind speed of the local area, and shall be installed per the manufacturer's specifications.

2. The ground snow load does not exceed 70 pounds per square foot.

3. The total dead load of modules, supports, mountings, raceways, and all other appurtenances weigh no more than four pounds per square foot.

4. Photovoltaic modules are not mounted higher than 18 inches above the surface of the roofing to which they are affixed.

5. Supports for solar modules are to be installed to spread the dead load across as many roof-framing members as needed, so that no point load exceeds 50 pounds.

**R324.5 Building-integrated photovoltaic systems.** Building-integrated photovoltaic systems that serve as roof coverings shall be designed and installed in accordance with Section R905.

**R324.5.1 Photovoltaic shingles.** Photovoltaic shingles shall comply with Section R905.16.

**R324.6 Ground-mounted photovoltaic systems.** Ground-mounted photovoltaic systems shall be designed and installed in accordance with Section R301.

**R324.7** This section is not adopted.

AMENDATORY SECTION (Amending WSR 14-04-049, filed 1/27/14, effective 2/27/14)

**WAC 51-51-0325 Section R325—Adult family homes.**

**SECTION R325  
ADULT FAMILY HOMES**

**R325.1 General.** This section shall apply to all newly constructed adult family homes and all existing single family homes being converted to adult family homes. This section shall not apply to those adult family homes licensed by the state of Washington department of social and health services prior to July 1, 2001.

**R325.2** (~~Submittal standards. In addition to those requirements in Section 106.1, the submittal shall identify the project as a Group R-3 Adult Family Home Occupancy. A floor plan shall be submitted identifying the means of egress and the components in the means of egress such as stairs, ramps, platform lifts and elevators. The plans shall indicate the rooms used for clients and the sleeping room classification of each room.~~) **Reserved.**

**R325.3 Sleeping room classification.** Each sleeping room in an adult family home shall be classified as:

1. Type S - Where the means of egress contains stairs, elevators or platform lifts.
2. Type NS1 - Where one means of egress is at grade level or a ramp constructed in accordance with R325.9 is provided.
3. Type NS2 - Where two means of egress are at grade level or ramps constructed in accordance with R325.9 are provided.

**R325.4 Types of locking devices and door activation.** All bedroom and bathroom doors shall be openable from the outside when locked.

Every closet shall be readily openable from the inside.

Operable parts of door handles, pulls, latches, locks and other devices installed in adult family homes shall be operable with one hand and shall not require tight grasping, pinching or twisting of the wrist. Pocket doors shall have graspable hardware available when in the closed or open position.

The force required to activate operable parts shall be 5.0 pounds (22.2 N) maximum. Required exit doors shall have no additional locking devices.

Required exit door hardware shall unlock inside and outside mechanisms when exiting the building allowing reentry into the adult family home without the use of a key, tool or special knowledge.

**R325.5 Smoke and carbon monoxide alarm requirements.** All adult family homes shall be equipped with smoke and carbon monoxide alarms installed as required in Sections R314 and R315.1. Alarms shall be installed in such a manner so that the detection device warning is audible from all areas of the dwelling upon activation of a single alarm.

**R325.6 Escape windows and doors.** Every sleeping room shall be provided with emergency escape and rescue win-

dows as required by Section R310. No alternatives to the sill height such as steps, raised platforms or other devices placed by the openings will be approved as meeting this requirement.

**R325.7 Fire apparatus access roads and water supply for fire**

**protection.** Adult family homes shall be served by fire apparatus access roads and water supplies meeting the requirements of the local jurisdiction.

**R325.8 Grab bar general requirements.** Where facilities are designated for use by adult family home clients, grab bars for water closets, bathtubs and shower stalls shall be installed according to this section.

**R325.8.1 Grab bar cross section.** Grab bars with a circular cross section shall have an outside diameter of 1 1/4 inches minimum and 2 inches maximum. Grab bars with noncircular cross section shall have a cross section dimension of 2 inches maximum and a perimeter dimension of 4 inches minimum and 4 5/8 inches maximum.

**R325.8.2 Grab bar installation.** Grab bars shall have a spacing of 1 1/2 inches between the wall and the bar. Projecting objects, control valves and bathtub or shower stall enclosure features above, below and at the ends of the grab bar shall have a clear space of 1 1/2 inches to the grab bar.

**EXCEPTION:** Swing-up grab bars shall not be required to meet the 1 1/2 inch spacing requirement.

Grab bars shall have a structural strength of 250 pounds applied at any point on the grab bar, fastener, mounting device or supporting structural member. Grab bars shall not be supported directly by any residential grade fiberglass bathing or showering unit. Acrylic bars found in bathing units shall be removed.

Fixed position grab bars, when mounted, shall not rotate, spin or move and have a graspable surface finish.

**R325.8.3 Grab bars at water closets.** Water closets shall have grab bars mounted on both sides. Grab bars can be a combination of fixed position and swing-up bars. Grab bars shall meet the requirements of R325.8. Grab bars shall mount between 33 inches and 36 inches above floor grade. Center-line distance between grab bars, regardless of type used, shall be between 25 inches minimum and 30 inches maximum.

**R325.8.3.1 Fixed position grab bars.** Fixed position grab bars shall be a minimum of 36 inches in length and start 12 inches from the rear wall.

**R325.8.3.2 Swing-up grab bars.** Swing-up grab bars shall be a minimum of 28 inches in length from the rear wall.

**R325.8.4 Grab bars at bathtubs.** Horizontal and vertical grab bars shall meet the requirements of R325.8.

**R325.8.4.1 Vertical grab bars.** Vertical grab bars shall be a minimum of 18 inches long and installed at the control end wall and head end wall. Grab bars shall mount within 4 inches of the exterior of the bath tub edge or within 4 inches within the bath tub. The bottom end of the bar shall start between 36 inches and 42 inches above floor grade.

EXCEPTION: The required vertical grab bar can be substituted with a floor to ceiling grab bar meeting the requirements of R325.8 at the control end and head end entry points.

**R325.8.4.2 Horizontal grab bars.** Horizontal grab bars shall be provided at the control end, head end, and the back wall within the bathtub area. Grab bars shall be mounted between 33 inches and 36 inches above floor grade. Control end and head end grab bars shall be 24 inches minimum in length. Back wall grab bar shall be 36 inches minimum in length.

**R325.8.5 Grab bars at shower stalls.** Where shower stalls are provided to meet the requirements for bathing facilities, grab bars shall meet the requirements of R325.8.

EXCEPTION: Shower stalls with permanent built-in seats are not required to have vertical or horizontal grab bars at the seat end wall. A vertical floor to ceiling grab bar shall be installed within 4 inches of the exterior of the shower aligned with the nose of the built-in seat.

**R325.8.5.1 Vertical grab bars.** Vertical grab bars shall be 18 inches minimum in length and installed at the control end wall and head end wall. Vertical bars shall be mounted within 4 inches of the exterior of the shower stall or within 4 inches inside the shower stall. The bottom end of vertical bars mount between 36 inches and 42 inches above floor grade.

**R325.8.5.2 Horizontal grab bars.** Horizontal grab bars shall be installed on all sides of the shower stall mounted between 33 inches and 36 inches above the floor grade. Horizontal grab bars shall be a maximum of 6 inches from adjacent walls. Horizontal grab bars shall not interfere with shower control valves.

**R325.9 Ramps.** All interior and exterior ramps, when provided, shall be constructed in accordance with Section R311.8 with a maximum slope of 1 vertical to 12 horizontal. The exception to R311.8.1 is not allowed for adult family homes. Handrails shall be installed in accordance with R325.9.1.

**R325.9.1 Handrails for ramps.** Handrails shall be installed on both sides of ramps between the slope of 1 vertical to 12 horizontal and 1 vertical and 20 horizontal in accordance with R311.8.3.1 through R311.8.3.3.

**R325.10 Stair treads and risers.** Stair treads and risers shall be constructed in accordance with R311.7.5. Handrails shall be installed in accordance with R325.10.1.

**R325.10.1 Handrails for treads and risers.** Handrails shall be installed on both sides of treads and risers numbering from one riser to multiple risers. Handrails shall be installed in accordance with R311.7.8.1 through R311.7.8.4.

**R325.11 Shower stalls.** Where provided to meet the requirements for bathing facilities, the minimum size of shower stalls for an adult family home shall be 30 inches deep by 48 inches long.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0328 Section R328—Mezzanines.**

**R328.1 General.** Mezzanines shall comply with Section R328.

**R328.2 Mezzanines.** The clear height above and below *mezzanine* floor construction shall ~~((meet the requirements of R305.1))~~ be not less than 7 feet (2134 mm).

**R328.3 Area limitation.** The aggregate area of a *mezzanine* shall be not greater than one-third of the floor area of the room or space in which they are located. The enclosed portion of a room shall not be included in a determination of the floor area of the room in which the *mezzanine* is located.

**R328.4 Means of egress.** The *means of egress* for *mezzanines* shall comply with the applicable provisions of Section R311.

**R328.5 Openness.** ~~((A))~~ Mezzanines shall be open and unobstructed to the room in which ((the mezzanine is)) they are located except for walls not more than 42 inches (1067 mm) in height, columns and posts.

- EXCEPTIONS:
1. *Mezzanines* or portions thereof are not required to be open to the room in which they are located, provided that the aggregate floor area of the enclosed space is not greater than 10 percent of the *mezzanine* area.
  2. *Mezzanines* that are no more than two *stories* above *grade plane* and equipped throughout with an *automatic sprinkler system* in accordance with NFPA 13R, NFPA 13D or Appendix S, and having two or more *means of egress*, shall not be required to be open to the room in which the *mezzanine* is located.

NEW SECTION

**WAC 51-51-0329 Section R329—Swimming pools, spas, and hot tubs.**

**R329.1 General.** The design and construction of pools and spas shall comply with the International Swimming Pool and Spa Code.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0403 ((Section R403—Footings.)) Reserved.**

((TABLE R403-1  
MINIMUM WIDTH OF CONCRETE,  
PRECAST OR MASONRY FOOTINGS  
(inches)

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥4,000
<i>Conventional light-frame construction</i>				
1 floor <sup>b,e</sup>	12	12	12	12
2 floors <sup>b,e</sup>	15	12	12	12
3 floors <sup>b,e</sup>	23	17	12	12
<i>4-inch brick veneer over light frame or 8-inch hollow concrete masonry</i>				
1-story	12	12	12	12
2-story	21	16	12	12
3-story	32	24	16	12
<i>8-inch solid or fully grouted masonry</i>				

	LOAD-BEARING VALUE OF SOIL (psf)			
	1,500	2,000	3,000	≥4,000
1-story	16	12	12	12
2-story	29	21	14	12
3-story	42	32	21	16

For SI: 1 inch = 25.4 mm, 1 pound per square foot = 0.0479kPa.  
 a. Where minimum footing width is 12 inches, use of a single wythe of solid or fully grouted 12-inch nominal concrete masonry units is permitted.  
 b. Represents the number of floors supported.  
 c. Footings shall be permitted to support a roof in addition to the stipulated number of floors. Footings supporting a roof only shall be as required for supporting one floor.

**R403.1.2 Continuous Footing in Seismic Design Categories D<sub>0</sub>, D<sub>1</sub> and D<sub>2</sub>.** The braced wall panels at exterior walls of buildings located in Seismic Design Categories D<sub>0</sub>, D<sub>1</sub> and D<sub>2</sub> shall be supported by continuous footings. All required interior braced wall panels shall be supported on footings at intervals not exceeding 50 feet (15,240 mm).))

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0404 ((Section R404—Foundation and retaining walls.)) Reserved.**

~~((R404.1.2.2 Reinforcement for foundation walls. Concrete foundation walls shall be laterally supported at the top except where permitted in R404.1.2.2.1 and R404.1.2.2.2, and at the bottom where required elsewhere in this code. Horizontal reinforcement shall be provided in accordance with Table R404.1.2(1). Vertical reinforcement shall be provided in accordance with Table R404.1.2(2), R404.1.2(3), R404.1.2(4), R404.1.2(5), R404.1.2(6), R404.1.2(7) or R404.1.2(8). Vertical reinforcement for flat basement walls retaining 4 feet (1,219 mm) or more of unbalanced backfill is permitted to be determined in accordance with Table R404.1.2(9).~~

~~For basement walls supporting above-grade concrete walls, vertical reinforcement shall be the greater of that required by Tables R404.1.2(2) through R404.1.2(8) or by Section 611.6 for the above-grade wall. In buildings assigned to Seismic Design Category D<sub>0</sub>, D<sub>1</sub> or D<sub>2</sub>, concrete foundation walls shall also comply with Section R404.1.4.2.~~

~~**R404.4 Retaining walls.** Retaining walls not supporting a structure that are not laterally supported at the top and that retain in excess of 24 inches (610 mm) of unbalanced fill shall be designed to ensure stability against overturning, sliding, excessive foundation pressure and water uplift. Retaining walls shall be designed for a safety factor of 1.5 against lateral sliding and overturning.))~~

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0501 ((Section R501—General.)) Reserved.**

~~((R501.3 Fire protection of floors. Floor assemblies, not required elsewhere in this code to be fire-resistance rated, shall be provided with a 1/2-inch (12.7 mm) gypsum wall-board membrane, 5/8-inch (16 mm) wood structural panel membrane, or equivalent on the underside of the floor framing member.~~

- EXCEPTIONS:
1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with Section P2904, NFPA 13D, or other approved equivalent sprinkler system.
  2. Floor assemblies located directly over a crawl space not intended for storage or fuel-fired appliances.
  3. Portions of floor assemblies can be unprotected when complying with the following:
    - 3.1. The aggregate area of the unprotected portions shall not exceed 80 square feet per story.
    - 3.2. Fire blocking in accordance with Section R302.11.1 shall be installed along the perimeter of the unprotected portion to separate the unprotected portion from the remainder of the floor assembly.
  4. Wood floor assemblies using dimensional lumber or structural composite lumber with a cross-sectional area equal to or greater than 2-inch by 10-inch nominal dimension, or other approved floor assemblies demonstrating equivalent fire performance.))

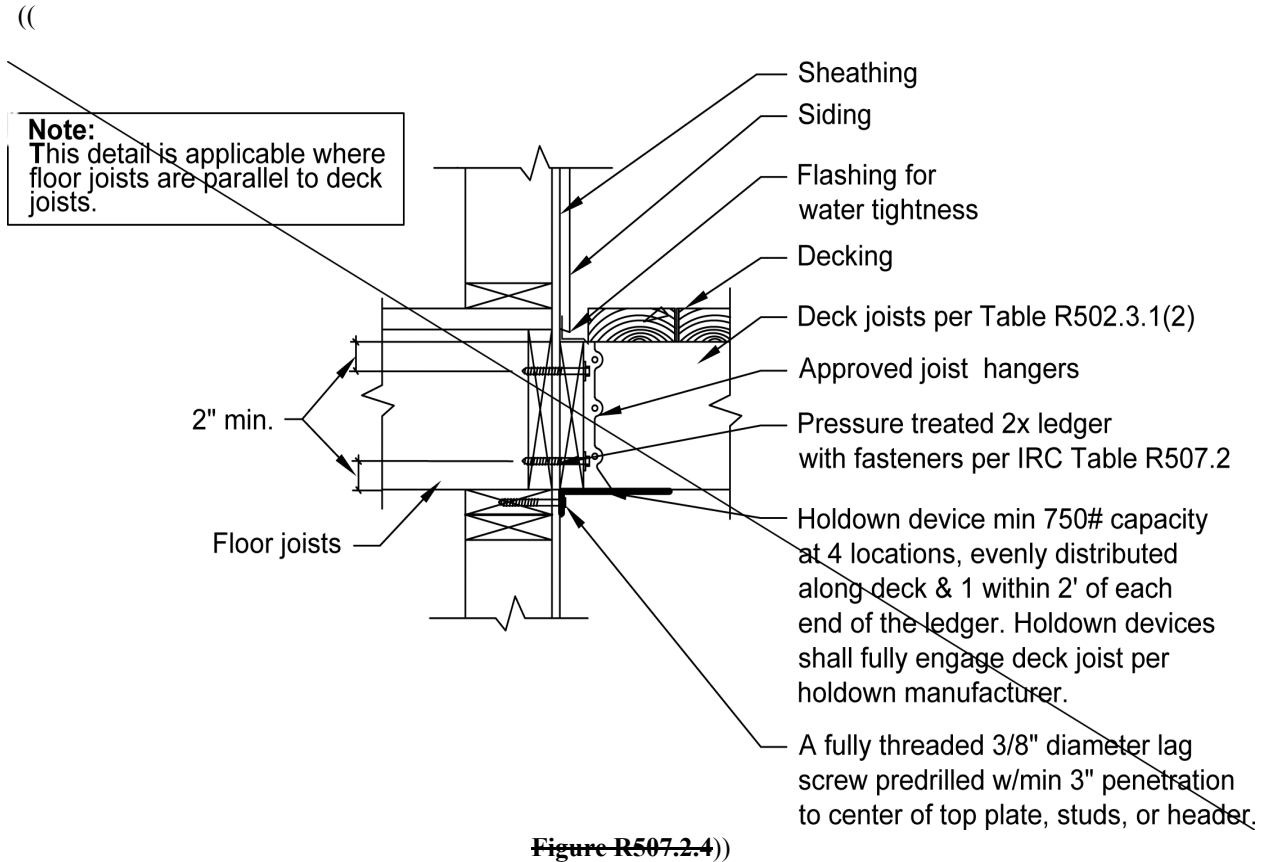
AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0507 Section R507—Decks.**

~~((R507.2.2 Alternate deck ledger connections. Deck ledger connections not conforming to Table R507.2 shall be attached with approved fasteners having equivalent withdrawal capacity or be designed in accordance with accepted engineering practice. Girders supporting deck joists shall not be supported on deck ledgers or band joists. Deck ledgers shall not be supported on stone or masonry veneer.~~

~~**R507.2.3)) R507.2.4 Deck lateral load connections.** The lateral load connection required by Section R507.1 shall be permitted to be in accordance with Figure R507.2.3(1) or R507.2.3(2). Where the lateral load connection is provided in accordance with Figure R507.2.3(1), hold-down tension devices shall be installed in not less than two locations per deck, ((and)) within 24 inches of each end of the deck. Each device shall have an allowable stress design capacity of not less than 1500 pounds (6672 N). Where the lateral load connections are provided in accordance with Figure R507.2.3(2), the hold-down tension devices shall be installed in not less than four locations per deck, and each device shall have an allowable stress design capacity of not less than 750 pounds (3336 N).~~

- EXCEPTION((S)): ((1.)) Decks not more than 30 inches above grade at any point may be unattached.  
 ((2. Where a new deck is being added to an existing structure, the lateral load connection required by Section R507.1 shall be permitted to be in accordance with Figure R507.2.4.))



**Table 507.2.1**  
**Placement of Lag Screws and Bolts in Deck Ledgers and Band Joists**

MINIMUM END AND EDGE DISTANCES AND SPACING BETWEEN ROWS				
	TOP EDGE	BOTTOM EDGE	ENDS	ROW SPACING
Ledger <sup>a</sup>	2 inches <sup>d</sup>	3/4 inch	2 inches <sup>b</sup>	1 5/8 inches <sup>b</sup>
Band joist <sup>c</sup>	3/4 inch	2 inches <sup>e</sup>	2 inches <sup>b</sup>	1 5/8 inches <sup>b</sup>

For SI: 1 inch = 25.4 mm.

- a Lag screws or bolts shall be staggered from the top to the bottom along the horizontal run of the deck ledger in accordance with Figure R507.2.1(1).
- b Maximum 5 inches.
- c For engineered rim joists, the manufacturer's recommendations shall govern.
- d The minimum distance from bottom row of lag screws to the top edge of the ledger shall be in accordance with Figure R507.2.1(1).
- e The 2 inches may be reduced to 3/4 inch when the band joist is directly supported by a mudsill, a header or by double top wall plates.

**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 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0602 Section R602—Wood wall framing.**

**R602.7.5 Supports for headers.** This section is not adopted.

**R602.9 Foundation cripple walls.** Foundation cripple walls shall be framed of studs not smaller than the studding above. When exceeding 4 feet (1219 mm) in height, such walls shall be framed of studs having the size required for an additional story.

Cripple walls supporting bearing walls or exterior walls or interior braced wall panels as required in Sections R403.1.2 and R602.10.9.1 with a stud height less than 14 inches (356 mm) shall be continuously sheathed on one side with wood structural panels fastened to both the top and bottom plates in accordance with Table R602.3(1), or the cripple walls shall be constructed of solid blocking. All cripple walls shall be supported on continuous footings or foundations.

**EXCEPTION:** Footings supporting cripple walls used to support interior braced wall panels as required in Sections R403.1.2 and R602.10.9.1 shall be continuous for the required length of the cripple wall and constructed beyond the cripple wall for a minimum distance of 4 inches and a maximum distance of the footing thickness. The footings extension is not required at intersections with other footings.

**R602.10.11 Cripple wall bracing.** Cripple walls shall be constructed in accordance with Section R602.9 and braced in

accordance with this section. Cripple walls supporting bearing walls or exterior walls or interior braced wall panels as required in Section R403.1.2 shall be braced with the length and method of bracing used for the wall above in accordance with Tables R602.10.3(1) and R602.10.3(3), and the applicable adjustment factors in Table R602.10.3(2) or R602.10.3(4), respectively, except the length of the cripple wall bracing shall be multiplied by a factor of 1.15. ~~((The distance between adjacent edges of braced wall panels shall be reduced from 20 feet (6096 mm) to 14 feet (4267 mm)).~~

~~**R602.10.11.2 Cripple wall bracing for Seismic Design Category D<sub>2</sub>.** In Seismic Design Category D<sub>2</sub>, cripple walls supporting bearing walls or exterior walls or interior braced wall panels as required in Section R403.1.2 shall be braced in accordance with Tables R602.10.3(3) and R602.10.3(4).) Where gypsum wall board is not used on the inside of the cripple wall bracing, the length adjustments for the elimination of the gypsum wallboard, or equivalent, shall be applied as directed in Tables R602.10.3(2) and R602.10.3(4) to the length of cripple wall bracing required. This adjustment shall be taken in addition to the 1.15 increase.~~

#### NEW SECTION

**WAC 51-51-0609 Section R609—Exterior windows and doors.**

**R612.3 Testing and labeling.** Exterior windows and sliding doors shall be tested by an approved independent laboratory, and bear a label identifying manufacturer, performance characteristics and approved inspection agency to indicate compliance with AAMA/WDMA/CSA 101/I.S.2/A440. Exterior side-hinged doors shall be tested and labeled as conforming to AAMA/WDMA/CSA 101/I.S.2/A440 or AMD 100, or comply with Section R609.5.

EXCEPTIONS: 1. Decorative glazed openings.  
2. Custom exterior windows and doors manufactured by a small business shall be exempt from all testing requirements in Section R609 provided they meet the applicable provisions of Chapter 24 of the International Building Code.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0612 ((Section R612—Exterior windows and doors.)) Reserved.**

~~((**R612.3 Testing and labeling.** Exterior windows and sliding doors shall be tested by an approved independent laboratory, and bear a label identifying manufacturer, performance characteristics and approved inspection agency to indicate compliance with AAMA/WDMA/CSA 101/I.S.2/A440. Exterior side-hinged doors shall be tested and labeled as conforming to AAMA/WDMA/CSA 101/I.S.2/A440 or comply with Section R612.5.~~

EXCEPTIONS: 1. Decorative glazed openings.  
2. Custom exterior windows and doors manufactured by a small business shall be exempt from all testing requirements in Section R612 provided they meet the applicable provisions of Chapter 24 of the International Building Code.))

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

**WAC 51-51-0702 Section R702—Interior covering.**

**R702.5 Other finishes.** Wood veneer paneling and hardboard paneling shall be placed on wood or cold-formed steel framing spaced not more than 16 inches (406 mm) on center. Wood veneer and hardboard paneling less than 1/4-inch (6 mm) nominal thickness shall not have less than a 3/8-inch (10 mm) gypsum board or gypsum panel product backer. Wood veneer paneling not less than 1/4-inch (6 mm) nominal thickness shall conform to ANSI/HPVA HP-1. Hardboard paneling shall conform to ((ANSI/AHA)) CPA/ANSI A135.5. All structural panel components within the conditioned space such as plywood, particle board, wafer board and oriented strand board shall be identified as "EXPOSURE 1," "EXTERIOR" or "HUD-APPROVED."

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0703 Section R703—Exterior covering.**

**R703.1 General.** Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The exterior wall envelope shall include flashing as described in Section ((R703-8)) R703.4.

EXCEPTION: Log walls designed and constructed in accordance with the provisions of ICC 400.

**R703.1.1 Water resistance.** The exterior wall envelope shall be designed and constructed in a manner that prevents the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior veneer as required by Section R703.2 and a means of draining water that enters the assembly to the exterior. Protection against condensation in the exterior wall assembly shall be provided in accordance with Section R702.7 of this code.

EXCEPTIONS: 1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapter 6 and flashed according to Section ((R703-7)) R703.4 or R703.8.  
2. Compliance with the requirements for a means of drainage, and the requirements of Sections R703.2 and ((R703-8)) R703.4, shall not be required for an exterior wall envelope that has been demonstrated to resist wind-driven rain through testing of the exterior wall envelope, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E 331 under the following conditions:  
2.1. Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.

- 2.2. Exterior wall envelope test assemblies shall be at least 4 feet (1219 mm) by 8 feet (2438 mm) in size.
- 2.3. Exterior wall assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (299Pa).
- 2.4. Exterior wall envelope assemblies shall be subjected to a minimum test exposure duration of 2 hours. The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate(±) control joints in the exterior wall envelope; joints at the perimeter of opening penetration; or intersections of terminations with dissimilar materials.
3. The requirement for a means of drainage shall not be construed to mean an air space cavity under the exterior cladding for an exterior wall clad with panel or lapped siding made of plywood, engineered wood, hardboard, or fiber cement. A water-resistive barrier as required by Section R703.2 (and Table R703-4) will be required on exterior walls.

**(R703-8) R703.4 Flashing.** Approved corrosion-resistant flashing shall be applied shingle-fashion in a manner to prevent entry of water into the wall cavity or penetration of water to the building structure framing components. Self-adhered membranes used as flashing shall comply with AAMA 711. Fluid-applied membranes used as flashing in exterior walls shall comply with AAMA 714. The flashing shall extend to the surface of the exterior wall finish. Approved corrosion-resistant flashing shall be installed at all of the following locations:

1. Exterior window and door openings. Flashing at exterior window and door openings shall extend to the surface of the exterior wall finish or to the water resistive barrier complying with Section 703.2 for subsequent drainage. Mechanically attached flexible flashings shall comply with AAMA 712.
2. At the intersection of chimneys or other masonry construction with frame or stucco walls, with projecting lips on both sides under stucco copings.
3. Under and at the ends of masonry, wood or metal copings and sills.
4. Continuously above all projecting wood trim.
5. Where exterior porches, decks or stairs attach to a wall or floor assembly of wood-frame construction.
6. At wall and roof intersections.
7. At built-in gutters.

**R703.10.2 Fiber-cement lap siding having a maximum width of 12 inches (305 mm) shall comply with the requirements of ASTM C 1186, Type A, minimum Grade II or ISO 8336, Category A, minimum Class 2. Lap siding shall be lapped a minimum of 1 1/4 inches (32 mm) and lap siding shall be installed in accordance with the manufacturer's installation instructions or shall be designed to comply with Section R703.1. Lap siding courses shall be installed with the fastener heads exposed or concealed, in accordance with Table R703.3(1) or approved manufacturer's instructions.**

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-0903 Section R903—Weather protection.**

**R903.4.1 Secondary (emergency overflow) drains or scuppers.** Where roof drains are required, secondary emergency overflow drains or scuppers shall be provided where the roof perimeter construction extends above the roof in such a manner that water will be entrapped if the primary drains allow buildup for any reason. Overflow drains having the same size as the roof drains shall be installed with the inlet flow line located 2 inches (51 mm) above the low point of the roof, or overflow scuppers having three times the size of the roof drains and having a minimum opening height of 4 inches (102 mm) shall be installed in the adjacent parapet walls with the inlet flow located 2 inches (51 mm) above the low point of the roof served. The installation and sizing of overflow drains, leaders and conductors shall comply with Sections 1101 and 1103 of the state plumbing code. Overflow drains shall discharge to an approved location.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-1002 Section R1002—Masonry heaters.**

**R1002.2 Installation.** Masonry heaters shall be installed in accordance with this section and shall be a masonry heater type approved by the department of ecology. Masonry heaters shall comply with one of the following:

1. Masonry heaters shall comply with the requirements of ASTM E 1602; or
2. Masonry heaters shall be *listed* and *labeled* in accordance with UL 1482 or CEN 15250 and installed in accordance with the manufacturer's installation instructions.

**R1002.2.1 Combustion air and doors.** Masonry heaters shall be provided with both of the following:

1. Primary combustion air ducted from the outside of the structure to the appliance.
2. Tight fitting ceramic glass or metal doors. Flue dampers, when provided, shall have an external control and when in the closed position shall have a net free area of not less than 5% of the flue cross sectional area.

**NEW SECTION**

**WAC 51-51-1307 Section M1307—Appliance installation.**

**M1307.2 Anchorage of appliances.** Appliances designed to be fixed in position shall be fastened or anchored in an approved manner. Thermal storage units shall be anchored or strapped to resist horizontal displacement caused by earthquake motion in accordance with one of the following:

1. Anchorage and strapping shall be designed to resist a horizontal force equal to one-third of the operating weight of the water storage tank, acting in any horizontal direction.
2. The anchorage strapping shall be in accordance with the appliance manufacturer's recommendations.



Seismic anchorage and strapping of water heaters shall be in accordance with Section 507.2 of the state plumbing code.

#### NEW SECTION

#### **WAC 51-51-1413 Section M1413—Evaporative cooling equipment.**

**M1413.1 General.** Evaporative cooling equipment and appliances shall comply with UL 1995 of UL/CSA/ANCE 60335-2-40 and shall be installed:

1. In accordance with the manufacturer's instructions.
2. On level platforms in accordance with M1305.1.4.1.
3. So that openings in exterior walls are flashed in accordance with Section R703.4.
4. So as to protect the potable water supply in accordance with Section 603 of the state plumbing code.
5. So that air intake opening locations are in accordance with Section R303.5.1.

#### NEW SECTION

#### **WAC 51-51-1505 Section M1505—Overhead exhaust hoods.**

**M1505.1 General.** Domestic open-top broiler units shall have a metal exhaust hood, having a minimum thickness of 0.0157-inch (0.3950 mm) (No. 28 gage) with 1/4 inch (6.4 mm) clearance between the hood and the underside of combustible material or cabinets. A clearance of not less than 24 inches (610 mm) shall be maintained between the cooking surface and the combustible material or cabinet. The hood shall be not less than the width of the broiler unit, extend over the entire unit, and when located inside the building envelope, shall discharge to the outdoors and be equipped with a backdraft damper or other means to control infiltration/exfiltration when not in operation. Broiler units incorporating an integral exhaust system, and *listed* and *labeled* for use without an exhaust hood, or broiler units permanently installed outside the building envelope and having the cooking surface at least 5'0" below a 1-hour fire resistance rated ceiling, need not have an exhaust hood.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

#### **WAC 51-51-1507 Section M1507—Mechanical ventilation.**

**M1507.1 General.** Local exhaust and whole-house mechanical ventilation systems and equipment shall be designed in accordance with this section.

**M1507.2 Recirculation of air.** Exhaust air from bathrooms and toilet rooms shall not be recirculated within a residence or to another dwelling unit and shall be exhausted directly to the outdoors. Exhaust air from bathrooms and toilet rooms shall not discharge into an attic, crawl space or other areas of the building.

**M1507.3 Whole-house mechanical ventilation system.** Whole-house mechanical ventilation systems shall be designed in accordance with Sections M1507.3.1 through M1507.3.3.

**M1507.3.1 System design.** Each dwelling unit or guestroom shall be equipped with a ventilation system complying with Section M1507.3.4, M1507.3.5, M1507.3.6 or M1507.3.7. Compliance is also permitted to be demonstrated through compliance with the International Mechanical Code or ASHRAE Standard 62.2.

#### **M1507.3.2 Control and operation.**

1. Location of controls. Controls for all ventilation systems shall be readily accessible by the occupant.
2. Instructions. Operating instructions for whole-house ventilation systems shall be provided to the occupant by the installer of the system.
3. Local exhaust systems. Local exhaust systems shall be controlled by manual switches, dehumidistats, timers, or other approved means.

4. Continuous whole-house ventilation systems. Continuous whole-house ventilation systems shall operate continuously (~~Exhaust fans, forced-air system fans, or supply fans shall be equipped with "fan on" as override controls~~) and be equipped with an override control. A "fan on" switch shall be permitted as an override control. Controls shall be capable of operating the ventilation system without energizing other energy-consuming appliances. A clearly visible label shall be affixed to the controls that reads "Whole House Ventilation (see operating instructions)."

5. Intermittent whole-house ventilation systems. Intermittent whole-house ventilation systems shall comply with the following:

5.1. They shall be capable of operating intermittently and continuously.

5.2. They shall have controls capable of operating the exhaust fans, forced-air system fans, or supply fans without energizing other energy-consuming appliances.

5.3. The ventilation rate shall be adjusted according to the exception in Section 403.8.5.1.

5.4. The system shall be designed so that it can operate automatically based on the type of control timer installed.

5.5. The intermittent mechanical ventilation system shall operate at least one hour out of every four.

5.6. The system shall have a manual control and automatic control, such as a 24-hour clock timer.

5.7. At the time of final inspection, the automatic control shall be set to operate the whole-house fan according to the schedule used to calculate the whole-house fan sizing.

5.8. A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

**M1507.3.2.1 Operating instructions.** Installers shall provide the manufacturer's installation, operating instructions, and a whole-house ventilation system operation description.

**M1507.3.3 Mechanical ventilation rate.** The whole-house mechanical ventilation system shall provide outdoor air to each ~~((habitable space))~~ dwelling unit at a continuous rate of not less than that determined in accordance with Table M1507.3.3(1).

**EXCEPTION:** The whole-house mechanical ventilation system is permitted to operate intermittently where the system has controls that enable operation for not less than 25 percent of each 4-hour segment and the ventilation rate prescribed in Table M1507.3.3(1) is multiplied by the factor determined in accordance with Table M1507.3.3(2).

**Table M1507.3.3(1)**  
**Continuous Whole-House Mechanical Ventilation System Airflow Rate Requirements**

Dwelling Unit Floor Area (square feet)	NUMBER OF BEDROOMS				
	0 - 1	2 - 3	4 - 5	6 - 7	> 7
	<b>Airflow in CFM</b>				
< 1,500	30	45	60	75	90
1,501 - 3,000	45	60	75	90	105
3,001 - 4,500	60	75	90	105	120
4,501 - 6,000	75	90	105	120	135
6,001 - 7,500	90	105	120	135	150
> 7,501	105	120	135	150	165

For SI: 1 square foot = 0.0929 m<sup>2</sup>, 1 cubic foot per minute = 0.0004719 m<sup>3</sup>/S.

**Table M1507.3.3(2)**  
**Intermittent Whole-House Mechanical Ventilation Rate Factors<sup>a, b</sup>**

Run-Time Percentage in Each 4-Hour Segment	25%	33%	50%	66%	75%	100%
Factor <sup>a</sup>	4	3	2	1.5	1.3	1.0

<sup>a</sup> For ventilation system run time values between those given, the factors are permitted to be determined by interpolation.

<sup>b</sup> Extrapolation beyond the table is prohibited.

**M1507.3.4 Whole-house ventilation using exhaust fans.** This section establishes minimum prescriptive requirements for whole-house ventilation systems using exhaust fans. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole-house ventilation system.

**M1507.3.4.1 Whole-house ventilation fans.** Exhaust fans providing whole-house ventilation shall have a flow rating at 0.25 inches water gauge as specified in Table M1507.3.3(1). Manufacturers' fan flow ratings shall be determined according to HVI 916 or AMCA 210.

**M1507.3.4.2 Fan noise.** Whole-house fans located 4 feet or less from the interior grille shall have a sone rating of 1.0 or less measured at 0.1 inches water gauge. Manufacturer's noise ratings shall be determined as per HVI 915 (March 2009). Remotely mounted fans shall be acoustically isolated from the structural elements of the building and from attached duct work using insulated flexible duct or other approved material.

**M1507.3.4.3 Fan controls.** The whole-house ventilation fan shall meet the requirements of Section M1507.3.2 and M1507.3.2.1.

**M1507.3.4.4** ~~((Outdoor air inlets. Outdoor air shall be distributed to))~~ Ventilation openings. Each habitable space ~~((by~~

~~individual)) shall be provided with outdoor air inlets or operable windows with an openable area not less than 4 square inches of net free area of opening for each 10 cfm of outdoor air required by Table M1507.3.3(1).~~ Where outdoor air supplies are separated from exhaust points by doors, provisions shall be made to ensure air flow by installation of distribution ducts, undercutting doors, installation of grilles, transoms, or similar means. Doors shall be undercut to a minimum of 1/2 inch above the surface of the finish floor covering.

Individual room outdoor air inlets shall:

1. Have controllable and secure openings;
2. Be sleeved or otherwise designed so as not to compromise the thermal properties of the wall or window in which they are placed;

3. ~~((Provide not less than 4 square inches of net free area of opening for each habitable space.))~~ Any inlet or combination of inlets which provide 10 cfm at 10 Pascals are deemed equivalent to 4 square inches net free area.

~~((Inlets))~~ Ventilation opening shall be screened or otherwise protected from entry by leaves or other material. ~~((Outdoor air inlets))~~ Openings shall be controllable, securable and shall be designed to not compromise the thermal properties of the building envelope. Ventilation openings shall be located so as not to take air from the following areas:

1. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.

2. Where it will pick up objectionable odors, fumes or flammable vapors.
3. A hazardous or unsanitary location.
4. A room or space having any fuel-burning appliances therein.
5. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
6. Attic, crawl spaces, or garages.
7. Asphalt roofs unless it is shown that no other location is permissible. In such cases the inlet opening shall be located a minimum of 2 feet from the nearest surface of the asphalt roofing, measured from the intake opening.

**M1507.3.5 Whole-house ventilation integrated with a forced-air system.** This section establishes minimum prescriptive requirements for whole-house ventilation systems integrated with forced-air ventilation systems. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole-house ventilation system.

**M1507.3.5.1 Integrated whole-house ventilation systems.** Integrated whole-house ventilation systems shall provide outdoor air at the rate calculated using Section M1507.3.3. Integrated forced-air ventilation systems shall distribute outdoor air to each habitable space through the forced-air system ducts. Integrated forced-air ventilation systems shall have an outdoor air inlet duct connecting a terminal element on the outside of the building to the return air plenum of the forced-air system, at a point within 4 feet upstream of the air handler. The outdoor air inlet duct connection to the return air stream shall be located upstream of the forced-air system blower and shall not be connected directly into a furnace cabinet to prevent thermal shock to the heat exchanger. The system will be equipped with a motorized damper connected to the automatic ventilation control as specified in Section M1507.3.2. The required flow rate shall be verified by field testing with a flow hood or a flow measuring station.

**M1507.3.5.2 Ventilation duct insulation.** All supply ducts in the conditioned space shall be insulated to a minimum of R-4.

**M1507.3.5.3 Outdoor air inlets.** Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

1. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
2. Where it will pick up objectionable odors, fumes or flammable vapors.
3. A hazardous or unsanitary location.
4. A room or space having any fuel-burning appliances therein.
5. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
6. Attic, crawl spaces, or garages.

**M1507.3.6 Whole-house ventilation using a supply fan.** This section establishes minimum prescriptive requirements

for whole-house ventilation systems using an inline supply fan. A system which meets all the requirements of this section shall be deemed to satisfy the requirements for a whole-house ventilation system.

**M1507.3.6.1 Outdoor air.** Supply fan ventilation systems shall distribute outdoor air to each habitable space through the forced-air system ducts or through dedicated ducts to each habitable space. Supply fans shall have the capacity to provide the amount of outdoor air specified in Table M1507.3.3(1) at 0.40 inches water gauge as per HVI 916. The outdoor air must be filtered before it is delivered to habitable spaces. The filter may be located at the intake device, in line with the fan, or, in the case of a connection to the return plenum of the air handler, using the furnace filter. An outdoor air inlet shall be connected to either the supply or return air stream.

**M1507.3.6.2 Ducts.** An outdoor air inlet duct connection to the supply air stream shall be located downstream of the forced-air system blower. An outdoor air inlet duct connection to the return air stream shall be located at least 4 feet upstream of the forced-air system blower and its filter. Neither type of duct shall be connected directly into a furnace cabinet to prevent thermal shock to the heat exchanger. The outdoor air inlet duct shall be prescriptively sized in accordance with Table M1507.3.6.2. The terminal element on the outside of the building shall be sized 2 inches in diameter larger than the outdoor air inlet duct.

**Table M1507.3.6.2  
Prescriptive Supply Fan Duct Sizing**

Supply Fan Tested cfm at 0.40" wg		
Specified Volume from Table 1507.3.3(1)	Minimum Smooth Duct Diameter	Minimum Flexible Duct Diameter
50 - 90 cfm	4 inch	5 inch
90 - 150 cfm	5 inch	6 inch
150 - 250 cfm	6 inch	7 inch
250 - 400 cfm	7 inch	8 inch

**M1507.3.6.3 Dampers.** The system shall be equipped with a back-draft damper and one of the following:

1. A calibrated manual volume damper installed and set to meet the measured flow rates specified in Table M1507.3.3(1) by field testing with a pressure gauge and/or following manufacturer's installation instructions; or
2. A manual volume damper installed and set to meet the measured flow rates specified in Table M1507.3.3(1) by field testing with a flow hood or a flow measuring station; or
3. An automatic flow-regulating device sized to the specified flow rates in Table M1507.3.3(1) which provides constant flow over a pressure range of 0.20 to 0.60 inches water gauge.

**M1507.3.6.4 Ventilation duct insulation.** All supply ducts in the conditioned space shall be insulated to a minimum of R-4.

**M1507.3.6.5 Outdoor air inlets.** Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

1. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
2. Where it will pick up objectionable odors, fumes or flammable vapors.
3. A hazardous or unsanitary location.
4. A room or space having any fuel-burning appliances therein.
5. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
6. Attic, crawl spaces, or garages.

**M1507.3.7 Whole-house ventilation using a heat recovery ventilation system.** This section establishes minimum prescriptive requirements for whole-house ventilation using a heat recovery ventilation system.

**M1507.3.7.1 Heat recovery ventilation systems.** All duct work in heat recovery systems shall be sized and installed per the manufacturer's instructions. System minimum flow rating shall be not less than that specified in Table M1507.3.3(1). Heat recovery ventilation systems shall have a filter on the upstream side of the heat exchanger in both the intake and exhaust airstreams with a minimum efficiency rating value (MERV) of 6.

**M1507.3.7.2 Ventilation duct insulation.** All supply ducts in the conditioned space installed upstream of the heat exchanger shall be insulated to a minimum of R-4.

**M1507.3.7.3 Outdoor air inlets.** Inlets shall be screened or otherwise protected from entry by leaves or other material. Outdoor air inlets shall be located so as not to take air from the following areas:

1. Closer than 10 feet from an appliance vent outlet, unless such vent outlet is 3 feet above the outdoor air inlet.
2. Where it will pick up objectionable odors, fumes or flammable vapors.
3. A hazardous or unsanitary location.
4. A room or space having any fuel-burning appliances therein.
5. Closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.
6. Attic, crawl spaces, or garages.

**M1507.4 Local exhaust.** Local exhaust shall be provided in each kitchen, bathroom, water closet, laundry room, indoor swimming pool, spa, and other rooms where water vapor or cooking odor is produced. *Local exhaust systems* shall be designed to have the capacity to exhaust the minimum air flow rate determined in accordance with Table M1507.4.

**Table M1507.4  
Minimum Required Local Exhaust Rates  
For One- and Two-Family Dwellings**

Area to Be Exhausted	Exhaust Rates
Kitchens	100 cfm intermittent or 25 cfm continuous
Bathrooms - Toilet rooms Laundry rooms, indoor swimming pools, and spas	Mechanical exhaust capacity of 50 cfm intermittent or 20 cfm continuous

For SI: 1 cubic foot per minute = 0.0004719 m<sup>3</sup>/s.

**M1507.4.1 Local exhaust fans.** Exhaust fans providing local exhaust shall have a minimum fan flow rating not less than 50 cfm at 0.25 inches water gauge for bathrooms, laundries, or similar rooms and 100 cfm at 0.25 inches water gauge for kitchens. Manufacturers' fan flow ratings shall be determined as per HVI 916 (April 1995) or AMCA 210.

**EXCEPTION:** Where a range hood or down draft exhaust fan is used to satisfy the local exhaust requirements for kitchens, the range hood or down draft exhaust shall not be less than 100 cfm at 0.10 inches water gauge.

**M1507.4.2 Local exhaust controls.** Local exhaust systems shall be controlled by manual switches, dehumidistats, timers, or other approved means. Local exhaust system controls shall be readily accessible.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-1600 Chapter 16—Duct systems.**

**M1601.1.1 Above-ground duct systems.** Above-ground duct systems shall conform to the following:

1. Equipment connected to duct systems shall be designed to limit discharge air temperature to a maximum of 250°F (121°C).
2. Factory-made ~~((air))~~ ducts shall be ~~((constructed of Class 0 or Class 1 materials as designated in Table M1601.1.1(1)))~~ listed and labeled in accordance with UL 181 and installed in accordance with the manufacturer's instructions.
3. Fibrous duct construction shall conform to the SMACNA Fibrous Glass Duct Construction Standards or NAIMA Fibrous Glass Duct Construction Standards.
4. ~~((Minimum thickness of metal duct material shall be as listed in Table M1601.1.1(2). Galvanized steel shall conform to ASTM A 653. Metallic ducts shall be fabricated in accordance with SMACNA Duct Construction Standards Metal and Flexible.))~~ Field-fabricated and shop-fabricated metal and flexible duct constructions shall conform to the SMACNA HVAC Duct Construction Standards—Metal and Flexible, except as allowed by Table M1601.1.1. Galvanized steel shall conform to ASTM A 653.
5. Use of gypsum products to construct return air ducts or plenums is permitted, provided that the air temperature

does not exceed 125°F (52°C) and exposed surfaces are not subject to condensation.

6. Duct systems shall be constructed of materials having a flame spread index not greater than 200.

7. Stud wall cavities and the spaces between solid floor joists shall not be used as a duct or an air plenum in new construction. For existing systems, stud wall cavities and the spaces between solid floor joists to be used as air plenums shall comply with the following:

7.1. These cavities or spaces shall not be used as a plenum for supply air.

7.2. These cavities or spaces shall not be part of a required fire-resistance-rated assembly.

7.3. Stud wall cavities shall not convey air from more than one floor level.

7.4. Stud wall cavities and joist-space plenums shall be isolated from adjacent concealed spaces by tight-fitting fire blocking in accordance with Section R602.8.

7.5. Stud wall cavities in the outside walls of building envelope assemblies shall not be utilized as air plenums.

AMENDATORY SECTION (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-2000 Chapter 20—Boilers and water heaters.** Informational Note: Boilers, water heaters and pressure vessels are regulated by chapter 70.79 RCW and chapter 296-104 WAC in addition to the requirements of this code.

**Section M2005.1 General.** Water heaters shall be installed in accordance with Chapter 5 of the state plumbing code, the manufacturer's instructions and the requirements of this code. Water heaters installed in an attic shall comply with the requirements of Section M1305.1.3. Gas-fired water heaters shall comply with the requirements in Chapter 24. Domestic electric water heaters shall comply with UL 174. Oil-fired water heaters shall comply with UL 732. Thermal solar water heaters shall comply with Chapter 23 and UL 174. Solid fuel-fired water heaters shall comply with UL 2523.

NEW SECTION

**WAC 51-51-2101 Section M2101—Hydronic piping systems installation.**

**M2101.3 Protection of potable water.** The potable water system shall be protected from backflow in accordance with the provisions listed in Section 603 of the state plumbing code.

**M2101.7 Prohibited tee applications.** This section is not adopted.

NEW SECTION

**WAC 51-51-2103 Section M2103—Floor heating systems.**

**M2103.3 Piping joints.** Copper and copper alloy systems shall be soldered in accordance with ASTM B 828. Fluxes for soldering shall be in accordance with ASTM B 813. Brazing fluxes shall be in accordance with AWS A5.31. Piping joints

that are embedded shall be installed in accordance with the following requirements:

1. Steel pipe joints shall be welded.

2. Copper tubing shall be joined by brazing complying with Section 605.3.1 of the state plumbing code.

3. Polybutylene pipe and tubing joints shall be installed with socket-type heat-fused polybutylene fittings.

4. CPVC tubing shall be joined using solvent cement joints.

5. Polypropylene pipe and tubing joints shall be installed with socket-type heat-fused polypropylene fittings.

6. Cross-linked polyethylene (PEX) tubing shall be joined using cold expansion, insert or compression fittings.

7. Raised temperature polyethylene (PE-RT) tubing shall be joined using insert or compression fittings.

NEW SECTION

**WAC 51-51-2105 Section M2105—Ground-source heat-pump system loop piping.**

**M2105.9 CPVC plastic pipe.** Joints between CPVC plastic pipe or fittings shall be solvent-cemented in accordance with Section 605.2.2 of the state plumbing code. Threaded joints between fittings and CPVC plastic pipe shall be in accordance with Section M2105.9.1.

**M2105.14 PVC plastic pipe.** Joints between PVC plastic pipe or fittings shall be solvent-cemented in accordance with Section 605.12.2 of the state plumbing code. Threaded joints between fittings and PVC plastic pipe shall be in accordance with Section M2105.9.1.

**M2105.18 Protection of potable water.** Where ground-source heat-pump ground-loop systems have a connection to a potable water supply, the potable water system shall be protected from backflow in accordance with Section 603 of the state plumbing code.

**M2105.19 Pipe penetrations.** Openings for pipe penetrations in walls, floors and ceilings shall be larger than the penetrating pipe. Openings through concrete or masonry building elements shall be sleeved. The annular space surrounding pipe penetrations shall be protected in accordance with Section 312 of the state plumbing code.

AMENDATORY SECTION (Amending WSR 14-24-092, filed 12/1/14, effective 5/1/15)

**WAC 51-51-2300 ((Section M2302—Photovoltaic solar energy systems)) Section M2301—Solar thermal energy systems.**

~~((M2302.2 Requirements. The installation, inspection, maintenance, repair and replacement of photovoltaic systems and all system components shall comply with the manufacturer's instructions, sections M2302.2.1 through M2302.2.3, NFPA 70, and the IFC as amended by Washington state.~~

~~**M2302.2.1 Roof-mounted panels and modules.** Where photovoltaic panels and modules are installed on roofs, the roof shall be constructed to support the loads imposed by such modules.~~

EXCEPTION: The roof structure shall be deemed adequate to support the load of the rooftop solar photovoltaic system if all of the following requirements are met:

1. The solar photovoltaic panel system shall be designed for the wind speed of the local area, and shall be installed per the manufacturer's specifications.
2. The ground snow load does not exceed 70 pounds per square foot.
3. The total dead load of modules, supports, mountings, raceways, and all other appurtenances weigh no more than four pounds per square foot.
4. Photovoltaic modules are not mounted higher than 18 inches above the surface of the roofing to which they are affixed.
5. Supports for solar modules are to be installed to spread the dead load across as many roof framing members as needed, so that no point load exceeds 50 pounds.

Roof-mounted photovoltaic panels and modules that serve as roof covering shall conform to the requirements for roof coverings in Chapter 9. Where mounted on or above the roof coverings, the photovoltaic panels and modules and supporting structure shall be constructed of noncombustible materials or fire-retardant treated wood equivalent to that required for the roof construction.) **M2301.2.3 Pressure and temperature relief valves and system components.** System components containing fluids shall be protected with temperature and pressure relief valves or pressure relief valves. Relief devices shall be installed in sections of the system so that a section cannot be valved off or isolated from a relief device. Direct systems and the potable water portion of indirect systems shall be equipped with a relief valve in accordance with Section 504 of the state plumbing code. For indirect systems, pressure relief valves in solar loops shall comply with SRCC 300. System components shall have a working pressure rating of not less than the setting of the pressure relief device.

**M2301.2.5 Piping insulation.** Piping shall be insulated in accordance with the requirements of the state energy code. Exterior insulation shall be protected from ultraviolet degradation. The entire solar loop shall be insulated. Where split-style insulation is used, the seam shall be sealed. Fittings shall be fully insulated.

**M2301.4 Heat transfer gasses or liquids and heat exchangers.** Essentially toxic transfer liquids, ethylene glycol, flammable gasses and flammable liquids shall not be used as heat transfer fluids. Heat transfer gasses and liquids shall be rated to withstand the system's maximum design temperature under operating conditions without degradation. Heat exchangers used in solar thermal systems shall comply with Section 603.5.4 of the state plumbing code and SRCC 300.

Heat transfer fluids shall be in accordance with SRCC 300. The flash point of the heat transfer fluids utilized in solar thermal systems shall be not less than 50 degrees F above the design maximum nonoperating or no-flow temperature attained by the fluid in the collector.

**M2301.7 Solar thermal systems for heating potable water.** Where a solar thermal system heats potable water to supply a potable hot water distribution system, the solar thermal sys-

tem shall be in accordance with Sections M2301.7.1, M2301.7.2 and the state plumbing code.

**M2301.7.1 Indirect systems.** Heat exchangers that are components of indirect solar thermal heating systems shall comply with the state plumbing code.

**M2301.7.2 Direct systems.** Where potable water is directly heated by a solar thermal system, the pipe, fittings, valves and other components that are in contact with the potable water in the solar heating system shall comply with the requirements of Chapter 6 of the state plumbing code.

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-4400 ((Chapter 44—Referenced standards.)) Reserved.**

((NFPA

720-12 Standard for the Installation of Carbon Monoxide (CO) Detectors and Warning Equipment . . . . . R316.4))

**AMENDATORY SECTION** (Amending WSR 13-04-068, filed 2/1/13, effective 7/1/13)

**WAC 51-51-60105 Appendix ((R)) Q—Dwelling unit fire sprinkler systems.** The design and installation of residential fire sprinkler systems shall be in accordance with the ((2012)) 2015 International Residential Code Section P2904 Dwelling Unit Fire Sprinkler Systems.

**NEW SECTION**

**WAC 51-51-60106 Appendix U—Solar-ready provisions-detached one-and two-family dwellings, multiple single-family dwellings (townhouses).** The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

**U101 Scope.**

**U101.1 General.** These provisions shall be applicable for new construction where solar-ready provisions are required.

**U102 General definitions.** Solar-ready zone. A section or sections of the roof or building overhang designated and reserved for the future installation of a solar photovoltaic or solar water-heating system.

**U103 Solar ready zone.**

**U103.1 General.** New detached one- and two-family dwellings, and multiple single-family dwellings (townhouses) with not less than 600 square feet (55.74 m<sup>2</sup>) of roof area oriented between 90 degrees and 270 degrees of true north shall comply with Sections U103.2 through U103.10.

- EXCEPTIONS:
1. New residential buildings with a permanently installed on-site renewable energy system.
  2. A building where all areas of the roof that would otherwise meet the requirements of Section U103 are in full or partial shade for more than 70 percent of daylight hours annually.

**U103.2 Construction document requirements for solar ready zone.** Construction documents shall indicate the solar ready zone.

**U103.3 Solar-ready zone area.** The total solar-ready zone area shall be not less than 300 square feet (27.87 m<sup>2</sup>) exclusive of mandatory access or set back areas as required by this code. New multiple single-family dwellings (townhouses) three stories or less in height above grade plane and with a total floor area less than or equal to 2,000 square feet (185.8 m<sup>2</sup>) per dwelling shall have a solar-ready zone area of not less than 150 square feet (13.94 m<sup>2</sup>). The solar-ready zone shall be composed of areas not less than 5 feet (1.52 m) in width and not less than 80 square feet (7.44 m<sup>2</sup>) exclusive of access or set back areas as required in this code or the applicable provisions of the *International Fire Code*. No portion of the solar zone shall be located on a roof slope greater than 2:12 that faces within 45 degrees of true north.

**U103.4 Obstructions.** Solar-ready zones shall be free from obstructions including, but not limited to, vents, chimneys, and roof-mounted equipment.

**U103.5 Shading.** The solar-ready zone shall be set back from any existing or new permanently affixed object on the building or site that is located south, east, or west of the solar zone a distance at least two times the object's height above the nearest point on the roof surface. Such objects include, but are not limited to, taller portions of the building itself, parapets, chimneys, antennas, signage, rooftop equipment, trees and roof plantings.

**U103.6 Capped roof penetration sleeve.** A capped roof penetration sleeve shall be provided adjacent to a solar-ready zone located on a roof slope of 2:12 or less. The capped roof penetration sleeve shall be sized to accommodate the future photovoltaic system conduit, but shall have an inside diameter not less than 1 1/4 inches.

**U103.7 Roof load documentation.** The structural design loads for roof dead load and roof live load shall be clearly indicated on the construction documents.

**U103.8 Interconnection pathway.** Construction documents shall indicate pathways for routing of conduit or plumbing from the solar-ready zone to the electrical service panel or service hot water system.

**U103.9 Electrical service reserved space.** The main electrical service or feeder panel for each dwelling unit shall have a reserved space to allow installation of a dual pole circuit breaker for future solar electric installation and shall be labeled "For Future Solar Electric." The reserved space shall be positioned at the opposite (load) end from the input feeder location or main circuit location.

**U103.10 Construction documentation certificate.** A permanent certificate, indicating the solar-ready zone and other requirements of this section, shall be posted near the electrical distribution panel, water heater or other conspicuous location by the builder or registered design professional.

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

**WAC 51-51-60107 Appendix ((S)) V—Fire sprinklers.** The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

**((AS107.1)) AV107.1 Fire sprinklers.** An approved automatic fire sprinkler system shall be installed in new one-family and two-family dwellings ((and townhouses)) in accordance with Appendix ((R)) Q.

**WSR 15-16-098**  
**PROPOSED RULES**  
**BUILDING CODE COUNCIL**

[Filed August 4, 2015, 8:38 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-076.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 International Mechanical Code, chapter 51-52 WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail sbcc@ga.wa.gov, fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the most recently published edition of the International Mechanical Code and make changes to the state amendments to this code.

1. References to the code edition were updated to and the expected effective date cited in 003/008.

2. Section 101.2 was updated to cite the most recent code editions for the National Fuel Gas Code and Liquefied Petroleum Gas Code. This same change was also made to Section 101.2 of the International Fuel Gas Code (WAC 51-52-21101).

3. The exception in Section 102.4 was moved to Section 403.8.5.

4. A new definition for *Permanent Construction* was added to coordinate with the new Section 306.6.

5. The state amendment to Section 301.3 was removed, as it was felt to be unnecessary. This change was also made to Section 401.9 of the International Fuel Gas Code (WAC 51-52-21401).

6. Section 306.6 was added to clarify access requirements for installations in ceilings.

7. Section 307.2.4.1 is a new section in the model code that was amended to allow for any type of condensate trap allowed by the ductless mini-split manufacturer.

8. Chapter 4 was reorganized slightly in the 2015 International Model Code, so there are instances of updating section citations. The Washington state residential ventilation provisions were left as Section 403.8 for convenience; however, there are no longer any Sections 403.4 through 403.7 in the model code. Those sections were moved to be subsections of Section 403.3.1.1, Outdoor airflow rate.

9. The new residential ventilation section of the model code, Section 403.3.2 is not adopted and a pointer to the Washington state amendment is added to Section[s] 401.2, 401.3 and 403.1 in addition to Section 403.3.2.

10. The model code also introduced a new section for ventilation in health care facilities in Section 407. This section was amended to cite the department of health requirements for licensed health care facilities. Coordinating changes were also made to Section 401.2.

11. The change in Section 403.2 is editorial to match the 2015 International Mechanical Code language.

12. Section 403.3 was renumbered by the model code as Section 403.3.1.1 under the chapter reorganization. Table 403.3 was also renumbered accordingly, and all the references were changed to reflect this. There was also some clarifying language added to match the changes in the model code. Table 403.3.1.1 was modified to:

(1) A footnote was added to the kitchens line in the offices category that clarifies that hoods are not required for microwaves in office kitchenettes;

(2) Remove the ventilation rate for single dwelling garages, mirroring a change in the model code;

(3) Add an increased ventilation rate for residential corridors where the dwelling units are ventilated per the option in 403.8.6, to increase the pressure differential to keep infiltration of odors from the dwellings from entering the corridor;

(4) Include ventilation rates for elevator lobbies in parking garages;

(5) Include ventilation requirements for freezer[s];

(6) The other changes shown added in the body of the table mirror requirements in the model code and have not been changed from the 2012 requirements;

(7) Footnote b was updated to coordinate with the 2015 model code language, as was footnote h, which clarifies that ventilation is required at each workstation in a nail salon and coordinates with new model code language in Section 502.20. Footnote k coordinates with the change described in item (1).

13. A new ventilation rate table from ASHRAE 62.1 was substituted for the previous Table 403.8.1. The new table is specifically formulated for multi-family dwellings, whereas the previous table was intended for single-family dwellings.

14. Section 403.8.2, item 4 was modified to allow flexibility in the types of controls used for whole house ventilation, along with clarification that it needs to be labeled.

15. Section 403.8.3, item 8 was added to specify that outdoor air intakes are not permitted to be on asphalt roofs unless there are no other options, and criteria to be met if this is the case. This will help prevent fumes and chemicals from

off-gassing roofing materials to contaminate the indoor air quality.

16. Section 403.8.5 - see item 1, above.

17. Section 403.8.6.1 was modified to allow windows and other operable openings to be used for outdoor air in lieu of outdoor air inlets in all building types, not just high-rises.

18. The current language in Section 403.8.6.1, item 3 is copied over to Sections 403.8.7.1, 403.8.8.1 and 403.8.9.1 to allow all whole house ventilation methods to use the same options for ventilating interior rooms and spaces.

19. Sections 403.8.7.2 and 403.8.9.2 were modified to clarify that each habitable space needs to be served by the forced air system or energy recovery ventilator.

20. Section 407 - see item 10, above.

21. The state amendment to Section 504.6.4.1 was deleted, as this requirement was integrated into the model code in 2015 edition.

22. The state amendment to Section 504.7.1 was deleted, as this requirement was integrated into the model code in the 2015 edition.

23. Sections 504.4 and 505.1 were both modified to clarify that residential dryer, range and local exhausts are allowed to terminate at a common plenum as long as each has their own damper.

24. The changes to Section 506.3.11 reflect changes made to the model code to make it explicit that fire and smoke dampers are prohibited from being installed in grease ducts.

25. In the 2015 edition of the International Mechanical Code, the commercial kitchen hood Section 507 was reorganized, with many of the general sections that were previously repeated in both the Type I [I] and Type II hood subsections pulled out and placed in Section 507.1. Existing sections were renumbered and moved around but remain essentially unchanged.

26. A new Section 515 was added to specify that chute venting needed to comply with NFPA 82 or be located outside the building.

27. In Section 602.1, the model code added a sentence stating that air systems must be ducted from the air handler to the area served. Washington state clarified this amendment to specify that this was true if the system served multiple fire areas.

28. The model code added language to require filters upstream of all coils and heat exchangers. The state amended that language with an exception for chilled beams.

29. The amendment to Section 606.2 clarifies that smoke detectors are not required on the supply or return/exhaust air on dedicated outside air systems since this air is not recirculated into any other portion of the building.

30. The Washington state amendment to Section 928 is deleted; it was deemed unnecessary with the change in language in the 2015 Model Code.

31. A Washington state amendment to Section 1107.2 attempts to clarify language prohibiting refrigerant piping in certain locations.

32. Two amendments are proposed to the hydronic piping section. Section 1209.5.1 amends the insulation requirements to be consistent with the energy code. Section 1210.7.6



requires a means of draining expansion tanks downstream of the shutoff valve.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, 1500 Jefferson S.E., P.O. Box 41449, Olympia, WA, (360) 407-9278.

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

#### Small Business Economic Impact Statement

**Description:** SBCC is filing a proposed rule to adopt the updated 2015 edition of the International Building Code (chapter 51-50 WAC). Since 1985 SBCC has been responsible to update new editions of the building code through RCW 19.27.074.

The administrative compliance requirements are under the authority of the local government. RCW 19.27.050. Compliance activities, including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-52 WAC include specific technical requirements for building construction to be consistent with national standards.

The IMC is updated every three years by the International Code Council (ICC). The code development process conducted by the model code organization is open to all interest groups within the design and construction industry and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

**Professional Services:** Washington has had a statewide building code in effect since 1974. The local enforcement authority having jurisdiction administers the codes through the building departments. Administrative procedures for state building code compliance are established and will not be changed by the adoption of the update to the current building codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state building code.

The proposed rule updates the state building code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the building code are existing within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** The cost of compliance incurred by Washington businesses includes training

and educational materials. A complete set of the 2015 model codes on CD rom costs \$985 for ICC members. The cost for just the 2015 IMC is \$62. These publications are also available online at <http://codes.iccsafe.org/I-Codes.html>. The ICC chapters offer training for continuing education credits to architects, engineers and building inspectors for \$285.

The 2015 edition of the IMC, with state amendments, contains four significant amendments with a cost impact. These items were identified through the model code development process, and reviewed by the SBCC Mechanical Code technical advisory group and the economic workgroup.

1. Table 403.3.1.1 was modified by state amendment to provide an increase in the minimum ventilation rate for corridors in residential multi-family dwellings where the whole house ventilation is provided through whole house exhaust fans and trickle vents, to ensure the corridor maintains positive pressure in relation to each residence, minimizing contaminants. The increased rate is not an increase over the typical ventilation rate provided under the current code, but could result in increased energy use over the life of the building.

2. Table 403.3.1.1 was also modified to clarify that elevator lobbies in parking garages are required to be ventilated. This is currently only implied by the codes and may not have been enforced by all jurisdictions.

3. Section 1209.5.1 was modified to require that hydronic piping systems include a means of draining the expansion tank after the shutoff valve. This would increase the initial cost of the system, but significantly reduce the cost of system maintenance.

4. Section 908.8 of the 2015 IMC requires that cooling towers and evaporative condensers include automatic bleed controls for conservation of water. The proponent of this change estimates considerable water savings achieved in the first year, with a similar savings in energy use, based on a California utility study. The initial cost of this added control is estimated to be \$1,500.

**Loss of Sales or Revenue:** The proposed rules make the state code for building construction consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated code.

The update will result in some cost outlay for some small businesses for specific projects, for a transition period. Other small businesses would see an increase in revenue. Amendments to the building codes affect over twenty-five thousand small businesses in the state, where construction activity occurs. The primary intent of the amendments is to improve the safety features in buildings and provide consistency and fairness across the state, for a predictable business environment. The amendments should result in enhanced safety and value in buildings.

**Cost of Compliance for Small Businesses:** Determine whether the proposed rule will have a disproportionate cost impact on small businesses, compare the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses.

The majority of businesses affected by the updates to the building codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small

businesses. The cost to comply with the updated codes is not a disproportionate impact on small business. Where SBCC found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Reducing the Costs of the Rule on Small Businesses:**

The revision history for the 2015 model code amendments includes over two hundred amendments proposed by industry and local governments which add flexibility and clarity to the code and coordinate rules. The majority of the changes show no impact to cost, and a number of them represent a savings for small business building owners and operators. Some examples of these savings are noted below:

A state amendment to Table 403.3.1.1 clarifies that microwaves in office kitchenettes are not required to be provided with additional ventilation.

Section 504.8 specifically allows common exhaust systems for multi-story buildings.

Sections 908.5 and 928.1 allow the use of alternate water sources for cooling towers if approved by the code official and the manufacturer.

**Small Businesses Involved in the Development of the Rule:**

The SBCC conducted twelve open public meetings of the mechanical code technical advisory group, available via telephone conference bridge and over the internet, and allowed comment on every item on every agenda. The SBCC appointed over one hundred representatives of all segments of the business and construction community to serve on the technical advisory groups.

**List of Industries:** Below is a list of industries required to comply with the mechanical code:

NAICS #	Type of Business	Businesses with fewer than 50 employees	Businesses with 50 or more employees
236116	New multifamily housing construction	69	4
236210	Industrial building construction	88	8
236220	Commercial and institutional building construction	1151	40
238220	Plumbing, heating, and air-conditioning contractors	2245	66
238290	Other building equipment contractors	315	6
238990	All other specialty trade contractors	1141	15
332322	Sheet metal work manufacturing	69	8
333415	Air-conditioning and warm air heating equipment	13	2
423390	Other construction material merchant wholesalers	78	0
423720	Plumbing and heating equipment and supplies (hydronics)	99	6
423730	Warm air heating and air-conditioning equipment and supplies	48	1
531120	Lessors of nonresidential buildings (except miniwarehouse)	2046	7
541310	Architectural services	579	19
541330	Engineering services	2351	82
541340	Drafting services	69	0
541350	Building inspection services	168	1
922160	Fire protection	246	31
	Total	10,775	296

**Estimate of the Number of Jobs That Will Be Created or Lost:**

The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2016. Building permits issued prior to that date will be vested under the 2012 code. Permits issued for projects under the 2015 code edition will start with the 2017 construction season.

The construction industry has experienced growth over the period June 2014 to June 2015. (Data from Current Employment Statistics (CES).)

	2015	2014
Wage and salary workers		
Residential building construction	25,600	22,400
Nonresidential building construction	18,700	16,500
Specialty trade contractors	114,200	101,400

A copy of the statement may be obtained by contacting Tim Nogler, SBCC, P.O. Box 41449, Olympia, WA 98504-1449, phone (360) 407-9280, fax (360) 586-9088, e-mail sbcc@ga.wa.gov. SBCC is not one of the agencies identified as required to prepare a school district impact statement.

A cost-benefit analysis is not required under RCW 34.05.328. SBCC is not one of the agencies identified as required to prepare an analysis.

August 4, 2015  
David F. Kokot  
Council Chair

### Chapter 51-52 WAC

#### STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE ~~((2012))~~ 2015 EDITION OF THE INTERNATIONAL MECHANICAL CODE

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-003 International Mechanical Code.** The ~~((2012))~~ 2015 edition of the *International Mechanical Code* published by the International Code Conference is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code (WAC).

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-008 Implementation.** The International Mechanical Code adopted by chapter 51-52 WAC shall become effective in all counties and cities of this state on July 1, ~~((2013))~~ 2016.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

#### **WAC 51-52-0101 Section 101—General.**

**101.2 Scope.** This code shall regulate the design, installation, maintenance, alteration and inspection of mechanical systems that are permanently installed and utilized to provide control of environmental conditions and related processes within buildings. This code shall also regulate those mechanical systems, system components, equipment and appliances specifically addressed herein. The installation of fuel gas distribution piping and equipment, fuel gas-fired appliances and fuel gas-fired appliance venting systems shall be regulated by the *International Fuel Gas Code*.

EXCEPTIONS:

1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.
2. The standards for liquefied petroleum gas installations shall be the ~~((2011))~~ 2014 Edition of NFPA 58 (Liquefied Petroleum Gas Code) and the ~~((2012))~~ 2015 Edition of ANSI Z223.1/NFPA 54 (National Fuel Gas Code).

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

#### **WAC 51-52-0102 Section 102—Applicability.**

**102.4 Additions, alterations or repairs.** Additions, alterations, renovations or repairs to a mechanical system shall

conform to that required for a new mechanical system without requiring the existing mechanical system to comply with all of the requirements of this code. Additions, alterations or repairs shall not cause an existing mechanical system to become unsafe, hazardous or overloaded.

Minor additions, alterations, renovations and repairs to existing mechanical systems shall meet the provisions for new construction, unless such work is done in the same manner and arrangement as was in the existing system, is not hazardous and is *approved*.

~~((EXCEPTION: Additions, alterations, renovations or repairs to a mechanical system that is part of a building addition with less than 500 square feet of conditioned floor area are exempt from the requirements for whole house ventilation systems, Section 403.8.5.))~~

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

#### **WAC 51-52-0202 Section 202—General definitions.**

**LOCAL EXHAUST.** An exhaust system that uses one or more fans to exhaust air from a specific room or rooms within a dwelling.

**PERMANENT CONSTRUCTION.** Construction that, if removed, would disturb the structural integrity of the building or the fire-resistance rating of a building assembly.

**WHOLE HOUSE VENTILATION SYSTEM.** A mechanical ventilation system, including fans, controls, and ducts, which replaces, by direct or indirect means, air from the habitable rooms with *outdoor air*.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

#### **WAC 51-52-0301 Section 301—General.**

~~((301.3 Identification. Each length of pipe and tubing and each pipe fitting utilized in a mechanical system shall bear the identification of the manufacturer.~~

EXCEPTION: The manufacturer identification for fittings and pipe nipples shall be on each piece or shall be printed on the fitting or nipple packaging or provided documentation.))

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

#### **WAC 51-52-0306 Section 306—Access and service space.**

**306.5 Equipment and appliances on roofs or elevated structures.** Where equipment requiring access or appliances are located on an elevated structure or the roof of a building such that personnel will have to climb higher than 16 feet (4877 mm) above grade to access such equipment or appliances, an interior or exterior means of access shall be provided. Such access shall not require climbing over obstructions greater than 30 inches (762 mm) in height or walking on roofs having a slope greater than 4 units vertical in 12 units horizontal (33 percent slope). Such access shall not require the use of portable ladders. Where access involves climbing

over parapet walls, the height shall be measured to the top of the parapet wall.

Permanent ladders installed to provide the required access shall comply with the following minimum design criteria:

1. The side railing shall extend above the parapet or roof edge not less than 42 inches (1067 mm).

2. Ladders shall have rung spacing not to exceed 12 inches (305 mm) on center. The uppermost rung shall be a maximum of 24 inches below the upper edge of the roof hatch, roof or parapet, as applicable.

3. Ladders shall have a toe spacing not less than 7 inches (178 mm) deep.

4. There shall be a minimum of 18 inches (457 mm) between rails.

5. Rungs shall have a minimum 0.75-inch (19 mm) diameter and be capable of withstanding a 300-pound (136.1 kg) load.

6. Ladders over 30 feet (9144 mm) in height shall be provided with offset sections and landings capable of withstanding 100 pounds (488.2 kg/m<sup>2</sup>) per square foot. Landing dimensions shall be not less than 18 inches and not less than the width of the ladder served. A guardrail shall be provided on all open sides of the landing.

7. Climbing clearances. The distance from the centerline of the rungs to the nearest permanent object on the climbing side of the ladder shall be a minimum of 30 inches measured perpendicular to the rungs. This distance shall be maintained from the point of ladder access to the bottom of the roof hatch. A minimum clear width of 15 inches shall be provided on both sides of the ladder measured from the midpoint of and parallel with the rungs except where cages or wells are installed.

8. Landing required. The ladder shall be provided with a clear and unobstructed bottom landing area having a minimum dimension of 30 inches by 30 inches centered in front of the ladder.

9. Ladders shall be protected against corrosion by approved means.

10. Access to ladders shall be provided at all times.

Catwalks installed to provide the required access shall be not less than 24 inches (610 mm) wide and shall have railings as required for service platforms.

EXCEPTION: This section shall not apply to Group R-3 occupancies.

**306.6 Appliances above ceilings.** Appliances that are located above the ceiling shall be accessible for inspection, service and repair without removing permanent construction. Appliances shall be accessible from an access panel or removable ceiling tile with minimum nominal dimensions of 24 inches by 24 inches (609 mm x 609 mm).

The appliance is not required to be removable or replaceable through the access panel or removable ceiling tile. The appliance may be removed or replaced by removing the ceiling or wall assemblies adjacent to the appliance as long as they are not permanent construction.

EXCEPTIONS: 1. This section shall not apply to replacement appliances installed in existing compartments and alcoves where the working space clearances are in accordance with the equipment or appliance manufacturer's installation instructions.

2. A smaller access panel or removable ceiling tile shall be permitted when allowed by the equipment or appliance manufacturer's installation instructions.

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0307 Section 307—Condensate disposal.**

**307.2.3 Auxiliary and secondary drain systems.** In addition to the requirements of Section 307.2.1, where damage to any building components could occur as a result of overflow from the *equipment* primary condensate removal system, one of the following auxiliary protection methods shall be provided for each cooling coil or fuel-fired *appliance* that produces condensate:

1. An auxiliary drain pan with a separate drain shall be provided under the coils on which condensation will occur. The auxiliary pan drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The pan shall have a minimum depth of 1 1/2 inches (38 mm), shall not be less than 3 inches (76 mm) larger than the unit or the coil dimensions in width and length and shall be constructed of corrosion-resistant material. Galvanized sheet steel pans shall have a minimum thickness of not less than 0.0236 inch (0.6010 mm) (No. 24 gage). Non-metallic pans shall have a minimum thickness of not less than 0.0625 inch (1.6 mm).

2. A separate overflow drain line shall be connected to the drain pan provided with the *equipment*. Such overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection.

3. An auxiliary drain pan without a separate drain line shall be provided under the coils on which condensate will occur. Such pan shall be equipped with a water-level detection device conforming to UL 508 that will shut off the *equipment* served prior to overflow of the pan. The auxiliary drain pan shall be constructed in accordance with Item 1 of this section.

4. A water-level detection device conforming to UL 508 shall be provided that will shut off the *equipment* served in the event that the primary drain is blocked. The device shall be installed in the primary drain line, the overflow drain line, or in the equipment-supplied drain pan, located at a point higher than the primary drain line connection and below the overflow rim of such pan.

EXCEPTIONS: 1. Fuel-fired appliances that automatically shut down operation in the event of a stoppage in the condensate drainage system.  
2. Unducted fan coil units where there is no factory option available for water-level detection devices and which are installed directly within the occupied space.

**307.2.4.1 Ductless mini-split system traps.** Ductless mini-split equipment that produces condensate shall be provided with an inline check valve located in the drain line, a trap, or other means of trapping in accordance with the manufacturer's instructions.

AMENDATORY SECTION (Amending WSR 10-03-099, filed 1/20/10, effective 7/1/10)

**WAC 51-52-0401 Section 401—General.**

**401.2 Ventilation required.** Every occupied space other than enclosed parking garages and buildings used for repair of automobiles shall be ventilated in accordance with Section ~~((402.2.1 or))~~ 401.2.1, 401.2.2 or 401.2.3. Enclosed parking garages and buildings used for repair of automobiles shall be ventilated by mechanical means in accordance with Sections 403 and 404.

**401.2.1 Group R occupancies.** Ventilation in Group R occupancies shall be provided in accordance with Section 403.8.

**401.2.2 Ambulatory care facilities and Group I-2 occupancies.** Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407.

**401.2.3 All other occupancies.** Ventilation in all other occupancies shall be provided by natural means in accordance with Section 402 or by mechanical means in accordance with Sections 403.1 to 403.7.

**401.3 When required.** Group R occupancies shall be vented continuously or intermittently in accordance with Section 403.8. Ventilation in all other occupancies shall be provided during the periods that the room or space is occupied.

**401.7 Testing and balancing.** At the discretion of the building official, flow testing may be required to verify that the mechanical system(s) satisfies the requirements of this chapter. Flow testing may be performed using flow hood measuring at the intake or exhaust points of the system, in-line pitot tube, or pitot-traverse type measurement systems in the duct, short term tracer gas measurements, or other means approved by the building official.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0403 Section 403—Mechanical ventilation.**

**403.1 Ventilation system.** Mechanical ventilation shall be provided by a method of supply air and return or exhaust air. The amount of supply air shall be approximately equal to the amount of return and exhaust air. The system shall not be prohibited from producing negative or positive pressure. The system to convey ventilation air shall be designed and installed in accordance with Chapter 6.

**403.2 Outdoor air required.** The minimum ~~((ventilation rate of))~~ outdoor ~~((air))~~ flow rate shall be determined in accordance with Section 403.3.

EXCEPTIONS: 1. Where the registered design professional demonstrates that an engineered ventilation system design will prevent the maximum concentration of contaminants from exceeding that obtainable by the rate of *outdoor air* ventilation determined in accordance with Section 403.3, the minimum required rate of *outdoor air* shall be reduced in accordance with such engineered system design.

2. Alternate systems designed in accordance with ASHRAE Standard 62.1 Section 6.2, Ventilation Rate Procedure, shall be permitted.

**403.2.1 Recirculation of air.** The air required by Section 403.3 shall not be recirculated. Air in excess of that required by Section 403.3 shall not be prohibited from being recirculated as a component of supply air to building spaces, except that:

1. Ventilation air shall not be recirculated from one dwelling to another or to dissimilar occupancies.

2. Supply air to a swimming pool and associated deck areas shall not be recirculated unless such air is dehumidified to maintain the relative humidity of the area at 60 percent or less. Air from this area shall not be recirculated to other spaces where 10 percent or more of the resulting supply air-stream consists of air recirculated from these spaces.

3. Where mechanical exhaust is required by Note b in Table 403.3, recirculation of air from such spaces shall be prohibited. All air supplied to such spaces shall be exhausted, including any air in excess of that required by Table 403.3.

(Item 4 is not adopted.)

**403.3 Outdoor air and local exhaust airflow rates.** Group R-2, R-3 and R-4 occupancies three stories and less in height above grade plan shall be provided with outdoor air and local exhaust in accordance with Section 403.8. All other buildings intended to be occupied shall be provided with outdoor air and local exhaust in accordance with Section 403.3.1.

**403.3.1.1 Outdoor airflow rate.** Ventilation systems shall be designed to have the capacity to supply the minimum outdoor airflow rate determined in accordance with this section. In each occupiable space, the ventilation system shall be designed to deliver the required rate of outdoor airflow to the breathing zone. The occupant load utilized for design of the ventilation system shall not be less than the number determined from the estimated maximum occupant load rate indicated in Table ~~((403.3))~~ 403.3.1.1. Ventilation rates for occupancies not represented in Table ~~((403.3))~~ 403.3.1.1 shall be those for a listed occupancy classification that is most similar in terms of occupant density, activities and building construction; or shall be determined by an approved engineering analysis. The ventilation system shall be designed to supply the required rate of ventilation air continuously during the period the building is occupied, except as otherwise stated in other provisions of the code.

With the exception of smoking lounges, the ventilation rates in Table ~~((403.3))~~ 403.3.1.1 are based on the absence of smoking in occupiable spaces. Where smoking is anticipated in a space other than a smoking lounge, the ventilation system serving the space shall be designed to provide ventilation over and above that required by Table ~~((403.3))~~ 403.3.1.1 in accordance with accepted engineering practice.

EXCEPTION: Where occupancy density is known and documented in the plans, the outside air rate may be based on the design occupant density. Under no circumstance shall the occupancies used result in outside air less than one-half that resulting from application of Table ~~((403.3))~~ 403.3.1.1 estimated maximum occupancy rates.

**Table ((403.3)) 403.3.1.1  
REQUIRED OUTDOOR VENTILATION AIR**

Occupancy Classification	Occupant Density #/1000 ft <sup>2a</sup>	People Outdoor Airflow Rate in Breathing Zone R <sub>p</sub> cfm/Person	Area Outdoor Airflow Rate in Breathing Zone R <sub>a</sub> cfm/ft <sup>2a</sup>	Exhaust Airflow Rate cfm/ft <sup>2</sup>
<b>Offices</b>				
Conference rooms	50	5	0.06	—
Kitchenettes <sup>k</sup>	—	—	—	0.30
Office spaces	5	5	0.06	—
Reception areas	30	5	0.06	—
Telephone/data entry	60	5	0.06	—
Main entry lobbies	10	5	0.06	—
<b>Private dwellings, single and multiple</b>				
Garages, common for multiple units <sup>b</sup>	—	—	—	0.75
((Garages, separate for each dwelling <sup>b</sup>	—	—	—	100 cfm per car))
Kitchens <sup>b</sup>	—	—	—	25/100 <sup>f</sup>
Living areas <sup>c</sup>	Based on the number of bedrooms. First bedroom, 2; each additional bedroom, 1	See Tables 403.8.1 and 403.8.5.1	—	—
Toilet rooms, bathrooms and laundry areas <sup>g, i</sup>	—	—	—	20/50 <sup>f</sup>
<b>Public spaces</b>				
<u>Corridors serving other than Group R occupancies</u>	—	—	0.06	—
<u>Corridors serving Group R dwelling or sleeping units with whole house exhaust</u>	—	—	0.12	—
<u>Corridors serving Group R dwelling or sleeping units with other than whole house exhaust</u>	—	—	0.06	—
<u>Courtrooms</u>	70	5	0.06	—
<u>Elevator car</u>	—	—	—	1
<u>Elevator lobbies in parking garage</u>	—	—	1.0	—
<u>Legislative chambers</u>	50	5	0.06	—
<u>Libraries</u>	10	5	0.12	—
<u>Museums (children's)</u>	40	7.5	0.12	—
<u>Museums/galleries</u>	40	7.5	0.06	—
<u>Places of religious worship</u>	120	5	0.06	—
<u>Shower room (per showerhead)<sup>g, k</sup></u>	—	—	—	—
<u>Smoking lounges<sup>b</sup></u>	70	60	—	—
<u>Toilet rooms—Public<sup>g, k</sup></u>	—	—	—	50/20 <sup>f</sup>
<b>Sports and amusement</b>				
Disco/dance floors	100	20	0.06	—
Bowling alleys (seating areas)	40	10	0.12	—
Game arcades	20	7.5	0.18	—
Ice arenas, without combustion engines <sup>j</sup>	—	—	0.30	0.5
Gym, stadium, arena (play area) <sup>j</sup>	—	—	0.30	—
Spectator areas	150	7.5	0.06	—
Swimming pools (pool and deck area)	—	—	0.48	—
Health club/aerobics room	40	20	0.06	—
Health club/weight room	10	20	0.06	—
<b>Storage</b>				
Janitor closets, trash rooms, recycling rooms	—	—	—	1.0
Repair garages, enclosed parking garage <sup>b, d</sup>	—	—	—	0.75

Occupancy Classification	Occupant Density #/1000 ft <sup>2a</sup>	People Outdoor Airflow Rate in Breathing Zone R <sub>p</sub> cfm/Person	Area Outdoor Airflow Rate in Breathing Zone R <sub>a</sub> cfm/ft <sup>2a</sup>	Exhaust Airflow Rate cfm/ft <sup>2</sup>
Storage rooms, chemical	—	—	—	1.5
Warehouses	—	—	0.06	—
<b>Workrooms</b>				
Bank vaults/safe deposit	5	5	0.06	—
Darkrooms	—	—	—	1.0
Copy, printing rooms	4	5	0.06	0.5
Freezer and refrigerated spaces (<50°F)	0	10	0	0
Meat processing <sup>c</sup>	10	15	—	—
Pharmacy (prep. area)	10	5	0.18	—
Photo studios	10	5	0.12	—
Computer (without printing)	4	5	0.06	—

- For SI: 1 cubic foot per minute = 0.0004719 m<sup>3</sup>/s, 1 ton = 908 kg, 1 cubic foot per minutes per square foot = 0.00508 m<sup>3</sup>/(s•m<sup>2</sup>), °C = [(°F) -32]/1.8, 1 square foot = 0.0929 m<sup>2</sup>.
- a. Based upon *net occupiable floor area*.
  - b. Mechanical exhaust required and the recirculation of air from such spaces is prohibited. Recirculation of air that is contained completely within such spaces shall not be prohibited (see Section 403.2.1, Item 3).
  - c. Spaces unheated or maintained below 50°F are not covered by these requirements unless the occupancy is continuous.
  - d. Ventilation systems in enclosed parking garages shall comply with Section 404.
  - e. Rates are per water closet or urinal. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted only where the exhaust system is designed to operate continuously while occupied.
  - f. Rates are per room unless otherwise indicated. The higher rate shall be provided where the exhaust system is designed to operate intermittently. The lower rate shall be permitted only where the exhaust system is designed to operate continuously while occupied.
  - g. Mechanical exhaust is required and recirculation is prohibited.
  - h. For nail salons, each (~~nail station shall be provided with a source capture system capable of exhausting not less than 50 cfm per station~~) manicure and pedicure station shall be provided with a source capture system capable of exhausting not less than 50 cfm per station. Exhaust inlets shall be located in accordance with Section 502.20. Where one or more required source capture systems operate continuously during occupancy, the exhaust rate from such systems shall be permitted to be applied to the exhaust flow rate required by Table 403.3.1.1 for the nail salon.
  - i. A laundry area within a kitchen or bathroom is not required to have local exhaust. For the laundry area to qualify as being within the kitchen, the laundry room door must open directly into the kitchen and not into an adjacent corridor. Where there are doors that separate the laundry area from the kitchen or bathroom the door shall be louvered.
  - j. When combustion equipment is intended to be used on the playing surface, additional dilution ventilation and/or source control shall be provided.

k. Kitchenettes require exhaust when they contain a domestic cooking appliance range or oven that is installed in accordance with Table 507.2.2. Kitchenettes that only contain a microwave oven are not required to have mechanical exhaust. A kitchenette may not contain commercial cooking appliances that require Type I or Type II exhaust as these occupancies are required to be exhausted to the kitchen category in Table 403.1.1.

**403.3.2 Group R-2, R-3 and R-4 occupancies.** This section is not adopted. See Section 403.8.

**403.3.2.1 Outdoor air for dwelling units.** This section is not adopted.

**403.3.2.2 Outdoor air for other spaces.** This section is not adopted.

**403.3.2.3 Local exhaust.** This section is not adopted.

**403.8 Ventilation systems for Group R occupancies.** Each dwelling unit or sleeping unit shall be equipped with local exhaust and whole house ventilation systems and shall comply with Sections 403.8.1 through 403.8.11. All public corridors and other than Group R occupied spaces that support the Group R occupancy shall meet the ventilation requirements of Section 402 or Sections 403.1 to 403.7.

**403.8.1 Minimum ventilation performance.** Ventilation systems shall be designed and installed to satisfy the ventilation requirements of Table 403.3 or Table 403.8.1. Breathing zone ventilation rates from Table 403.3 shall be calculated per Section 403.3.1.1 and corrected per zone air distribution effectiveness requirements per Section 403.3.1.2.

**Table 403.8.1**  
**VENTILATION RATES FOR ALL GROUP R PRIVATE DWELLINGS, SINGLE AND MULTIPLE**  
 (CONTINUOUSLY OPERATING SYSTEMS)

Floor Area (ft <sup>2</sup> )	Bedrooms <sup>1</sup>				
	0-1	2-3	4-5	6-7	(≥7) ≥5
(<1500	30	45	60	75	90
1501 - 3000	45	60	75	90	105
3001 - 4500	60	75	90	105	120
4501 - 6000	75	90	105	120	135
6001 - 7500	90	105	120	135	150
>7500	105	120	135	150	165))
≤500	30	40	45	55	60
500 - 1000	45	55	60	70	75
1001 - 1500	60	70	75	85	90
1501 - 2000	75	85	90	100	105
2001 - 2500	90	100	105	115	120
2501 - 3000	105	115	120	130	135
3001 - 3500	120	130	135	145	150
>3500	135	145	150	160	165

<sup>1</sup>Ventilation rates in table are minimum outdoor airflow rates measured in cfm.

**403.8.2 Control and operation.**

1. Location of controls. Controls for all ventilation systems shall be readily accessible by the occupant.

2. Instructions. Operating instructions for whole house ventilation systems shall be provided to the occupant by the installer of the system.

3. Local exhaust ventilation systems. Local exhaust ventilation systems shall be controlled by manual switches, dehumidistats, timers, or other approved means.

4. Continuous whole house ventilation systems. Continuous whole house ventilation systems shall operate continuously(~~(- Exhaust fans, forced air system fans, or supply fans shall be equipped with "fan on" as override controls)) and be equipped with an override control. A "fan on" switch shall be permitted as an override control.~~ Controls shall be capable of operating the ventilation system without energizing other energy-consuming appliances. A clearly visible label shall be affixed to the controls that reads "Whole House Ventilation (see operating instructions)."

5. Intermittent whole house ventilation systems. Intermittent whole house ventilation systems shall comply with the following:

5.1 They shall be capable of operating intermittently and continuously.

5.2 They shall have controls capable of operating the exhaust fans, forced-air system fans, or supply fans without energizing other energy-consuming appliances.

5.3 The ventilation rate shall be adjusted according to the exception in Section 403.8.5.1.

5.4 The system shall be designed so that it can operate automatically based on the type of control timer installed.

5.5 The intermittent mechanical ventilation system shall operate at least one hour out of every four.

5.6 The system shall have a manual control and automatic control, such as a 24-hour clock timer.

5.7 At the time of final inspection, the automatic control shall be set to operate the whole house fan according to the schedule used to calculate the whole house fan sizing.

5.8 A label shall be affixed to the control that reads "Whole House Ventilation (see operating instructions)."

EXCEPTION: Engineered central ventilation systems serving dwelling units or sleeping units are not required to have individual controls for each dwelling unit or sleeping unit when designed for continuous operation and approved by the code official.

**403.8.3 Outdoor air intake locations.** *Outdoor air* intakes shall be classified as either operable openings or mechanical air intakes and shall be located per the following criteria. The intake locations for operable openings and mechanical air intakes shall comply with the following:

1. Openings for mechanical air intakes shall comply with Section 401.4. Operable openings shall comply with Section 401.4 items 2 and 4 only.

2. Intake openings shall not be located closer than 10 feet from an appliance vent outlet unless such vent outlet is 3 feet above the *outdoor air* inlet. The vent shall be permitted to be closer if specifically allowed by Chapter 8 or by the International Fuel Gas Code.

3. Intake openings shall be located where they will not pick up objectionable odors, fumes, or flammable vapors.

4. Intake openings shall be located where they will not take air from a hazardous or unsanitary location.

5. Intake openings shall be located where they will not take air from a room or space having a fuel-burning appliances.

6. Intake openings shall not be located closer than 10 feet from a vent opening of a plumbing drainage system unless the vent opening is at least 3 feet above the air inlet.

7. Intake openings shall not be located where they will take air from an attic, crawl space, or garage.



8. Intake openings shall not be located on asphalt roofs unless it is shown that no other location is permissible. In such cases, the inlet opening shall be located a minimum of 2 feet from the nearest surface of the asphalt roofing, measured from the intake opening.

**403.8.4 Local exhaust ventilation requirements.** Local exhaust ventilation systems shall exhaust at least the volume of air required for exhaust in Table 403.3. Exhaust shall be provided in each kitchen, bathroom, water closet, laundry area, indoor swimming pool, spa, and other room where water vapor or cooking odor is produced.

**403.8.4.1 Local exhaust systems.** Exhaust systems shall be designed and installed to meet all of the criteria below:

1. Local exhaust shall be discharged outdoors.
2. Exhaust outlets shall comply with Section 501.3.
3. Pressure equalization shall comply with Section 501.4.
4. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers.
5. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.
6. Terminal outlet elements shall have at least the equivalent net free area of the ductwork.
7. Terminal outlet elements shall be screened or otherwise protected as required by Section 501.3.2.
8. Exhaust fans in separate dwelling units or sleeping units shall not share common exhaust ducts unless the system is engineered for this operation.
9. Where permitted by Chapter 5, multiple local exhaust ducts may be combined. If more than one of the exhaust fans

in a dwelling unit or sleeping unit shares a common exhaust duct then each exhaust fan shall be equipped with a back-draft damper to prevent the recirculation of exhaust air from one room to another room via the exhaust ducting system.

**403.8.4.2 Local exhaust fans.** Exhaust fan construction and sizing shall meet the following criteria.

1. Exhaust fans shall be tested and rated in accordance with the airflow and sound rating procedures of the Home Ventilating Institute (HVI 915, HVI Loudness Testing and Rating Procedure, HVI 916, HVI Airflow Test Procedure, and HVI 920, HVI Product Performance Certification Procedure).

EXCEPTION: Where a range hood or down draft exhaust fan is used for local exhaust for a kitchen, the device is not required to be rated per these standards.

2. Installation of the system or equipment shall be carried out in accordance with manufacturers' installation instructions.

3. Fan airflow rating and duct system shall be designed and installed to deliver at least the exhaust airflow required by Table 403.3. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

- EXCEPTIONS:
1. An exhaust airflow rating at a pressure of 0.25 in. w.g. may be used, provided the duct sizing meets the prescriptive requirements of Table 403.8.4.2.
  2. Where a range hood or down draft exhaust fan is used to satisfy the local exhaust requirements for kitchens, the range hood or down draft exhaust shall not be less than 100 cfm at 0.10 in. w.g.

**TABLE 403.8.4.2  
PRESCRIPTIVE EXHAUST DUCT SIZING**

Fan Tested cfm at 0.25 inches w.g.	Minimum Flex Diameter	Maximum Length in Feet	Minimum Smooth Diameter	Maximum Length in Feet	Maximum Elbows <sup>1</sup>
50	4 inches	25	4 inches	70	3
50	5 inches	90	5 inches	100	3
50	6 inches	No Limit	6 inches	No Limit	3
80	4 inches <sup>2</sup>	NA	4 inches	20	3
80	5 inches	15	5 inches	100	3
80	6 inches	90	6 inches	No Limit	3
100	5 inches <sup>2</sup>	NA	5 inches	50	3
100	6 inches	45	6 inches	No Limit	3
125	6 inches	15	6 inches	No Limit	3
125	7 inches	70	7 inches	No Limit	3

1. For each additional elbow, subtract 10 feet from length.
2. Flex ducts of this diameter are not permitted with fans of this size.

**403.8.5 Whole house ventilation requirements.** Each dwelling unit or sleeping unit shall be equipped with one of the following four types of mechanical whole house ventilation systems: A system using exhaust fans (see Section 403.8.6); a system integrated with forced-air systems (see Section 403.8.7); a system using supply fans (see Section 403.8.8); or a heat or energy recovery ventilation system (see Section 403.8.9). The whole house exhaust system is permitted to be one of the local exhaust systems required by Section

403.8.4 as long as the requirements of this section, in addition to the requirements of Section 403.8.5, are met.

EXCEPTION: Additions, alterations, renovations or repairs to a mechanical system that is part of a building addition with less than 500 square feet of conditioned floor area are exempt from the requirements for whole house ventilation systems, Section 403.8.5.

**403.8.5.1 Outdoor air.** *Outdoor air* shall be distributed to each habitable space.

Where *outdoor air* supply intakes are separated from exhaust vents by doors, means shall be provided to ensure airflow to all separated habitable spaces by installing distri-

bution ducts, installed grilles, transoms, doors undercut to a minimum of 1/2-inch above the surface of the finish floor covering, or other similar means where permitted by the *International Building Code*.

The mechanical system shall operate continuously to supply at least the volume of *outdoor air* required in Table 403.3 or Table 403.8.1.

EXCEPTION: Intermittently operating ventilation systems: The whole house mechanical ventilation system is permitted to operate intermittently where the system has controls that enable operation for not less than 25 percent of each 4-hour segment and the ventilation rate prescribed in Table 403.3 or Table 403.8.1 is multiplied by the factor determined in accordance with Table 403.8.5.1.

**TABLE 403.8.5.1**  
**INTERMITTENT WHOLE HOUSE MECHANICAL VENTILATION RATE FACTORS<sup>a, b</sup>**

RUN-TIME PERCENTAGE IN EACH 4-HOUR SEGMENT	25%	33%	50%	66%	75%	100%
Factor <sup>a</sup>	4	3	2	1.5	1.3	1.0

<sup>a</sup> For ventilation system run-time values between those given, the factors are permitted to be determined by interpolation.

<sup>b</sup> Extrapolation beyond the table is prohibited.

**403.8.5.2 Whole house supply system general requirements.** Whole house ventilation systems integrated with a forced-air system, systems using supply fans and systems using a heat or energy recovery ventilation system shall comply with the following.

1. *Outdoor air* louvers shall be adequately sized for the required airflow and shall comply with Section 401.5. *Outdoor air* intake locations shall comply with mechanical air intakes requirements of Section 403.8.3.

2. *Outdoor air* ducts for dedicated or central supply systems and exhaust ducts for heat or energy recovery systems shall be provided with a means for balancing the system to the required airflow via balance dampers or other devices.

3. *Outdoor air* ducts for dedicated or central systems shall be provided with motorized dampers.

EXCEPTIONS: 1. *Outdoor air* ducts at heat or energy recovery ventilation systems are not required to have motorized dampers.  
2. *Outdoor air* ducts at continuous ventilation systems are not required to have motorized dampers.

4. *Outdoor air* ducts in the conditioned space shall be insulated to a minimum of R-4. In heat or energy recovery ventilation systems, ducts upstream of the heat exchanger shall also be insulated to at least R-4.

5. All *outdoor air* ducts shall be designed and installed to deliver at least the outdoor airflow required by Section 403.8.5.1. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

EXCEPTION: The *outdoor air* duct for supply fan systems and heat or energy recovery systems may be prescriptively sized per Table 403.8.5.2 for dedicated *outdoor air* ducts upstream of the supply fan. Supply fans shall have the capacity to provide the amount of *outdoor air* required by Section 403.8.5.1 at 0.40 in. w.g. as per HVI 916 (April 1995). When prescriptively sized the system shall be tested and balanced using a flow hood, flow-grid, or other airflow measurement device.

6. Whole house ventilation controls for intermittent operation shall allow concurrent operation of the forced-air fan and the associated outdoor air motorized damper.

7. Whole house ventilation controls for continuous operation shall be provided at the forced-air fan.

EXCEPTION: Engineered central ventilation systems serving dwelling units or sleeping units are not required to have individual controls for each dwelling or sleeping unit when designed for continuous operation and approved by the code official.

**TABLE 403.8.5.2**  
**PRESCRIPTIVE SUPPLY FAN DUCT SIZING**

Supply Fan Tested cfm at 0.40" w.g.		
Specified Volume from Table 408.1	Minimum Smooth Duct Diameter	Minimum Flexible Duct Diameter
50 - 90 cfm	4 inch	5 inch
90 - 150 cfm	5 inch	6 inch
150 - 250 cfm	6 inch	7 inch
250 - 400 cfm	7 inch	8 inch

**403.8.6 Whole house ventilation with exhaust fan systems.** This section establishes minimum requirements for mechanical whole house ventilation systems using exhaust fans.

**403.8.6.1 Outdoor air.** Exhaust fan only ventilation systems shall provide *outdoor air* to each occupiable space through one of the following methods:

1. *Outdoor air* may be drawn through air inlets installed in exterior walls or windows. The air inlets shall comply with all of the following:

1.1. Inlets shall have controllable, secure openings and shall be designed to not compromise the thermal properties of the building envelope.

1.2. Inlets shall be accessible to occupants, including compliance with Section 1109.13 of the *International Building Code* for designated accessible units, Type A units and Type B units.

1.3. Inlets shall be screened or otherwise protected from entry by insects, leaves, or other material.

1.4. Inlets shall provide not less than 4 square inches of net free area of opening for each 10 cfm of *outdoor air* required in Table 403.3 or Table 403.8.1.

1.5. Any inlet or combination of inlets which provide 10 cfm at 10 Pascals as determined by the Home Ventilation Institute Air Flow Test Standard (HVI 901 (November 1996)) are deemed equivalent to 4 square inches of net free area.

1.6. Each occupiable space shall have a minimum of one air inlet that has a minimum of 4 square inches of net free area.

2. ~~((In high-rise buildings,)) Outdoor air may be drawn in through ((operable windows, doors, louvers or other)) operable openings to the outdoors. ((Exterior spaces shall have a minimum openable area of 4 percent of the total floor area being ventilated.)) Each habitable space shall be provided with operable openings with an openable area of not less than 4 square inches of net free area of opening for each 10 cfm of outdoor air required by Table 403.3.1.1 or Table 403.8.1. Doors exiting to a corridor, court or public way shall not be used to provide outdoor air. The operable openings shall comply with the following:~~

2.1. Openings shall be controllable, securable, and shall be designed to not compromise the thermal properties of the building envelope.

2.2. Openings shall be accessible to occupants, including compliance with Section 1109.13 of the *International Building Code* for designated accessible units, Type A units and Type B units.

2.3 Openings shall be screened or otherwise protected from entry by leaves or other material.

3. For interior adjoining spaces without outdoor air openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

**403.8.6.2 Outside air intake locations.** All *outside air* intake opening types described in Section 403.8.6.1 shall be classified operable openings and shall not be classified as mechanical air intakes. The intake locations shall comply with Section 403.8.3.

**403.8.6.3 Whole house exhaust system.** Whole house exhaust system shall be designed and installed to meet all of the applicable criteria below:

1. Whole house ventilation exhaust shall be discharged outdoors.

2. Exhaust outlets shall comply with Section 501.2.

3. Exhaust ducts in systems which are designed to operate intermittently shall be equipped with back-draft dampers.

4. All exhaust ducts in unconditioned spaces shall be insulated to a minimum of R-4.5. Terminal outlet elements shall have at least the equivalent net free area of the ductwork.

5. Terminal outlet elements shall be screened or otherwise protected as required by Section 501.2.2.

6. One of the required local exhaust fans for the laundry room or bathroom may be designated as the whole house exhaust fan.

7. Exhaust fans in separate dwelling units or sleeping units shall not share common exhaust ducts unless the system is engineered for this operation.

8. Where permitted by Chapter 5 whole house exhaust ducts may be combined with other local exhaust ducts. If more than one of the exhaust fans in a dwelling unit or sleeping unit shares a common exhaust duct then each exhaust fan shall be equipped with a back-draft damper to prevent the recirculation of exhaust air from one room to another room via the exhaust ducting system.

**403.8.6.4 Whole house exhaust and transfer fans.** Exhaust fan construction and sizing shall meet the following criteria.

1. Exhaust and transfer fans shall be tested and rated in accordance with the airflow and sound rating procedures of the Home Ventilating Institute (HVI 915, HVI Loudness Testing and Rating Procedure, HVI 916, HVI Airflow Test Procedure, and HVI 920, HVI Product Performance Certification Procedure).

2. Installation of system or equipment shall be carried out in accordance with manufacturers' design requirements and installation instructions.

3. Fan airflow rating and duct system shall be designed and installed to deliver at least the outdoor airflow required by Table 403.3 or Table 403.8.1. The airflows required refer to the delivered airflow of the system as installed and tested using a flow hood, flow grid, or other airflow measurement device.

EXCEPTION: An airflow rating at a pressure of 0.25 in. w.g. may be used, provided the duct sizing meets the prescriptive requirements of Table 403.8.5.2.

**403.8.6.5 Fan noise.** Whole house exhaust and transfer fans located 4 feet or less from the interior grille shall have a sound rating of 1.0 or less measured at 0.10 inches water gauge. Manufacturer's noise ratings shall be determined as per HVI 915. Remotely mounted fans shall be acoustically isolated from the structural elements of the building and from attached ductwork using insulated flexible duct or other approved material.

**403.8.7 Whole house ventilation integrated with forced-air systems.** This section establishes minimum requirements for mechanical whole house ventilation systems using forced-air system fans.

**403.8.7.1 Outdoor air.** Forced-air system fan ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to the return side of the forced-air system fan; or

2. A central *outdoor air* delivery system that supplies multiple dwelling units or sleeping units shall supply *outdoor air* to the return side of the forced air system fan.

3. For interior adjoining spaces without outdoor air openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adja-

cent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

**403.8.7.2 Whole house forced-air system.** Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by a forced-air system, the *outdoor air* duct shall be connected to the return air stream at a point within 4 feet upstream of the forced-air unit. It shall not be connected directly to the forced-air unit cabinet in order to prevent thermal shock to the heat exchanger. At a minimum, filtration of the *outdoor air* shall be provided at the forced-air unit. The filter shall be accessible for regular maintenance and replacement. The filter shall have a Minimum Efficiency Rating Value (MERV) of at least 6.

Each habitable space in the dwelling or sleeping unit shall be served by a forced-air system with outdoor air connection.

**403.8.8 Whole house ventilation with supply fan systems.** This section establishes minimum requirements for mechanical whole house ventilation systems using supply fan systems.

**403.8.8.1 Outdoor air.** Supply fan ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to a supply fan; or

2. A central *outdoor air* supply fan system shall distribute unconditioned or conditioned air to multiple dwelling units or sleeping units.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

**403.8.8.2 Whole house supply system.** Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by supply fan systems the *outdoor air* shall be filtered.

The system filter may be located at the intake device or inline with the fan. The filter shall be accessible for regular maintenance and replacement. The filter shall have a Minimum Efficiency Rating Value (MERV) of at least 6.

**403.8.9 Whole house ventilation with heat recovery or energy recovery ventilation systems.** This section establishes minimum requirements for mechanical whole house ventilation systems using heat recovery or energy recovery ventilation systems.

**403.8.9.1 Outdoor air.** Heat recovery or energy recovery ventilation systems shall provide *outdoor air* through one of the following methods:

1. A dedicated *outdoor air* louver and *outdoor air* duct for each dwelling unit or sleeping unit shall supply *outdoor air* to the heat recovery or energy recovery ventilator; or

2. A central *outdoor air* heat recovery or energy recovery unit shall distribute conditioned air to multiple dwelling units or sleeping units.

3. For interior adjoining spaces without *outdoor air* openings, one of the following two options shall be used to ventilate the interior adjoining space:

3.1. Provide a whole house transfer fan at the interior adjoining space sized to provide a minimum of the ventilation rate required per Section 403.8.5.1. The transfer fan shall circulate air between the interior room or space and the adjacent habitable space. The transfer fan may operate continuously or intermittently using controls per Section 403.8.2.

3.2. Provide a permanent opening to the interior adjoining space. Opening shall be unobstructed and shall have an area of not less than 8 percent of the floor area of the interior adjoining space, but not less than 25 square feet.

**403.8.9.2 Whole house heat recovery ventilator system.**

Where *outdoor air* is provided to each habitable dwelling unit or sleeping unit by heat recovery or energy recovery ventilator the *outdoor air* shall be filtered. The filter shall be located on the upstream side of the heat exchanger in both the intake and exhaust airstreams with a Minimum Efficiency Rating Value (MERV) of at least 6. The system filter may be located at the intake device or inline with the fan. The filter shall be accessible for regular maintenance and replacement.

Each habitable space in the dwelling or sleeping unit shall be served by a heat recovery ventilator with outdoor air connection.

**403.8.10 Local exhaust ventilation and whole house ventilation alternate performance or design requirements.** In lieu of complying with Sections 403.8.4 or 403.8.5 compliance with the section shall be demonstrated through engineering calculations by an engineer licensed to practice in the state of Washington or by performance testing. Documentation of calculations or performance test results shall be submitted to and approved by the building official. Performance testing shall be conducted in accordance with approved test methods.

**403.8.11 Alternate systems.** When approved by the code official, systems designed in accordance with ASHRAE Standard 62.2 shall be permitted.

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

#### NEW SECTION

**WAC 51-52-0407 Section 407—Ambulatory care facilities and Group I-2 occupancies.**

**407.1 General.** Mechanical ventilation for health care facilities licensed by Washington state shall be designed and

installed in accordance with this code and the following provisions of the Washington Administrative Code (WAC):

1. Mechanical ventilation in ambulatory care facilities shall comply with chapter 246-330 WAC.
2. Mechanical ventilation for acute care hospitals shall comply with chapter 246-320 WAC.
3. Mechanical ventilation for nursing homes shall comply with chapter 388-97 WAC.

Mechanical ventilation for unlicensed ambulatory care facilities shall be designed and installed in accordance with this code and ASHRAE 170.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0504 Section 504—Clothes dryer exhaust.**

~~((504.6.4.1 Specified length. The maximum length of the exhaust duct shall be 35 feet (10668 mm) from the connection to the transition duct from the dryer to the outlet terminal. Where fittings are used, the maximum length of the exhaust duct shall be reduced in accordance with Table 504.6.4.1.~~

~~The maximum length of the duct may be increased in an engineered exhaust system when a listed and labeled exhaust booster fan is installed in accordance with the manufacturer's installation instructions.~~

~~**504.7.1 Protection required.** Protective shield plates shall be provided in accordance with Section 504.6.7.~~

~~**504.8) 504.4 Exhaust installation.** Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a backdraft damper located where the duct terminates. Dryer exhaust ducts may terminate at exterior wall louvers with openings spaced not less than 1/2-inch in any direction.~~

~~Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent or chimney. Clothes dryer exhaust ducts shall not extend into or through ducts or plenums.~~

~~Domestic dryer exhaust ducts may terminate at a common exhaust transition piece where each duct has an independent back-draft damper.~~

**504.10 Common exhaust systems for clothes dryers located in multistory structures.** Where a common multistory duct system is designed and installed to convey exhaust from multiple clothes dryers, the construction of the system shall be in accordance with all of the following:

1. The shaft in which the duct is installed shall be constructed and fire-resistance rated as required by the *International Building Code*.
2. Dampers shall be prohibited in the exhaust duct. Penetrations of the shaft and ductwork shall be protected in accordance with Section 607.5.5, Exception 2.
3. Rigid metal ductwork shall be installed within the shaft to convey the exhaust. The ductwork shall be constructed of sheet steel having a minimum thickness of 0.0187

inch (0.4712 mm) (No. 26 gage) and in accordance with SMACNA *Duct Construction Standards*.

4. The ductwork within the shaft shall be designed and installed without offsets.
5. The exhaust fan motor design shall be in accordance with Section 503.2.
6. The exhaust fan motor shall be located outside of the airstream.
7. The exhaust fan shall run continuously, and shall be connected to a standby power source.
8. Exhaust fan operation shall be monitored in an *approved* location and shall initiate an audible or visual signal when the fan is not in operation.
9. Makeup air shall be provided for the exhaust system to maintain the minimum flow for the exhaust fan when the dryers are not operating. Additionally, makeup air shall be provided when required by Section 504.5.
10. A cleanout opening shall be located at the base of the shaft to provide *access* to the duct to allow for cleaning and inspection. The finished opening shall be not less than 12 inches by 12 inches (305 mm by 305 mm).
11. Screens shall not be installed at the termination.
12. The common multistory duct system shall serve only clothes dryers and shall be independent of other exhaust systems.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0505 Section 505—Domestic kitchen exhaust equipment.**

**505.1 Domestic systems.** Where domestic range hoods and domestic appliances equipped with downdraft exhaust are ~~((located within dwelling units))~~ provided, such hoods and appliances shall discharge to the outdoors through sheet metal ducts constructed of galvanized steel, stainless steel, aluminum or copper. Such ducts shall have smooth inner walls, shall be air tight, shall be equipped with a backdraft damper and shall be independent of all other exhaust systems.

Domestic kitchen exhaust ducts may terminate with other domestic dryer exhaust and residential local exhaust ducts at a common exhaust transition piece where each duct has an independent back-draft damper.

Listed and labeled exhaust booster fans shall be permitted when installed in accordance with the manufacturer's installation instructions.

- EXCEPTIONS:
1. In other than Group I-1 and I-2, where installed in accordance with the manufacturer's installation instructions and where mechanical ventilation is otherwise provided in accordance with Chapter 4, listed and labeled ductless range hoods shall not be required to discharge to the outdoors.
  2. Ducts for domestic kitchen cooking appliances equipped with downdraft exhaust systems shall be permitted to be constructed of Schedule 40 PVC pipe and fittings provided that the installation complies with all of the following:
    - 2.1. The duct shall be installed under a concrete slab poured on grade.
    - 2.2. The underfloor trench in which the duct is installed shall be completely backfilled with sand or gravel.

- 2.3. The PVC duct shall extend not more than 1 inch (25 mm) above the indoor concrete floor surface.
- 2.4. The PVC duct shall extend not more than 1 inch (25 mm) above grade outside of the building.
- 2.5. The PVC ducts shall be solvent cemented.

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0506 Section 506—Commercial kitchen hood ventilation system ducts and exhaust equipment.**

**506.3.9 Grease duct cleanout location, spacing and installation.**

**506.3.9.1 Grease duct horizontal cleanout.** Cleanouts located on horizontal sections of ducts shall:

- 1. Be spaced not more than 20 feet (6096 mm) apart.
- 2. Be located not more than 10 feet (3048 mm) from changes in direction that are greater than 45 degrees (0.79 rad).
- 3. Be located on the bottom only where other locations are not available and shall be provided with internal damping of the opening such that grease will flow past the opening without pooling. Bottom cleanouts and openings shall be approved for the application and installed liquid-tight.
- 4. Not be closer than 1 inch (25.4 mm) from the edges of the duct.
- 5. Have dimensions of not less than 12 inches by 12 inches (305 mm by 305 mm). Where such dimensions preclude installation, the openings shall be not less than 12 inches (305 mm) on one side and shall be large enough to provide access for cleaning and maintenance.
- 6. Shall be located at grease reservoirs.

**506.3.9.2 Grease duct vertical cleanouts.** Where ducts pass vertically through floors, cleanouts shall be provided. A minimum of one cleanout shall be provided on each floor. Cleanout openings shall be not less than 1 1/2 inches (38 mm) from all outside edges of the duct or welded seams.

**506.3.11 Grease duct enclosures.** A commercial kitchen grease duct serving a Type I hood that penetrates a ceiling, wall, floor or any concealed spaces shall be enclosed from the point of penetration to the outlet terminal. In-line exhaust fans not located outdoors shall be enclosed as required for grease ducts. A duct shall penetrate exterior walls only at locations where unprotected openings are permitted by the

*International Building Code.* The duct enclosure shall serve a single grease duct and shall not contain other ducts, piping or wiring systems. Duct enclosures shall be ~~((either))~~ a shaft enclosure in accordance with Section 506.3.11.1, a field-applied enclosure assembly in accordance with Section 506.11.2 or a factory-built enclosure assembly in accordance with Section 506.3.11.3. Duct enclosures shall have a fire-resistance rating of not less than that of the assembly penetrated. The duct enclosure need not exceed 2 hours but shall not be less than 1 hour. ~~((Duct enclosures shall be as prescribed by Section 506.3.11.1, 506.3.11.2 or 506.3.11.3.))~~ Fire dampers and smoke dampers shall not be installed in grease ducts.

EXCEPTION: A duct enclosure shall not be required for a grease duct that penetrates only a nonfire-resistance-rated roof/ceiling assembly.

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0507 Section 507—Commercial kitchen hoods.**

~~((507.2.1 Type I hoods. Type I hoods shall be installed where cooking appliances produce grease or smoke. Type I hoods shall be installed over medium duty, heavy duty and extra heavy duty cooking appliances. Type I hoods shall be installed over light duty cooking appliances that produce grease or smoke.~~

- EXCEPTIONS:
- 1. A Type I hood shall not be required for an electric-cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg/m<sup>3</sup> or less of grease when tested at an exhaust flow rate of 500 cfm in accordance with Section 17 of UL 710B.
  - 2. A Type I hood shall not be required in an R-2 type occupancy with not more than 16 residents.

~~507.2.3))~~ **507.1.2 Domestic cooking appliances used for commercial purposes.** Domestic cooking appliances utilized for commercial purposes shall be provided with Type I, Type II or residential hoods as required for the type of appliances and processes in accordance with Table ~~((507.2.2))~~ 507.1.2 and Sections 507.2 ~~((, 507.2.1 and 507.2.2.))~~ and 507.3. Domestic cooking appliances utilized for domestic purposes shall comply with Section 505.

**TABLE ~~((507.2.2))~~ 507.1.2  
TYPE OF HOOD REQUIRED FOR DOMESTIC COOKING APPLIANCES  
IN THE FOLLOWING SPACES<sup>a, b</sup>**

Type of Space	Type of Cooking	Type of Hood
Church	1. Boiling, steaming and warming precooked food	Type II hood
	2. Roasting, pan frying and deep frying	Type I hood
Community or party room in apartment and condominium	1. Boiling, steaming and warming precooked food	Residential hood <sup>c</sup> or Type II hood <sup>d</sup>
	2. Roasting, pan frying and deep frying	Type I hood
Day care	1. Boiling, steaming and warming precooked food	Residential hood <sup>c</sup> or Type II hood <sup>d</sup>
	2. Roasting, pan frying and deep frying	Type I hood

Type of Space	Type of Cooking	Type of Hood
Dormitory, boarding home, nursing home	1. Boiling, steaming and warming precooked food 2. Roasting, pan frying and deep frying	Type II hood Type I hood
Office lunch room	1. Boiling, steaming and warming precooked food 2. Roasting, pan frying and deep frying	Residential hood <sup>c</sup> or Type II hood <sup>d</sup> Type I hood

<sup>a</sup> Commercial cooking appliances shall comply with Section 507.2.

<sup>b</sup> Requirements in this table apply to electric or gas fuel appliances only. Solid fuel appliances or charbroilers require Type I hoods.

<sup>c</sup> Residential hood shall ventilate to the outside.

<sup>d</sup> Type II hood required when more than one appliance is used.

**507.2 Type I hoods.** Type I hoods shall be installed where cooking appliances produce grease or smoke as a result of the cooking process. Type I hoods shall be installed over medium-duty, heavy-duty and extra-heavy-duty cooking appliances.

- EXCEPTIONS:**
1. A Type I hood shall not be required for an electric cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg/m<sup>3</sup> or less of grease when tested at an exhaust flow rate of 500 cfm in accordance with Section 17 of UL 710B.
  2. A Type I hood shall not be required in an R-2 type occupancy with not more than 16 residents.

**NEW SECTION**

**WAC 51-52-0515 Section 515—Waste or linen chute venting.**

**515.1 General.** Waste or linen chutes shall be gravity vented per NFPA 82.

**EXCEPTION:** Waste or linen chutes may be mechanically ventilated by an exhaust fan. The exhaust fan shall be located outside the building at the top of the chute.

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0601 Section 601—General.**

**601.2 Air movement in egress elements.** Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

- EXCEPTIONS:**
1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
  2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
  3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.
  4. Incidental air movement from pressurized rooms within health care facilities, provided that the corridor is not the primary source of supply or return to the room.
  5. Where such air is part of an engineered smoke control system.

6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units and sleeping units subject to the following:

- 6.1 The air supplied to the corridor is one hundred percent outside air; and
- 6.2 The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and
- 6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or
- 6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

**NEW SECTION**

**WAC 51-52-0602 Section 602—Duct construction and installation.**

**602.1 General.** Supply, return, exhaust, relief and ventilation air plenums shall be limited to uninhabited crawl spaces, areas above a ceiling or below the floor, attic spaces and mechanical equipment rooms. Plenums shall be limited to one fire area. Air systems that serve multiple fire areas shall be ducted from the boundary of the fire area served directly to the air-handling equipment. Fuel-fired appliances shall not be installed within a plenum.

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0605 Section 605—Air filters.**

**605.1 General.** Heating and air-conditioning systems shall be provided with approved air filters. Filters shall be installed such that all return air, outdoor air and makeup air is filtered upstream from any heat exchanger or coil. Filters shall be installed in an approved convenient location. Liquid adhesive coatings used on filters shall have a flash point not lower than 325°F (163°C).

**EXCEPTION:** Chilled beams that are designed to operate above the space dew point temperature do not require filtration at the terminal device.

**605.4 Particulate matter removal.** Particulate matter filters or air cleaners having a minimum efficiency reporting value (MERV) of not less than 6 for ducted air handlers and not less than 4 for (~~unducted air handlers~~) ductless mini-split sys-

tems shall be provided upstream of all cooling coils or other devices with wetted surfaces through which air is supplied to an occupiable space.

AMENDATORY SECTION (Amending WSR 10-03-099, filed 1/20/10, effective 7/1/10)

**WAC 51-52-0606 Section 606—Smoke detection systems control.**

**606.2.1 Return air systems.** Smoke detectors shall be installed in return air systems with a design capacity greater than 2,000 cfm (0.9 m<sup>3</sup>/s), in the return air duct or plenum upstream of any filters, exhaust air connections, outdoor air connections, or decontamination equipment and appliances.

EXCEPTIONS:

1. Smoke detectors are not required in the return air system where all portions of the building served by the air distribution system are protected by area smoke detectors connected to a fire alarm system in accordance with the International Fire Code. The area smoke detection system shall comply with Section 606.4.
2. Smoke detectors are not required in the return air system where all of the return air is exhausted and not recirculated back to any portion of the building. Additionally, smoke detectors are not required in the supply system that provides the make-up air for the exhaust system.

**606.2.2 Common supply and return air systems.** Where multiple air-handling systems share common supply or return air ducts or plenums with a combined design capacity greater than 2,000 cfm (0.9 m<sup>3</sup>/s), the return air system shall be provided with smoke detectors in accordance with Section 606.2.1.

EXCEPTION: Individual smoke detectors shall not be required for each fan-powered terminal unit, provided that such units do not have an individual design capacity greater than 2,000 cfm (0.9 m<sup>3</sup>/s) and will be shut down by activation of one of the following:

1. Smoke detectors required by Sections 606.2.1 and 606.2.3.
2. An approved area smoke detector system located in the return air plenum serving such units.
3. An area smoke detector system as prescribed in the exception to Section 606.2.1.

In all cases, the smoke detectors shall comply with Sections 606.4 and 606.4.1.

The shut down of fan-powered terminal units may be performed by a building automation system upon activation of smoke detection as described in Section 606.2.2, Exception Items 1, 2, or 3. The building automation system is not required to be listed as a smoke control system and is not required to comply with UL Standard 864: Standard for Control Units and Accessories for Fire Alarm Systems.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-0928 Section 928—Evaporative cooling equipment.**

~~(928.1 General. Evaporative cooling equipment shall-~~

~~1. Be installed in accordance with the manufacturer's instructions.~~

~~2. Be installed on level platforms in accordance with Section 304.10.~~

~~3. Have openings in exterior walls or roofs flashed in accordance with the *International Building Code*.~~

~~4. Be provided with potable water backflow protection in accordance with backflow requirements in the plumbing code.~~

~~5. Have air intake opening locations in accordance with Section 401.4.)~~

NEW SECTION

**WAC 51-52-1107 Section 1107—Refrigerant piping.**

**1107.2 Piping location.** Refrigerant piping that crosses an open space that affords passageway in any building shall be not less than 7 feet 3 inches (2210 mm) above the floor unless the piping is located against the ceiling of such space. Refrigerant piping shall not be placed in the following locations:

1. A fire-resistance-rated exit access corridor.
2. An interior exit stairway or ramp.
3. An exit passageway.
4. Any elevator, dumbwaiter, or other shaft containing a moving object.
5. A shaft that has openings to a dwelling unit or sleeping unit.
6. A shaft that has openings to a fire-resistance-rated exit access corridor, interior exit stairway or ramp, or exit passageway.

NEW SECTION

**WAC 51-52-1200 Chapter 12—Hydronic piping.**

**1209.5.1 Slab-on-grade installation.** Radiant piping utilized in slab-on-grade applications shall be provided with insulating materials installed beneath the piping as required by the Washington State Energy Code.

**1210.7.6 Expansion tanks.** Shutoff valves shall be installed at connections to expansion tanks. A method of draining the expansion tank downstream of the shutoff valve shall be provided.

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-1500 Chapter 15—Referenced standards.** The following referenced standards are added to Chapter 15.

ASHRAE  
~~((62.2-2010))~~ 62.2-2013 Ventilation and Acceptable Indoor Air Quality in Low-Rise Residential Buildings

AMENDATORY SECTION (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-21101 Section 101—General.**

**101.2 Scope.** This code shall apply to the installation of fuel gas piping systems, fuel gas utilization equipment, gaseous



hydrogen systems and regulated accessories in accordance with Section 101.2.1 through 101.2.5.

EXCEPTIONS: 1. Detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories high with separate means of egress and their accessory structures shall comply with the *International Residential Code*.

2. The standards for liquefied petroleum gas installations shall be the ((2011)) 2014 Edition of NFPA 58 (Liquefied Petroleum Gas Code) and the ((2012)) 2015 Edition of ANSI Z223.1/NFPA 54 (National Fuel Gas Code).

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-21401 Chapter 4—Gas piping installations.**

~~((401.9 Identification. Each length of pipe and tubing and each pipe fitting utilized in a mechanical system shall bear the identification of the manufacturer.~~

EXCEPTION: ~~The manufacturer identification for fittings and pipe nipples shall be on each piece or shall be printed on the fitting or nipple packaging or provided documentation.)~~

**AMENDATORY SECTION** (Amending WSR 13-04-053, filed 2/1/13, effective 7/1/13)

**WAC 51-52-21601 Chapter 6—Specific appliances.**

~~((614.7.1 Protection required. Protective shield plates shall be provided in accordance with Section 614.6.3.))~~

**WSR 15-16-099**

**PROPOSED RULES**

**BUILDING CODE COUNCIL**

[Filed August 4, 2015, 8:39 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 15-10-078.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 Uniform Plumbing Code (UPC), chapter 51-56 WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail sbcc@ga.wa.gov, fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the most recently published edition of the UPC and make changes to the state amendments to this code.

1. The referenced edition of the model code, the UPC, was changed to the 2015 edition. The 2015 UPC was reorganized to move the referenced standards chapter to the end of the document, from Chapter 14 to Chapter 17. This change also renumbered Chapters 15 (Firestop Protection), 16 (Alternate Water Sources) and 17 (Nonpotable Rainwater Catchment) to Chapters 14, 15 and 16, respectively.

2. The language in WAC 51-56-008 was modified to be consistent with the same section in other state building code adoption documents (i.e., building code, residential code, etc.).

3. Chapter 1 was reorganized and the state amendments were renumbered as a result.

4. The state amendment for the definition of plumbing system was modified to reflect changes in the model code terminology. A new section, 301.3.2, was added to make it more explicit that local jurisdictions may adopt amendments for alternate means and methods, as allowed by chapter 19.27 RCW.

5. Section 301.3 was modified to use the same language as that found in other portions of the state code (i.e., building code, residential code, etc.).

6. Section 310.4 was modified to include reference to the new section on circuit venting.

7. Section 312.6 was modified to be consistent with the insulation requirements in the Washington State Energy Code (WSEC).

8. Chapter 4 was another chapter that was significantly reorganized. The 2015 edition of the UPC no longer has a dedicated water conservation section. The majority of the changes in this chapter are the result of moving the state amendment language into the appropriate model code section. The only technical changes to the state amendments within this chapter are in Sections 402.5 and 415.2. Section 402.5 was previously modified for consistency with the International Residential Code. That modification created an inconsistency with the International Building Code. The language now has separate fixture placement spacing for residential and nonresidential occupancies. In Section 415.2, new language on the use of alternates to drinking fountains was not adopted because the building code requirements take precedence over the plumbing code.

9. Section 501.0 was modified at the national level to provide clarity and better direction of the installation of water heaters.

10. Section 507.2 was amended to provide clarity and make it explicit that water heaters must be anchored. Previously, this section had cited seismic zones where strapping was required. All of Washington state fell within the cited zones. The amendment just removed the zone citation.

11. Section 601.1 was modified to include references to backflow devices and assemblies, which are also regulated by this chapter.

12. Section 603.5.13 was renumbered to become Section 603.4.9. The language was updated to reflect that in the 2015 UPC ("... with atmospheric vents or ports" added).

13. The state amendment to Section 604.11 was deleted, since this language was adopted into the 2015 edition of the UPC.

14. A title was added to Section 604.14 to match the formatting of the model code.

15. Section 606.5 was amended to change the requirement from having shutoff valves for parallel water systems being "readily accessible" to just "accessible." This item was identified as having a potential for increasing cost with little gain. There would be no hindrance in having the shutoff being behind a panel door or similar circumstance.

16. Section 608.3 was modified to specify that expansion tanks were only necessary on instantaneous/on demand hot water systems when required by the manufacturer, such as when used on a hydronic heating system. The model code language was split into two separate sections as part of the modification.

17. Item 4 of Section 609.9 was modified to correlate with department of health (DOH) rules, specifying that testing of a potable water system must be done by an approved lab.

18. Section 613.0 was renumbered as 609.11 to coordinate with a new section added to the model code. This new section was not adopted; instead, the existing language, which coordinates with WSEC, is retained and moved to the new location.

19. A title was added to Section 610.4 to match the formatting of the model code.

20. Section 611.1 was modified to include an indication that some drinking water treatment systems could be regulated by DOH as a public water system.

21. The 2015 UPC contains new specifications for the design of residential fire sprinklers. This new section is not adopted. Instead, the existing state amendment is retained, pointing users to the International Residential Code for those specifications.

22. State amendments to Sections 705.4.2 and 710.3 were deleted. It was determined that changes made to the 2015 model code adequately covered the concerns represented in the amendments.

23. The amendment to Section 707.4 deletes a new requirement in the 2015 UPC to require cleanouts on all urinals, regardless of location. It was felt this requirement was costly and unnecessary.

24. The amendment to Section 707.9 reinstates requirements from the 2012 edition of the UPC regarding distance of the cleanouts to the access point for those cleanouts. It was felt that the change in distance, from twenty feet down to five feet, could pose a serious hardship and cost, especially for residential applications.

25. The state amendment to Section 908.2 was deleted. The state amendment had added bidets to the list of fixtures allowed to be connected to a horizontal wet vent. The 2015 language went from listing the fixtures to using the defined term "bathroom group," which includes bidets.

26. The new Section 908.2.4 in the 2015 UPC is not adopted. This section would require that the water closet connection be downstream of other connections. The new Section 911 on circuit venting would allow the water closet to be upstream and be compliant, so this section adds an element of confusion that is not necessary.

27. The state amendment to Section 1014.1.3 was deleted. The concerns raised were adequately addressed by changes to this section by the model code.

28. Chapter 11 was reorganized slightly and the numbering was changed to match the model code. Section 1101.4 was modified to coordinate with changes to the model code that replaced "brass" with "copper alloy" and also added stainless steel.

29. Chapter 13 was significantly reorganized to correlate better with NFPA 99. The majority of the state amendments were deleted, as they were no longer necessary. The state amendment to Section 1321.3 (which really should have been 1312.3) was relocated to 1305.3 and updated with the appropriate DOH WAC references.

30. A new state amendment was added to Section 1303.8, to clarify that the intent of the requirement was for two approved mains into a hospital, not necessarily coming from two different sources or purveyors, to ensure water supply when maintenance was necessary on the line.

31. The referenced standards were relocated to Chapter 17 and remain unchanged.

32. Chapter 15, in addition to be [being] relocated, was also reorganized into a more coherent chapter. Redundancies were mostly eliminated with the creation of an initial general requirements section. The majority of the existing state amendments were deleted, with the exception of Section 1603.11.2.3/1603.12.2.3 which became 1501.11.2.3, Section 1502.0 which became Section 1602.0, 1603.4 which became 1503.4, and 1604.1 which became 1504.1. In addition, the following new amendments were added for consistency with other state regulations:

(1) Section 1501.1.1 was modified for consistency with DOH rules for use of reclaimed water. This amendment prohibits the use of reclaimed water to flush toilets in residential applications where the residents have the ability to modify or repair the system.

(2) Section 1501.2 was also amended to harmonize with DOH standards for gray water. This amendment deletes exceptions allowing designs for small systems to be performed by someone other than a registered design professional.

(3) Section 1501.7 was amended to reference DOH requirements for treatment of gray water.

(4) Section 1501.13.1 incorporates the previous state amendment to 1601.10 on system abandonment with new model code language.

(5) Section 1504.10.2 was amended, again to harmonize with DOH requirements, to reference specific treatment criteria for nonpotable water.

(6) Finally, Section 1504.10.2 was deleted. This is a redundant water quality section and is adequately covered by Section 1501.7 in the general section.

33. Chapter 16 was modified by the model code in a manner similar to Chapter 15. Two existing state amendments were deleted entirely - 1702.2, Permits, and 1702.2.3 Plan Submission. The remaining existing amendments were renumbered and retained. The amendment to former Section 1702.12, on abandonment, was renumbered as Section 1601.11.1 and modified with new model code language.

34. Chapter 17 - See item 1.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, 1500 Jefferson S.E., P.O. Box 41449, Olympia, WA, (360) 407-9278; and Enforcement: Local jurisdictions.

No small business economic impact statement has been prepared under chapter 19.85 RCW. As part of the review process, the technical advisory group examined all changes to the plumbing code and found no items with a disproportional impact on small businesses. Five items with possible cost impact were both amended to remove any impact.

Section 418.3 does not require a floor drain for all boiler rooms.

Section 606.5 was amended to require the valves be "accessible" but not "readily accessible."

Section 608.3 provides exemptions from the requirement for thermal expansion tanks.

Section 707.4 does not require cleanouts on all urinals.

Section 707.9 does not adopt the decreased distance for access to cleanouts.

SBCC is not one of the agencies identified as required to prepare a school district impact statement.

A cost-benefit analysis is not required under RCW 34.05.328. SBCC is not one of the agencies identified as required to prepare an analysis.

August 4, 2015  
David F. Kokot  
Council Chair

### Chapter 51-56 WAC

#### STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE ~~((2012))~~ 2015 EDITION OF THE UNIFORM PLUMBING CODE

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-003 Uniform Plumbing Code.** The ~~((2012))~~ 2015 edition of the Uniform Plumbing Code, including Appendices A, B, and I, published by the International Association of Plumbing and Mechanical Officials, is hereby adopted by reference with the following additions, deletions and exceptions: Provided that chapters 12 and ~~((45))~~ 14 of this code are not adopted. Provided further, that those requirements of the Uniform Plumbing Code relating to venting and combustion air of fuel fired appliances as found in

chapter 5 and those portions of the code addressing building sewers are not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-008 Implementation.** The Uniform Plumbing Code adopted by chapter 51-56 WAC shall become effective in all counties and cities of this state on July 1, ~~((2013, unless local government residential amendments have been approved by the state building code council))~~ 2016.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

#### WAC 51-56-0100 Chapter 1—Administration.

~~((401.4.1.4))~~ **102.1 Conflict Between Codes.** Delete paragraph.

~~((403.1.3))~~ **103.3.1 Certification.** State rules and regulations concerning certification shall apply.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

#### WAC 51-56-0200 Chapter 2—Definitions.

**205.0 Certified Backflow Assembly Tester** - A person certified by the Washington state department of health under chapter 246-292 WAC to inspect (for correct installation and approval status) and test (for proper operation), maintain and repair (in compliance with chapter 18.106 RCW) backflow prevention assemblies, devices and air gaps.

**210.0 Hot Water** - Water at a temperature exceeding or equal to 100°F.

**211.0 Insanitary** - A condition that is contrary to sanitary principles or is injurious to health.

Conditions to which "insanitary" shall apply include the following:

- (1) A trap that does not maintain a proper trap seal.
- (2) An opening in a drainage system, except where lawful, that is not provided with an approved liquid-sealed trap.
- (3) A plumbing fixture or other waste discharging receptor or device that is not supplied with water sufficient to flush and maintain the fixture or receptor in a clean condition, except as otherwise provided in this code.
- (4) A defective fixture, trap, pipe, or fitting.
- (5) A trap, except where in this code exempted, directly connected to a drainage system, the seal of which is not protected against siphonage and backpressure by a vent pipe.
- (6) A connection, cross-connection, construction, or condition, temporary or permanent, that would permit or make possible by any means whatsoever for an unapproved foreign matter to enter a water distribution system used for domestic purposes.
- (7) The foregoing enumeration of conditions to which the term "insanitary" shall apply, shall not preclude the application of that term to conditions that are, in fact, insanitary.

**218.0 Plumbing System** - Includes all potable water, building supply and distribution pipes, all reclaimed or other alternate source water systems, all rainwater systems, all plumbing fixtures and traps, all drainage and vent pipe(s), and all building drains including their respective joints and connection, devices, receptors, and appurtenances within the property lines of the premises and shall include potable water piping, potable water treating or using equipment, medical gas and medical vacuum systems, and water heaters: Provided, That no certification shall be required for the installation of a plumbing system within the property lines and outside a building.

**225.0 Water/Wastewater Utility** - A public or private entity, including a water purveyor as defined in chapter 246-290 WAC, which may treat, deliver, or do both functions to reclaimed (recycled) water, potable water, or both to wholesale or retail customers.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-0300 Chapter 3—General regulations.**

**301.1.2 Standards.** Standards listed or referred to in this chapter or other chapters cover materials which will conform to the requirements of this code, when used in accordance with the limitations imposed in this or other chapters thereof and their listing. Where a standard covers materials of various grades, weights, quality, or configurations, the portion of the listed standard that is applicable shall be used. Design and materials for special conditions or materials not provided for herein ~~((are allowed))~~ shall be permitted to be used by special permission of the authority having jurisdiction after the authority having jurisdiction has been satisfied as to their adequacy in accordance with Section 301.2.

**301.3 Alternative Materials, Design and Methods of Construction and Equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternate material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons why the alternative was not approved.

**301.3.1 Research Reports.** Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

**301.3.2 Tests.** Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative

materials or methods, the code official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the code official for the period required for retention of public records.

**301.3.3 Material Use and Energy Efficiency.** Jurisdictions are permitted to adopt or approve the use of material efficient and energy efficient methods of plumbing installation as recognized or prescribed by national codes and standards.

**310.4 Use of Vent and Waste Pipes.** Except as hereinafter provided in Sections 908.0~~((, 909.0, 910.0,))~~ through 911.0 and Appendix C, no vent pipe shall be used as a soil or waste pipe, nor shall any soil or waste pipe be used as a vent.

**312.6 Freezing Protection.** No water, soil, or waste pipe shall be installed or permitted outside of a building, in attics or crawl spaces, or in an exterior wall unless, where necessary, adequate provision is made to protect such pipe from freezing. All hot and cold water pipes installed outside the conditioned space shall be insulated to a minimum ~~((R-4))~~ R-3.

**312.7 Fire-Resistant Construction.** All pipe penetrating floor/ceiling assemblies and fire-resistance rated walls or partitions shall be protected in accordance with the requirements of the building code.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-0400 Chapter 4—Plumbing fixtures and fixture fittings.**

**402.5 Setting.** Fixtures shall be set level and in proper alignment with reference to adjacent walls. No water closet or bidet shall be set closer than fifteen (15) inches (381 mm) from its center to any side wall or obstruction nor closer than thirty (30) inches (762 mm) center to center to any similar fixture. The clear space in front of any water closet or bidet shall be not less than ~~((twenty one (21) inches (533 mm)))~~ twenty-four (24) inches (610 mm). No urinal shall be set closer than twelve (12) inches (305 mm) from its center to any side wall or partition nor closer than twenty-four (24) inches (610 mm) center to center.

EXCEPTIONS: ((The installation of paper dispensers or accessibility grab bars shall not be considered obstructions.)) 1. The clear space in front of a water closet, lavatory or bidet in dwelling units and sleeping units shall be not less than 21 inches (533 mm).  
2. The installation of paper dispensers or accessibility grab bars shall not be considered obstructions.

~~((403.0 Water Conserving Fixtures and Fittings.~~

~~403.1 The purpose of this section shall be to implement water conservation performance standards in accordance with RCW 19.27.170.~~

**403.2 Application.** This section shall apply to all new construction and all remodeling involving replacement of plumbing fixtures and fittings in all residential, hotel, motel, school, industrial, commercial use, or other occupancies determined by the council to use significant quantities of water. Plumbing fixtures, fittings and appurtenances shall conform to the standards specified in this section and shall be provided with an adequate supply of potable water to flush and keep the fixtures in a clean and sanitary condition without danger of backflow or cross-connection.

**403.3 Water Efficiency Standards.**

**403.3.1 Standards for Vitreous China Plumbing Fixtures.**

**403.3.1.1** The following standards shall be adopted as plumbing materials, performance standards, and labeling standards for water closets and urinals. Water closets and urinals shall meet either the ANSI/ASME standards or the CSA standard.

ANSI/ASME A112.19.2-2008/CSA B45.1-2008	Vitreous China Plumbing Fixtures
ANSI/ASME A112.19.6-1995	Hydraulic Requirements for Water Closets and Urinals

**403.3.1.2** The maximum water use allowed in gallons per flush (gpf) or liters per flush (lpf) for any of the following water closets shall be the following:

Tank-type toilets	1.6 gpf/6.0 lpf
Flushometer valve toilets	1.6 gpf/6.0 lpf
Flushometer-tank toilets	1.6 gpf/6.0 lpf
Electromechanical hydraulic toilets	1.6 gpf/6.0 lpf

EXCEPTIONS: 1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush. 2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush. 3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

**403.3.1.3** The maximum water use allowed for any urinal shall be 1.0 gallons per flush or 3.78 liters per flush.

**403.3.1.3.1 Nonwater Urinals.** Nonwater urinals shall be listed and comply with the applicable standards referenced in Table 1401.1. Nonwater urinals shall have a barrier liquid sealant to maintain a trap seal. Nonwater urinals shall permit the uninhibited flow of waste through the urinal to the sanitary drainage system. Nonwater urinals shall be cleaned and maintained in accordance with the manufacturer's instructions after installation. Where nonwater urinals are installed, they shall have a water distribution line rough-in to the urinal location to allow for the installation of an approved backflow prevention device in the event of a retrofit.

**403.3.1.4** No urinal or water closet that operates on a continuous flow or continuous flush basis shall be permitted.

**403.3.1.5** This section does not apply to fixtures installed before the effective date of this section, that are removed and relocated to another room or area of the same building after the effective date of this section.

**403.3.2 Standards for Plumbing Fixture Fittings.**

**403.3.2.1** The following standards are adopted as plumbing material, performance requirements, and labeling standards for plumbing fixture fittings. Faucets, aerators, and shower heads shall meet either the ANSI/ASME standard or the CSA standard.

ANSI/ASME A112.18.1-2005/CSA B125.1-2005	Plumbing Fixture Fittings
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**403.3.2.2** The maximum water use allowed for any shower head is 2.5 gallons per minute or 9.5 liters per minute.

EXCEPTION: Emergency use showers shall be exempt from the maximum water usage rates.

**403.3.2.3** The maximum water use allowed in gallons per minute (gpm) or liters per minute (lpm) for any of the following faucets and replacement aerators is the following:

Lavatory faucets	2.5 gpm/9.5 lpm
Kitchen faucets	2.5 gpm/9.5 lpm
Replacement aerators	2.5 gpm/9.5 lpm
Public lavatory faucets other than metering	0.5 gpm/1.9 lpm

**403.4 Metering Valves.** Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

EXCEPTIONS: 1. Where designed and installed for use by persons with a disability. 2. Where installed in day care centers, for use primarily by children under 6 years of age.

**403.5 Pre-rinse Spray Valve.** Commercial food service pre-rinse spray valves shall have a maximum flow rate of 1.6 gallons per minute (gpm) at 60 pounds force per square inch (psi) (0.10 L/s at 414 kPa) in accordance with ASME A112.18.1/CSA B125.1 and shall be equipped with an integral automatic shutoff.

**403.6 Implementation.**

**403.6.1** The standards for water efficiency and labeling contained within Section 402.3 shall be in effect as of July 1, 1993, as provided in RCW 19.27.170 and amended July 1, 1998.

**403.6.2)) 405.4 Application.** No individual, public or private corporation, firm, political subdivision, government agency, or other legal entity, may, for purposes of use in the state of Washington, distribute, sell, offer for sale, import, install, or approve for installation any plumbing fixtures or fittings unless the fixtures or fittings meet the standards as provided for in this ((section)) chapter.

**407.2 Water Consumption.** The maximum water use allowed in gallons per minute (gpm) or liters per minute

(lpm) for any of the following faucets and replacement aerators is the following:

<u>Lavatory faucets</u>	<u>2.5 gpm/9.5 lpm</u>
<u>Kitchen faucets</u>	<u>2.5 gpm/9.5 lpm</u>
<u>Replacement aerators</u>	<u>2.5 gpm/9.5 lpm</u>
<u>Public lavatory faucets other than metering</u>	<u>0.5 gpm/1.9 lpm</u>

**407.4 Metering Valves.** Lavatory faucets located in restrooms intended for use by the general public shall be equipped with a metering valve designed to close by spring or water pressure when left unattended (self-closing).

**EXCEPTIONS:**

1. Where designed and installed for use by persons with a disability.
2. Where installed in day care centers, for use primarily by children under 6 years of age.

**408.2 Water Consumption.** Showerheads shall have a maximum flow rate of not more than 2.5 gpm at 80 psi (9.5 L/m at 552 kPa), in accordance with ASME A112.18.1/CSA B125.1.

**EXCEPTION:** Emergency use showers shall be exempt from the maximum water usage rates.

**408.4 Waste Outlet.** Showers shall have a waste outlet and fixture tailpiece not less than two (2) inches (50 mm) in diameter. Fixture tailpieces shall be constructed from the materials specified in Section 701.1 for drainage piping. Strainers serving shower drains shall have a waterway at least equivalent to the area of the tailpiece.

**EXCEPTION:** In a residential dwelling unit where a 2 inch waste is not readily available and approval of the AHJ has been granted, the waste outlet, fixture tailpiece, trap and trap arm may be 1-1/2 inch when an existing tub is being replaced by a shower sized per Section 408.6(2). This exception only applies where one shower head rated at 2.5 gpm is installed.

**408.6 Shower Compartments.** Shower compartments, regardless of shape, shall have a minimum finished interior of nine hundred (900) square inches (0.58 m<sup>2</sup>) and shall also be capable of encompassing a thirty (30) inch (762 mm) circle. The minimum required area and dimensions shall be measured at a height equal to the top of the threshold and at a point tangent to its centerline. The area and dimensions shall be maintained to a point of not less than seventy (70) inches (1,778 mm) above the shower drain outlet with no protrusions other than the fixture valve or valves, shower head, soap dishes, shelves, and safety grab bars or rails. Fold-down seats in accessible shower stalls shall be permitted to protrude into the thirty (30) inch (762 mm) circle.

**EXCEPTIONS:**

1. Showers that are designed to comply with ICC/ANSI A117.1.
2. The minimum required area and dimension shall not apply for a shower receptor having overall dimensions of not less than thirty (30) inches (762 mm) in width and sixty (60) inches (1,524 mm) in length.

**411.2 Water Consumption.** Water closets shall have a maximum consumption not to exceed 1.6 gallons (6.0 L) of water per flush in accordance with ASME A112.19.2/CSA B45.1.

No water closet that operates on a continuous flow or continuous flush basis shall be permitted.

**EXCEPTIONS:**

1. Water closets located in day care centers, intended for use by young children may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
2. Water closets with bed pan washers may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.
3. Blow out bowls, as defined in ANSI/ASME A112.19.2M, Section 5.1.2.3 may have a maximum water use of 3.5 gallons per flush or 13.25 liters per flush.

**412.1 Application.** Urinals shall comply with ASME A112.19.2/CSA B45.1, ASME A112.19.19, or CSA B45.5/IAPMO Z124. Urinals shall have an average water consumption not to exceed 1 gallon (3.8 L) of water per flush. No urinal that operates on a continuous flow or continuous flush basis shall be permitted.

**414.3 Drainage Connection.** Domestic dishwashing machines shall discharge indirectly through an air gap fitting in accordance with Section 807.4 into a waste receptor, a wye branch fitting on the tailpiece of a kitchen sink, or dishwasher connection of a food waste ((grinder)) disposer. Commercial dishwashing machines shall discharge indirectly through an air gap.

**415.2 Drinking Fountain Alternatives.** This section is not adopted. See Building Code chapter 29.

**418.3 Location of Floor Drains.** Floor drains shall be installed in the following areas:

1. Toilet rooms containing two (2) or more water closets or a combination of one (1) water closet and one (1) urinal, except in a dwelling unit. The floor shall slope toward the floor drains.
2. Laundry rooms in commercial buildings and common laundry facilities in multifamily dwelling buildings.

**422.0 Minimum Number of Required Fixtures.** For minimum number of plumbing fixtures required, see Building Code chapter 29 and Table 2902.1.

Sections 422.1 through 422.5 and Table 422.1 are not adopted.

**AMENDATORY SECTION** (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

#### **WAC 51-56-0500 Chapter 5—Water heaters.**

**501.0 General.** The regulations of this chapter shall govern the construction, location, and installation of fuel burning and other types of water heaters heating potable water. The minimum capacity for water heaters shall be in accordance with the first hour rating listed in Table 501.1. See the Mechanical Code for combustion air and installation of all vents and their connectors. ~~((All design, construction, and workmanship shall be in conformity with accepted engineering practices, manufacturer's installation instructions, and applicable standards and shall be of such character as to secure the results sought to be obtained by this Code. No water heater shall be hereinafter installed which does not comply in all respects~~

with the type and model of each size thereof approved by the authority having jurisdiction. A list of accepted gas appliance standards is included in Table 1401.1.) No water heater shall be hereinafter installed that does not comply with the manufacturer's installation instructions and the type and model of each size thereof approved by the authority having jurisdic-

tion. A list of accepted water heater appliance standards is referenced in Table 501(2). Listed appliances shall be installed in accordance with the manufacturer's installation instructions. Unlisted water heaters shall be permitted in accordance with Section 504.3.2.

TABLE 501.1<sup>1,3</sup>

Number of Bathrooms	1 to 1.5			2 to 2.5				3 to 3.5			
Number of Bedrooms	1	2	3	2	3	4	5	3	4	5	6
First Hour Rating <sup>2</sup> , Gallons	42	54	54	54	67	67	80	67	80	80	80

- Notes:
- <sup>1</sup>The first hour rating is found on the "Energy Guide" label.
  - <sup>2</sup>Nonstorage and solar water heaters shall be sized to meet the appropriate first hour rating as shown in the table.
  - <sup>3</sup>For replacement water heaters, see Section ((+01.6)) 102.4.

**504.1 Location.** Water heater installation in bedrooms and bathrooms shall comply with one of the following:

(1) Fuel-burning water heaters may be installed in a closet located in the bedroom or bathroom provided the closet is equipped with a listed, gasketed door assembly and a listed self-closing device. The self-closing door assembly shall meet the requirements of Section 505.1.1. The door assembly shall be installed with a threshold and bottom door seal and shall meet the requirements of Section 505.1.2. All combustion air for such installations shall be obtained from the outdoors in accordance with the International Mechanical Code. The closet shall be for the exclusive use of the water heater.

(2) Water heater shall be of the direct vent type.

**505.2 Safety Devices.** All storage-type water heaters deriving heat from fuels or types of energy other than gas, shall be provided with, in addition to the primary temperature controls, an over-temperature safety protection device constructed, listed, and installed in accordance with nationally recognized applicable standards for such devices and a combination temperature and pressure relief valve.

**506.0 Combustion Air.** For issues relating to combustion air, see the Mechanical Code.

Sections 506.1 through 506.9 are not adopted.

Sections 507.6 through 507.9 are not adopted.

**507.2 Seismic Provisions.** Water heaters shall be anchored or strapped to resist horizontal displacement due to earthquake motion. Strappings shall be at points within the upper one-third and lower one-third of its vertical dimensions. At the lower point, a distance of not less than four (4) inches (9,102 mm) shall be maintained from the controls to the strapping.

**507.13 Installation in Garages.** Appliances in garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit shall be installed so that burners, burner-ignition devices and ignition sources are located not less than eighteen (18) inches above the floor unless listed as flammable vapor ignition resistant.

**507.16 Venting of Flue Gases - Delete entire section.**

Sections 507.18 through 507.22 are not adopted.

**509.0 Venting of Equipment.** Delete entire section.

**510.0 Sizing of Category I Venting Systems.** Delete entire section.

**511.0 Direct Vent Equipment.** Delete entire section.

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

**WAC 51-56-0600 Chapter 6—Water supply and distribution.**

**601.1 Applicability.** This chapter shall govern the materials, design and installation of water supply systems, including backflow prevention devices, assemblies and methods used for backflow prevention.

**603.1 General.** Cross-connection control shall be provided in accordance with the provisions of this chapter. Devices or assemblies for protection of the public water system must be models approved by the department of health under WAC 246-290-490. The authority having jurisdiction shall coordinate with the local water purveyor where applicable in all matters concerning cross-connection control within the property lines of the premises.

No person shall install any water operated equipment or mechanism, or use any water treating chemical or substance, if it is found that such equipment, mechanism, chemical or substance may cause pollution or contamination of the domestic water supply. Such equipment or mechanism may be permitted only when equipped with an approved backflow prevention device or assembly.

**603.2 Approval of Devices or Assemblies.** Before any device or assembly is installed for the prevention of backflow, it shall have first been approved by the authority having jurisdiction. Devices or assemblies shall be tested for conformity with recognized standards or other standards acceptable to the authority having jurisdiction. Backflow prevention devices and assemblies shall comply with Table 603.2, except for specific applications and provisions as stated in Section 603.5.1 through 603.5.21.

All devices or assemblies installed in a potable water supply system for protection against backflow shall be maintained in good working condition by the person or persons having control of such devices or assemblies. Such devices or

assemblies shall be tested in accordance with Section 603.4.2 and WAC 246-290-490. If found to be defective or inoperative, the device or assembly shall be replaced or repaired. No device or assembly shall be removed from use or relocated or

other device or assembly substituted, without the approval of the authority having jurisdiction.

Testing shall be performed by a Washington state department of health certified backflow assembly tester.

**TABLE 603.2**  
**Backflow Prevention Devices, Assemblies and Methods**  
 The following line is deleted from the table:

Device, Assembly or Method	Applicable Standards	Pollution (Low Hazard)		Contamination (High Hazard)		Installation
		Back Siphonage	Back Pressure	Back Siphonage	Back Pressure	
Backflow preventer for carbonated beverage dispensers (two independent check valves with a vent to the atmosphere.)	ASSE 1022	X				Installation includes carbonated beverage machines or dispensers. These devices operate under intermittent or continuous pressure conditions.

**603.4.2 Testing.** For devices and assemblies other than those regulated by the Washington department of health in conjunction with the local water purveyor for the protection of public water systems, the authority having jurisdiction shall ensure that the premise owner or responsible person shall have the backflow prevention assembly tested by a Washington state department of health certified backflow assembly tester:

- (1) At the time of installation, repair or relocation; and
- (2) At least on an annual schedule thereafter, unless more frequent testing is required by the authority having jurisdiction.

**603.4.9 Prohibited Location.** Backflow prevention devices with atmospheric vents or ports shall not be installed in pits, underground or in submerged locations. Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.

**603.5.6 Protection from Lawn Sprinklers and Irrigation Systems.** Potable water supplies to systems having no pumps or connections for pumping equipment, and no chemical injection or provisions for chemical injection, shall be protected from backflow by one of the following:

- (1) Atmospheric vacuum breaker (AVB).
- (2) Pressure vacuum breaker backflow prevention assembly (PVB).
- (3) Spill-resistant pressure vacuum breaker (SVB).
- (4) Reduced pressure principle backflow prevention assembly (RP).
- (5) A double check valve backflow prevention assembly (DC) may be allowed when approved by the water purveyor and the authority having jurisdiction.

**603.5.10 Steam or Hot Water Boilers.** Potable water connections to steam or hot water boilers shall be protected by an air gap or a reduced pressure principle backflow preventer.

**603.5.12 Beverage Dispensers.** Potable water supply to carbonators shall be protected by a listed reduced pressure principle backflow preventer as approved by the authority having

jurisdiction for the specific use. The backflow preventer shall be located in accordance with Section 603.4.3. The piping downstream of the backflow preventer shall not be of copper, copper alloy, or other material that is affected by carbon dioxide.

~~**603.5.13 Prohibited Location.** Backflow preventers shall not be located in any area containing fumes or aerosols that are toxic, poisonous, infectious, or corrosive.~~

**603.5.15 Protection from Fire Systems.** Except as provided under Sections 603.5.15.1 and 603.5.15.2, potable water supplies to fire protection systems that are normally under pressure, including but not limited to standpipes and automatic sprinkler systems, except in one or two family or townhouse residential flow-through or combination sprinkler systems piped in materials approved for potable water distribution systems, shall be protected from back-pressure and back-siphonage by one of the following testable assemblies:

1. Double check valve backflow prevention assembly (DC).
2. Double check detector fire protection backflow prevention assembly.
3. Reduced pressure principle backflow prevention assembly (RP).
4. Reduced pressure detector fire protection backflow prevention assembly.

Potable water supplies to fire protection systems that are not normally under pressure shall be protected from backflow and shall meet the requirements of the appropriate standard(s) referenced in Table 1401.1.

~~**604.11 Lead Content.** The maximum allowable lead content in pipes, pipe fittings, plumbing fittings and fixtures intended to convey or dispense water for human consumption shall be not more than a weighted average of 0.25 percent with respect to the wetted surfaces of pipes, pipe fittings, plumbing fittings and fixtures. For solder and flux, the lead content shall be not more than 0.2 percent where used in pip-~~



ing systems that convey or dispense water for human consumption.

EXCEPTIONS: 1. Pipes, pipe fittings, plumbing fittings, fixtures or backflow preventers used for nonpotable services such as manufacturing, industrial processing, irrigation, outdoor watering, or any other uses where the water is not used for human consumption.  
2. Water closets, bidets, urinals, fill valves, flushometer valves, tub fillers, shower valves, service saddles, or water distribution main gate valves that are two inches (50 mm) in diameter or larger.)

**604.14 Plastic Pipe Termination.** Plastic water service piping may terminate within a building, provided the connection to the potable water distribution system shall be made as near as is practical to the point of entry and shall be accessible. Barbed insert fittings with hose clamps are prohibited as a transition fitting within the building.

**606.5 Control Valve.** A control valve shall be installed immediately ahead of each water-supplied appliance and immediately ahead of each slip joint or appliance supply.

Parallel water distribution systems shall provide a control valve either immediately ahead of each fixture being supplied or installed at the manifold, and shall be identified with the fixture being supplied. Where parallel water distribution system manifolds are located in attics, crawl spaces, or other locations not readily accessible, a separate shutoff valve shall be required immediately ahead of each individual fixture or appliance served.

**608.3 Expansion Tanks, and Combination Temperature and Pressure-Relief Valves.** A water system provided with a check valve, backflow preventer, or other normally closed device that prevents dissipation of building pressure back into the water main, independent of the type of water used, shall be provided with an approved, listed, and adequately sized expansion tank or other approved device having a similar function to control thermal expansion. Such expansion tank or other approved device shall be installed on the building side of the check valve, backflow preventer, or other device and shall be sized and installed in accordance with the manufacturer's installation instructions.

EXCEPTION: Instantaneous hot water systems installed in accordance with the manufacturer's installation instructions.

**608.3.1** A water system containing storage water heating equipment shall be provided with an approved, listed, adequately sized combination temperature and pressure-relief valve, except for listed nonstorage instantaneous heater having an inside diameter of not more than three (3) inches (80 mm). Each such approved combination temperature and pressure-relief valve shall be installed on the water-heating device in an approved location based on its listing requirements and the manufacturer's installation instructions. Each such combination temperature and pressure-relief valve shall be provided with a drain in accordance with Section 608.5.

**608.5 Drains.** Relief valves located inside a building shall be provided with a drain, not smaller than the relief valve outlet, of galvanized steel, hard drawn copper piping and fittings, CPVC, PP, or listed relief valve drain tube with fittings which will not reduce the internal bore of the pipe or tubing (straight

lengths as opposed to coils) and shall extend from the valve to the outside of the building, with the end of the pipe not more than two (2) feet (610 mm) nor less than six (6) inches (152 mm) above the ground or the flood level of the area receiving the discharge and pointing downward. Such drains may terminate at other approved locations. No part of such drain pipe shall be trapped or subject to freezing. The terminal end of the drain pipe shall not be threaded.

EXCEPTION: Where no drainage was provided, replacement water heating equipment shall only be required to provide a drain pointing downward from the relief valve to extend between two (2) feet (610 mm) and six (6) inches (152 mm) from the floor. No additional floor drain need be provided.

**609.9 Disinfection of Potable Water System.** New or repaired *potable water systems* shall be disinfected prior to use where required by the *authority having jurisdiction*. The method to be followed shall be that prescribed by the health authority or, in case no method is prescribed by it, the following:

(1) The *pipe system* shall be flushed with clean, *potable water* until *potable water* appears at the points of outlet.

(2) The system or parts thereof shall be filled with a water-chlorine solution containing not less than 50 parts per million of chlorine, and the system or part thereof shall be valved-off and allowed to stand for twenty-four hours; or, the system or part thereof shall be filled with a water-chlorine solution containing not less than 200 parts per million of chlorine and allowed to stand for three hours.

(3) Following the allowed standing time, the system shall be flushed with clean, *potable water* until the chlorine residual in the water coming from the system does not exceed the chlorine residual in the flushing water.

(4) The procedure shall be repeated when a standard bacteriological test for drinking water, performed by a laboratory certified for drinking water in Washington state, shows unsatisfactory results indicating that *contamination* persists in the system.

**609.11 Insulation of Potable Water Piping.** Domestic water piping within commercial buildings shall be insulated in accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.

**610.4 Sizing Water Supply and Distribution Systems.** Systems within the range of Table 610.4 may be sized from that table or by the method set forth in Section 610.5.

Listed parallel water distribution systems shall be installed in accordance with their listing.

**611.1 Application.** Drinking water treatment units shall comply with NSF 42 or NSF 53. Water softeners shall comply with NSF 44. Ultraviolet water treatment systems shall comply with NSF 55. Reverse osmosis drinking water treatment systems shall comply with NSF 58. Drinking water distillation systems shall comply with NSF 62.

The owner of a building that serves potable water to twenty-five or more people at least sixty or more days per year and that installs drinking water treatment units including, but not limited to, the treatment units in Section 611.1,

may be regulated (as a Group A public water system) by the Washington state department of health under chapter 246-290 WAC. See Washington state department of health publication 331-488 for guidance.

**612.1 General.** Where residential fire sprinkler systems are installed, they shall be installed in accordance with the International Building Code or International Residential Code.

~~((613.0 Insulation of Potable Water Piping. Domestic water piping within commercial buildings shall be insulated in accordance with Section C403.2.8 and Table C403.2.8 or Section C404.6 of the Washington State Energy Code, as applicable.)) Sections 612.2 through 612.7.2 are not adopted.~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-0700 Chapter 7—Sanitary drainage.**

~~((701.1))~~ **701.2 Drainage Piping.** Materials for drainage piping shall be in accordance with one of the referenced standards in Table 701.1 except that:

1. No galvanized wrought-iron or galvanized steel pipe shall be used underground and shall be kept not less than 6 inches (152 mm) above ground.

2. ABS and PVC DWV piping installations shall be installed in accordance with applicable standards in Table 1401.1. Except for individual single family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

3. No vitrified clay pipe or fittings shall be used above ground or where pressurized by a pump or ejector. They shall be kept not less than 12 inches (305 mm) below ground.

4. Copper tube for drainage and vent piping shall have a weight of not less than that of copper drainage tube type DWV.

5. Stainless steel 304 pipe and fittings shall not be installed underground and shall be kept not less than 6 inches (152 mm) above ground.

6. Cast-iron soil pipe and fittings shall be listed and tested in accordance with standards referenced in Table 1401.1. Such pipe and fittings shall be marked with country of origin and identification of the original manufacturer in addition to markings required by referenced standards.

**Table 703.2**

**MAXIMUM UNIT LOADING AND MAXIMUM LENGTH OF DRAINAGE AND VENT PIPING**

Notes:

1. Excluding trap arm.
2. Except sinks, urinals, and dishwashers - Exceeding 1 fixture unit.
3. Except six-unit traps or water closets.
4. Only four water closets or six-unit traps allowed on a vertical pipe or stack; and not to exceed three water closets or six-unit traps on a horizontal branch or drain.

EXCEPTION: In a single family dwelling addition or alteration where a 4 inch horizontal waste is not readily available four water closets not to exceed 1.6 gpf each may be allowed on a 3 inch horizontal waste when approved by the AHJ.

5. Based on one-fourth inch per foot (20.8 mm/m) slope. For one-eighths of an inch per foot (10.4 mm/m) slope, multiply horizontal fixture units by a factor of 0.8.

6. The diameter of an individual vent shall be not less than one and one-fourth inches (32 mm) nor less than one-half the diameter of the drain to which it is connected. Fixture unit load values for drainage and vent piping shall be computed from Table 702.1 and Table 702.2(b). Not to exceed one-third of the total permitted length of a vent shall be permitted to be installed in a horizontal position. Where vents are increased one pipe size for their entire length, the maximum length limitations specified in this table do not apply. This table is in accordance with the requirements of Section 901.2.

**704.3 Commercial (~~Dishwashing Machines and~~) Sinks.** Except where specifically required to be connected indirectly to the drainage system, or when first approved by the authority having jurisdiction, all plumbing fixtures, drains, appurtenances, and appliances shall be directly connected to the drainage system of the building or premises.

~~((705.4.2 Mechanical Joints. Mechanical joints for cast iron pipe and fittings shall be of the compression or mechanical joint coupling type. Compression type joints with an elastomeric gasket for cast iron hub and spigot pipe shall comply with ASTM C 564. Hub and spigot shall be clean and free of dirt, mud, sand, and foreign materials. Cut pipe shall be free from sharp edges. Fold and insert gasket into hub. Lubricate the joint following manufacturer's instructions. Insert spigot into hub until the spigot end of the pipe bottom out in the hub. Use the same procedure for the installation of fittings.~~

~~A mechanical joint shielded coupling type for hubless east iron pipe and fittings shall have a metallic shield and shall comply with ASTM A 1056, ASTM C 1277, ASTM C 1540, or CISPI 310. The elastomeric gasket shall comply with ASTM C 564. Hubless east iron pipe and fittings shall be clean and free of dirt, mud, sand, and foreign materials. Cut pipe shall be free from sharp edges. Gasket shall be placed on the end of the pipe or fitting and the stainless steel shield and clamp assembly on the end of the other pipe or fitting. Pipe or fittings shall be seated against the center stop inside the elastomeric sleeve. Slide the stainless steel shield and clamp assembly into position centered over the gasket and tighten. Bands shall be tightened using an approved calibrated torque wrench specifically set by the manufacturer of the couplings.~~

**710.3 Sewage Ejector and Pumps.** The minimum size of any pump or any discharge pipe from a sump having a water closet connected thereto shall be not less than two (2) inches (52 mm). **707.4 Location.** Each horizontal drainage pipe shall be provided with a cleanout at its upper terminal, and each run of piping, that is more than 100 feet (30,480 mm) in total developed length, shall be provided with a cleanout for each 100 feet (30,480 mm), or fraction thereof, in length of such piping. An additional cleanout shall be provided in a

drainage line for each aggregate horizontal change of direction exceeding 135 degrees (2.36 rad).

**EXCEPTIONS:**

1. Cleanouts *shall* be permitted to be omitted on a horizontal *drain* line less than 5 feet (1,524 mm) in length unless such line is serving sinks or urinals.
2. Cleanouts *shall* be permitted to be omitted on a horizontal *drainage pipe* installed on a *slope* of 72 degrees (1.26 rad) or less from the vertical angle (one-fifth bend).
3. Except for the *building drain, its horizontal branches, and urinals*, a cleanout *shall* not be required on a *pipe or piping* that is above the floor level of the lowest floor of the *building*.
4. An *approved* type of two-way cleanout fitting, installed inside the *building wall* near the connection between the *building drain* and the *building sewer* or installed outside of a *building* at the lower end of a *building drain* and extended to *grade*, *shall* be permitted to be substituted for an upper terminal cleanout.

**707.9 Clearance.** Each cleanout in piping 2 inches (50 mm) or less in size *shall* be so installed that there is a clearance of not less than 12 inches (457 mm) in front of the cleanout. Cleanouts in piping exceeding 2 inches (50 mm) *shall* have a clearance of not less than 18 inches (610 mm) in front of the cleanout. Cleanouts in under-floor piping *shall* be extended to or above the finished floor or *shall* be extended outside the *building* where there is less than 18 inches (457 mm) vertical overall, allowing for obstructions such as ducts, beams, and piping, and 30 inches of (762 mm) horizontal clearance from the means of access to such cleanout. No under-floor cleanout *shall* be located exceeding 20 feet (1,524 mm) from an access door, trap door, or crawl hole.

#### CHAPTER 7, PART II—BUILDING SEWERS

**Part II Building Sewers.** Delete all of Part II (Sections 713 through 723, and Tables 717.1 and 721.1).

**AMENDATORY SECTION** (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

#### WAC 51-56-0900 Chapter 9—Vents.

**903.1 Applicable Standards.** Vent pipe and fittings shall comply with the applicable standards referenced in Table 701.1, except that:

1. No galvanized steel or 304 stainless steel pipe shall be installed underground and shall be not less than 6 inches (152 mm) above ground.
2. ABS and PVC DWV piping installations shall be installed in accordance with applicable standards in Table 1401.1. Except for individual single family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

~~((908.2 Horizontal Wet Venting for Bathroom Groups. Water closets, bathtubs, showers, bidets, and floor drains within one or two bathroom groups located on the same floor level and for private use shall be permitted to be vented by a wet vent. The wet vent shall be considered the vent for the fixtures and shall extend from the connection of the dry vent along the direction of the flow in the drain pipe to the most~~

~~downstream fixture drain or trap arm connection to the horizontal branch drain. Each wet-vented fixture drain or trap arm shall connect independently to the wet-vented horizontal branch drain. Each individual fixture drain or trap arm shall connect horizontally to the wet-vented horizontal branch drain or shall be provided with a dry vent. The trap to vent distance shall be in accordance with Table 1002.2. Only the fixtures within the bathroom groups shall connect to the wet-vented horizontal branch drain. The water closet fixture drain or trap arm connection to the wet vent shall be downstream of any fixture drain or trap arm connections. Any additional fixtures shall discharge downstream of the wet-vent system and be conventionally vented.))~~

**908.2.4 Water Closet.** This section is not adopted.

**AMENDATORY SECTION** (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-1000 Chapter 10—Traps and interceptors.**

~~((1014.1.3 Food Waste Disposal Units and Dishwashers. Unless specifically required or permitted by the authority having jurisdiction, no food waste disposal unit or dishwasher shall be connected to or discharge into any hydromechanical grease interceptor. Commercial food waste disposers shall be permitted to discharge directly into the building's drainage system.))~~

**AMENDATORY SECTION** (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

#### WAC 51-56-1100 Chapter 11—Storm drainage.

~~((1101.3))~~ **1101.4 Material Uses.** ((Rainwater piping placed within the interior of a building or run within a vent or shaft shall be of cast iron, galvanized steel, wrought iron, brass, copper, lead, Schedule 40 ABS DWV, Schedule 40 PVC DWV, or other approved materials)) Pipe, tube, and fittings conveying rainwater shall be of such materials and design as to perform their intended function to the satisfaction of the authority having jurisdiction. Conductors within a vent or shaft shall be of cast iron, galvanized steel, wrought iron, copper, copper alloy, lead, Scheduled 40 ASB DWV, Scheduled 40 PVC DWV, stainless steel 304 or 316L (stainless steel 304 pipe and fittings shall not be installed underground and shall be kept not less than six (6) inches (152 mm) aboveground), or other approved materials, and changes in direction shall conform to the requirements of Section 706.0. ABS and PVC DWV piping installations shall be installed in accordance with IS 5 and IS 9. Except for individual single-family dwelling units, materials exposed within ducts or plenums shall have a maximum flame-spread index of 25 and a maximum smoke-developed index of 50, when tested in accordance with ASTM E-84 and UL 723.

~~((1101.12))~~ **1101.13 Cleanouts.** Cleanouts for building storm drains shall comply with the requirements of this section.

~~((1101.12.4))~~ **1101.13.1 Locations.** Rain leaders and conductors connected to a building storm sewer shall have a cleanout installed at the base of the outside leader or outside conductor

before it connects to the horizontal drain. Cleanouts shall be placed inside the building near the connection between the building drain and the building sewer or installed outside the building at the lower end of the building drain and extended to grade.

~~((1101.12.2))~~ **1101.13.2 Cleaning.** Each cleanout shall be installed so that it opens to allow cleaning in the direction of flow of the soil or waste or at right angles thereto, and except in the case of wye branch and end-of-line cleanouts, shall be installed vertically above the flow line of the pipe.

~~((1101.12.3))~~ **1101.13.3 Access.** Cleanouts installed under concrete or asphalt paving shall be made accessible by yard boxes, or extending flush with paving with approved materials and be adequately protected.

~~((1101.12.4))~~ **1101.13.4 Manholes.** Approved manholes may be installed in lieu of cleanouts when first approved by the authority having jurisdiction. The maximum distance between manholes shall not exceed three hundred (300) feet (91.4 m).

The inlet and outlet connections shall be made by the use of a flexible compression joint no closer than twelve (12) inches (305 mm) to, and not farther than three (3) feet (914 mm) from the manhole. No flexible compression joints shall be embedded in the manhole base.

~~((1108.0))~~ **1105.0 Controlled-Flow Roof Drainage.** This section is not adopted.

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-1300 Chapter 13—Health care facilities and medical gas and vacuum systems.**

**Part II Medical Gas and Vacuum Systems**

~~((1309.0 Scope:~~

~~**1309.1 General.** The provisions herein shall apply to the design, installation, testing, and verification of medical gas, medical vacuum systems, and related permanent equipment in hospitals, clinics, veterinary clinics and other health care facilities.~~

~~**1309.2 Purpose.** The purpose of this chapter is to provide minimum requirements for the design, installation, testing and verification of medical gas, medical vacuum systems, and related permanent equipment, from the central supply system to the station outlets or inlets.~~

~~**1321.3))**~~ **1303.8 Water Mains for Hospitals.** Hospitals shall be provided with not less than two approved potable water mains that are installed in such a manner as to prevent the interruption of water service.

**1305.3 Minimum Station Outlets/Inlets.** Station outlets and inlets for medical gas and medical vacuum systems for facilities licensed or certified by Washington state department of health (DOH) or Washington state department of social and health services (DSHS) shall be provided as listed in chapters 246-320 and 246-330 WAC as required by the applicable licensing rules as applied by DOH construction review ser-

vices. All other medical gas and medical vacuum systems shall be provided as listed in Table ((1312.3)) 1305.3.

~~((1327.0 System Verification:~~

~~**1327.1 Verification.** Prior to any medical gas system being placed in service, each and every system shall be verified as described in section 1328.2.~~

~~**1327.1.1 Verification Tests.** Verification tests shall be performed only after all tests required in section 1326.0, Installer Performed Tests, have been completed.~~

~~Testing shall be conducted by a party technically competent and experienced in the field of medical gas and vacuum pipeline testing and meeting the requirements of ANSI/ASSE Standard 6030, Medical Gas Verifiers Professional Qualifications Standard.~~

~~Testing shall be performed by a party other than the installing contractor or material vendor.~~

~~When systems have been installed by in-house personnel, testing shall be permitted by personnel of that organization who meet the requirements of this section.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

**WAC 51-56-1400 Chapter 14—((Referenced standards)) Reserved.**

~~((TABLE 1401.1~~

**Standards for Materials, Equipment, Joints and Connections**

~~Where more than one standard has been listed for the same material or method, the relevant portions of all such standards shall apply.~~

~~Add the following standard to those listed in Table 1401.1:~~

Standard Number	Standard Title	Application
WAC 246-290-490	Washington State Department of Health Cross-connection Control Requirements	Backflow Protection))

NEW SECTION

**WAC 51-56-1500 Chapter 15—Alternate water sources for nonpotable applications.**

**1501.1.1 Allowable use of Alternative Water.** Where approved or required by the authority having jurisdiction, alternate water sources (reclaimed (recycled) water, gray water and on-site treated nonpotable water) shall be permitted to be used in lieu of potable water for the applications identified in this chapter. Reclaimed (recycled) water shall not be used to flush toilets or for other indoor use in any residential property or dwelling unit where residents have access to plumbing systems for repairs or modifications.

**1501.2 System Design.** *Alternate water source systems* shall be designed in accordance with this chapter by a registered design professional or person who demonstrates competency

to design the alternate water source system as required by the authority having jurisdiction. Components, piping, and fittings used in an alternate water source system shall be *listed*.

**1501.7 Minimum Water Quality Requirements.** The minimum water quality for alternate water source systems shall meet the applicable water quality requirements for the intended application as determined by the authority having jurisdiction. In the absence of water quality requirements, the EPA/625/R-04/108 contains recommended water reuse guidelines to assist regulatory agencies develop, revise, or expand alternate water source water quality standards.

The treatment for gray water used to flush toilets or urinals shall be oxidized, coagulated, filtered and disinfected, and be consistent at all times with Washington Class A reclaimed water or better and be approved by the authority having jurisdiction.

**1501.11.2.3 Discovery of Cross-Connection.** In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Reclaimed (recycled) water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) water riser shall be drained.

(2) Potable water piping to the building shall be shutdown at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1501.11.2.1 and 1501.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

**1501.13.1 General.** An abandoned system or part thereof covered under the scope of this chapter shall be disconnected from remaining systems, drained, plugged, and capped in an approved manner. Components of the abandoned system including, but not limited to, pipe, tubing, fittings, and valves shall not be used for potable water systems.

**1502.0 Gray Water Systems, is not adopted.** Gray water shall not be used for irrigation except as permitted by the department of health rules.

**1503.4 Connection to Potable or Reclaimed (Recycled) Water Systems.** Reclaimed (recycled) water systems shall have no connection to a potable water supply or alternate water source system. Potable water is permitted to be used as makeup water for a reclaimed (recycled) water storage tank provided the water supply inlet is protected by an approved air gap in accordance with this code.

**1504.1 General.** The provisions of this section shall apply to the installation, construction, alteration, and repair of on-site

treated nonpotable water systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, and other uses approved by the authority having jurisdiction.

**1504.7 On-Site Treated Nonpotable Water Devices and Systems.** Devices or equipment used to treat nonpotable water for on-site use in order to maintain the minimum water quality requirements determined by the authority having jurisdiction shall be listed or labeled (third-party certified) by a listing agency (accredited conformity assessment body) or approved for the intended application. Devices or equipment used to treat gray water or sewage for use in water closet and urinal flushing, surface irrigation, and similar applications shall oxidize, coagulate, filter and disinfect the gray water or sewage, and be consistent at all times with Washington Class A reclaimed water or better and be approved by the authority having jurisdiction.

**1504.10.2 Reserved.**

AMENDATORY SECTION (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

**WAC 51-56-1600 Chapter 16—(~~Alternate water sources for nonpotable applications~~) Nonpotable rainwater catchment systems.**

~~(1601.1.1 Allowable use of Alternative Water. Where approved or required by the authority having jurisdiction, alternate water sources (reclaimed (recycled) water, gray water and on-site treated nonpotable water) shall be permitted to be used in lieu of potable water for the applications identified in this chapter. Gray water shall not be used for irrigation except as permitted by the department of health rules.~~

~~1601.2 System Design. Alternate water source systems in accordance with this chapter shall be designed by a person registered or licensed to perform plumbing design work. Components, piping, and fittings used in an alternate water source system shall be listed.~~

~~1601.3 Permit. It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered an alternate water source system in a building or on a premise without first obtaining a permit to do such work from the Authority Having Jurisdiction.~~

~~1601.5.2 Maintenance Log. A maintenance log for gray water, and on-site treated nonpotable water systems required to have a permit in accordance with Section 1601.3 shall be maintained by the property owner and be available for inspection. The property owner or designated appointee shall ensure that a record of testing, inspection and maintenance in accordance with Table 1601.5 is maintained in the log. The log will indicate the frequency of inspection and maintenance for each system.~~

~~1601.10 Abandonment. Where alternate water source systems for nonpotable use are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.~~

**1602.0 Gray Water Systems, is not adopted.** Gray water shall not be used for irrigation except as permitted by the department of health rules.

**1603.4 Connection to Potable or Reclaimed (Recycled) Water Systems.** Reclaimed (recycled) water systems shall have no connection to a potable water supply or alternate water source system. Potable water is permitted to be used as makeup water for a reclaimed (recycled) water storage tank provided the water supply inlet is protected by an approved air gap in accordance with this code.

**1603.11.2.3 Discovery of Cross Connection.** In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Reclaimed (recycled) water piping to the building shall be shutdown at the meter, and the reclaimed (recycled) water riser shall be drained.

(2) Potable water piping to the building shall be shut down at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

**1604.1 General.** The provisions of this section shall apply to the installation, construction, alteration, and repair of on-site treated nonpotable water systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, and other uses approved by the authority having jurisdiction.

**1604.12.2.3 Discovery of Cross Connection.** In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) On-site treated nonpotable water piping to the building shall be shutdown at the meter, and the on-site treated water riser shall be drained.

(2) Potable water piping to the building shall be shut down at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are

satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.) **1601.11.1 General.** An abandoned system or part thereof covered under the scope of this chapter shall be disconnected from remaining systems, drained, plugged and capped in an approved manner. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.

### **1602.0 Nonpotable Rainwater Catchment Systems.**

**1602.1 General.** The installation, construction, alteration, and repair of rainwater catchments systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, irrigation, industrial processes, water features, cooling tower makeup and other uses shall be approved by the authority having jurisdiction.

EXCEPTION: Exterior irrigation piping.

**1602.11.2.3 Discovery of Cross-Connection.** In the event that a cross-connection is discovered, the following procedure, in the presence of the AHJ, shall be activated immediately:

(1) Rainwater catchment water piping to the building shall be shutdown at the meter, and the rainwater water riser shall be drained.

(2) Potable water piping to the building shall be shut down at the meter.

(3) The cross-connection shall be uncovered and disconnected.

(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.

(5) The potable water system shall be chlorinated with 50 parts-per-million (ppm) chlorine for twenty-four hours.

(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.

**AMENDATORY SECTION** (Amending WSR 13-23-094, filed 11/20/13, effective 4/1/14)

**WAC 51-56-1700 Chapter 17—((Nonpotable rainwater catchment systems)) Referenced standards.**

**((1702.0 Nonpotable Rainwater Catchment Systems:**

**1702.1 General.** The installation, construction, alteration, and repair of rainwater catchments systems intended to supply uses such as water closets, urinals, trap primers for floor drains and floor sinks, irrigation, industrial processes, water features, cooling tower makeup and other uses shall be approved by the authority having jurisdiction.

EXCEPTION: Exterior irrigation piping.

**1702.2 Permit.** It shall be unlawful for a person to construct, install, alter, or cause to be constructed, installed, or altered a

nonpotable rainwater catchment system in a building or on a premises without first obtaining a permit to do such work from the authority having jurisdiction.

- EXCEPTIONS:
1. A permit is not required for exterior rainwater catchment systems used for outdoor drip and subsurface irrigation with a maximum storage capacity of 360 gallons (1363-L).
  2. A plumbing permit is not required for rainwater catchment systems for single-family dwellings where outlets, piping, and system components are located on the exterior of the building. This does not exempt the need for permits where required for electrical connections, tank supports, or enclosures.

~~**1702.2.1 Plumbing Plan Submission.** No permit for a rainwater catchment system shall be issued until complete plumbing plans, with data satisfactory to the Authority Having Jurisdiction, have been submitted and approved.~~

~~**1702.2.3 Discovery of Cross Connection.** In the event that a cross-connection is discovered, the following procedure, in the presence of the AHI, shall be activated immediately:~~

- ~~(1) Rainwater catchment water piping to the building shall be shutdown at the meter, and the rainwater water riser shall be drained.~~
- ~~(2) Potable water piping to the building shall be shut-down at the meter.~~
- ~~(3) The cross-connection shall be uncovered and disconnected.~~
- ~~(4) The building shall be retested following procedures listed in Sections 1603.11.2.1 and 1603.11.2.2.~~
- ~~(5) The potable water system shall be chlorinated with 50 parts per million (ppm) chlorine for twenty-four hours.~~
- ~~(6) The potable water system shall be flushed after twenty-four hours, and a standard bacteriological test for drinking water shall be performed by a laboratory certified for drinking water in Washington state. Where test results are satisfactory to the authority having jurisdiction, health authority having jurisdiction, and the water purveyor, the potable water system shall be permitted to be recharged. See also chapter 246-290 WAC.~~

~~**1702.12 Abandonment.** Where nonpotable rainwater catchment systems are abandoned, the procedure for abandonment shall be as required by the Authority Having Jurisdiction. Components of the abandoned system including, but not limited to, pipe, tubing, fittings and valves shall not be used for potable water systems.)) Referenced Standards.~~

**TABLE 1701.1**

Standards for Materials, Equipment, Joints and Connections

Where more than one standard has been listed for the same material or method, the relevant portions of all such standards shall apply.

Add the following standard to those listed in Table 1701.1:

<u>Standard Number</u>	<u>Standard Title</u>	<u>Application</u>
WAC 246-290-490	<u>Washington State Department of Health Cross-connection Control Requirements</u>	<u>Backflow Protection</u>

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

~~**WAC 51-56-90700 ((Installation Standard 7-03—Polyethylene cold water building supply and yard piping.)) Reserved.**~~

~~((**2.6.1 Location.** Polyethylene piping may terminate within a building or structure. The connection to the potable water distribution system shall be accessible, except that it may be buried underground outside of the building or structure in an accessible location. Barbed insert fittings with hose clamps are prohibited within a building.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

~~**WAC 51-56-90800 ((Installation Standard 8-03—PVC cold water building supply and yard piping.)) Reserved.**~~

~~((**2.7.1 Location.** PVC piping may terminate within a building or structure. The connection to the potable water distribution system shall be accessible, except that it may be buried underground outside of the building or structure in an accessible location.))~~

AMENDATORY SECTION (Amending WSR 13-04-054, filed 2/1/13, effective 7/1/13)

~~**WAC 51-56-92000 ((Installation Standard 20-2010—CPVC solvent cemented hot and cold water distribution systems.)) Reserved.**~~

~~((**2.1.2 Primer.** Listed primers shall be used that are compatible with the type of listed CPVC cement and pipe used. The primer shall be a true solvent for CPVC, containing no slow-drying ingredient. Cleaners shall not be allowed to be used as a substitute or equivalent for a listed primer.~~

EXCEPTION: Listed solvent cements that do not require the use of primer shall be permitted for use with CPVC pipe and fittings, manufactured in accordance with ASTM D2845, 1/2-inch through 2-inches in diameter.))

**WSR 15-16-100**

**WITHDRAWL OF PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

(By the Code Reviser's Office)

[Filed August 4, 2015, 9:33 a.m.]

WAC 173-201A-020, 173-201A-240, 173-201A-420, 173-201A-460 and 173-201A-510, proposed by the department of ecology in WSR 15-03-015, appearing in issue 15-03 of the Washington State Register, which was distributed on February 4, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
Washington State Register

**WSR 15-16-101**  
**WITHDRAWAL OF PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (By the Code Reviser's Office)  
 [Filed August 4, 2015, 9:34 a.m.]

WAC 246-817-305, 246-817-310 and 246-817-315, proposed by the department of health in WSR 15-03-067, appearing in issue 15-03 of the Washington State Register, which was distributed on February 4, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.

Kerry S. Radcliff, Editor  
 Washington State Register

**WSR 15-16-102**  
**PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
 [Filed August 4, 2015, 10:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-079.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 International Energy Conservation Code (IECC)/Washington State Energy Code (WSEC) (Residential), chapter 51-11R WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail sbcc@ga.wa.gov, fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the 2015 edition of WSEC (Residential) with amendments to incorporate requirements from the 2015 IECC (Residential), and formatted to the 2015 IECC, to provide increased clarity and energy efficiency as required in RCW 19.27A.160.

The summary below also indicates whether the change came from a *Proposed State Amendment* or *2015 IECC Change*. Changes which only renumber sections are not itemized. Sections that had no changes are not shown in this filing.

1. **Section R101.1:** Both the residential and commercial sections are now officially titled the *Washington State Energy Code*. (*Proposed State Amendment*.)

2. **Existing Buildings** (*2015 IECC Change*). Provisions for existing buildings have been removed from Section R101.4 and elsewhere in the code and relocated to a new Chapter 5.

3. **Low Energy Buildings** (*2015 IECC Change*). Section R101.5.2, Low energy buildings, was relocated as an exception to Section R402.1

4. **Section R102** (*2015 IECC Change*). This section was retitled and reworded for consistency with other model codes.

5. **Section R103** (*2015 IECC Changes*). "Technical reports" was added to the list of items to be submitted with the permit application in Section R103.1 so the code official can review engineering and mechanical reports. Section R103.2 was reorganized with a numbered list, and commercial items were deleted, for ease of use. Section R103.2.1 was added to require the plans indicate the air barrier and thermal barrier systems. Section R103.3 allows for the use of a special inspection service for plan review and energy code compliance. R103.4 was modified to require that any changes in the field be documented on the plans.

6. **Section R104** (*2015 IECC Change*). The inspections section was revised to improve and enhance inspection and improve consistency with the International Existing Building Code.

7. **Section R106.2** (*2015 IECC Change*). This section was deleted; it is redundant to Section R106.1.1.

8. **Section R108** (*2015 IECC Change*). Editorial changes for clarity.

9. **Definitions** (*2015 IECC Changes*).

*Alterations, Approved Agency, Conditioned Space and Repair* were revised for consistency with the other model codes.

*Circulating Hot Water System, Climate Zone, Insulated Siding, Reroofing, Roof Recover, Roof Repair and Roof Replacement* are new definitions added for preexisting terms in the code.

*Fenestration, Vertical Fenestration and Skylight*, along with *Repair* are editorial changes for clarity.

*Historic Building* definition was moved from the body of the code to the definitions chapter.

*Entrance Door* was deleted as this only applies to commercial buildings.

10. **Insulation Identification** (*2015 IECC Change*). A requirement was added to Section R303.1.1 for insulated siding to be labeled with the R-value similar to other insulation products. Section R303.1.4.1 sets the rating standard for insulated siding.

11. **Fenestration Rating** (*2015 IECC Change*). An exception was added to Section R303.1.3 allowing garage doors to be rated in accordance with DASMA 105. Some garage doors cannot meet the NFRC size requirements and this will allow them to test to an equivalent standard.

12. **Fenestration Rating** (*Proposed State Amendment*). Exception 2 was added to Section R303.1.3 to allow owner-built windows as long as they met a minimum standard.

13. **Compliance Options** (*Proposed State Amendment and 2015 IECC Change*). Section R401 was reorganized into a numbered list, and the scope of the application of Section R406 was expanded to include all low-rise residential dwelling and sleeping units.

14. **Energy Efficiency Certificate** (*2015 IECC Change*). Editorial changes for clarity, allows more flexibility in the placement of the certificate.

15. **Section R402.1:** See item 3.



16. **R-Value Computation** (*Proposed State Amendment*). The amendment changes new language found in the 2015 IECC Section R402.1.2 regarding the R-value of insulated siding. The IECC required that the manufacturer's labeled value be reduced by R-0.6 to take into account the credit already present in the prescriptive table. The state amendment removes that language and replaces it with a default value or allows for an evaluation report supporting a higher R-value.

17. **Vapor Retarder** (*2015 IECC Change*). Model code language in Section R402.1.5 replaces a similar WSEC requirement and mirrors language adopted through emergency rule making during the last code cycle for both the IRC and IBC.

18. **R-Value/U-Factor Tables** (*Proposed State Amendment*). Editorial changes for clarity: Footnotes and values not pertinent to Washington state were deleted from the tables.

19. **Ceilings with Attic Spaces** (*Proposed State Amendment*). Editorial changes for clarity: Values not pertinent to Washington state were deleted from Section R402.2.1.

20. **Access Hatches and Doors** (*2015 IECC Change*). An exception was added to Section R402.2.4 to allow a vertical door to meet the fenestration R-values rather than meet the R-value of the surrounding surface.

21. **Mass Walls** (*2015 IECC Change*). Editorial changes for clarity.

22. **Floor Insulation** (*2015 IECC Change*). New language providing flexibility in the installation of floor insulation was added to Section R402.2.7, allowing and [an] airspace between the floor sheathing and the top of the insulation in certain applications.

23. **Below-Grade Walls** (*Proposed State Amendment*). Editorial change for clarity and consistency.

24. **Replacement Fenestration**, Section R402.3.6. See item 2.

25. **Air Leakage Testing** (*Proposed State Amendment*). Exceptions were added to Section R402.4.1.2 for small additions and additions tested with the existing home. This is similar to past requirements in WSEC.

26. **Fireplace Doors** (*2015 IECC Change*). Language was added to Section R402.4.2 requiring factory-built fireplaces to be tested and listed with tight-fitting doors, if provided.

27. **Combustion Air Openings** (*2015 IECC Change*). New language was added to Section R402.4.4 to specify how rooms with combustion air openings are to be sealed off from the rest of the thermal envelope to allow for better air sealing and testing.

28. **Air Barrier and Insulation Installation** (*2015 IECC Change*). Table R402.4.1.1 was revised to show air barrier criteria and insulation criteria in separate columns. Concealed fire sprinkler criterion was added to the table. The floor criterion was amended for consistency with item 22. Wall criterion was revised to provide clarity. Fireplace was removed in conjunction with item 26.

29. **Maximum Fenestration U-Factor** (*Proposed State Amendment*). Editorial changes for clarity: Values not pertinent to Washington state were deleted.

30. **Programmable Thermostat** (*2015 IECC Change*). The change in Section R403.1.1 clarifies that the requirement

for programming the thermostat is the manufacturer's responsibility.

31. **Hot Water Boiler Setback** (*2015 IECC Change*). New Section R403.2 adds a requirement for controls that modulate hot water temperature in the heating system, allowing the boiler to fire less.

32. **Duct Insulation** (*Proposed State Amendment*). A requirement that ducts within a slab or on the ground be insulated with R-10 was added to Section R403.3.1.

33. **Duct Sealing/Testing** (*2015 IECC Change*). The IECC deleted duplicative language between the sealing and testing sections in R403.3. The new exception 2 to R403.3.2 was added for consistency with changes to the IMC on sealing low pressure ducts. The old exception 2 was deleted since it is a mechanical requirement, already found in both the mechanical and residential codes.

34. **Mechanical Pipe Insulation** (*Proposed State Amendment*). An exception was added to Section R403.4 to allow for 200 feet of hydronic piping to be insulated with 1/2-inch insulation.

35. **Service Hot Water** (*2015 IECC Change*). The requirements for service hot water were extensively rewritten in 2015. The section on circulation systems, R403.5.1.1, now prohibits continuously operating circulation pumps. Three new sections, R403.5.1.2, R403.5.2 and R403.5.4 were added to address, respectively, heat trace systems, demand recirculation systems and drain water heat recovery systems if these energy saving measures are employed.

36. **Service Hot Water Insulation** (*Proposed State Amendment*). Editorial changes for clarity were made to Section R403.5.3, matching the code language with existing SBCC opinions (See Interpretation No. 13-16) on the intent of the section.

37. **Equipment Sizing** (*Proposed State Amendment*). An editorial change for clarity was made to Section R403.7 for consistency with SBCC opinion (See Interpretation No. 13-09) on equipment availability and sizing.

38. **Equipment Sizing** (*2015 IECC Change*). Editorial change to Section R403.7 for clarity that installed equipment must meet the federal minimum efficiency standards.

39. **Electric Resistance Heating** (*Proposed State Amendment*). A new Section R403.7.1 was added that requires all IRC buildings heated using electric resistance zonal heating to use a ductless mini-split heat pump in the largest zone, unless the total installed heating in the dwelling is less than 2 kW.

40. **Pools and Spas** (*2015 IECC Change*). Section R403.10 was revised for consistency with the pool and spa code; standards were updated, clarifications made on switching requirements, options were added to pool covering requirements to work better with "natural" shaped pools. New Sections R403.11 and R403.12 were added to specifically address portable spas and other accessory pools and spas not covered by R403.10.

41. **Lighting Equipment** (*Proposed State Amendment*). Editorial change to Section R404.1 to improve clarity and grammar.

42. **Performance-Based Compliance** (*Proposed State Amendment*). The energy use adjustments in Section R405.3

were changed based on the additional point requirement in Option 1 of Section R406.2.

43. **Performance-Based Compliance** (2015 IECC Change). The documentation for showing compliance with the performance-based method, shown in Section R405.4.2 was reorganized into three sections and clarified as to how to submit a proposed design, when the inspection takes place and what analysis is necessary to show compliance.

44. **Table R405.5.2(1)** (2015 IECC Change). The various forms of fenestration (opaque doors, vertical fenestration, skylights, footnotes a, b) were clarified. Thermal distribution criteria for the standard reference design that was inadvertently deleted in the 2015 IECC was reinstated.

45. **Thermal Distribution Systems** (Proposed State Amendment). The thermal distribution criteria for both the standard and proposed design were further modified by a proposed state amendment. This affects both Table R405.5.2(1) and R405.5.2(2). The standard base-case distribution factor in Table R405.5.2(1) was increased to make the efficiencies more equitable as reflected in actual performance. Table R405.5.2(2) eliminates the separate column for hydronic systems and makes the same adjustment as was made in Table R405.5.2(1). The footnotes in R405.5.2(2) were clarified.

46. **Additional Energy Efficiency Requirements** (Proposed State Amendment). Section R406 was expanded to include all low-rise residential dwelling and sleeping units, not just IRC buildings. Two options are presented regarding the increased number of points required. The table changes are the same in both options. The first option shows an across the board increase of two credits per dwelling unit, reflecting the increase in efficiency needed to stay on track to meeting the goals of RCW 19.27A.160, as stated in the *SBCC 2012 Washington State Energy Code Legislative Report*. Option 2 presents a minority report which presents a proportional increase across the three sizes of dwelling units, designed to mitigate the costs of the across the board increase.

47. **Energy Credit Table** (Proposed State Amendment). In Table R406.2:

(a) Editorial changes were made to the various envelope options, and a new envelope option for triple pane windows was added.

(b) The air leakage Option 2a was adjusted to specify the leakage rate of 3.0 to reflect results typically submitted for this option and the credits given based on energy savings.

(c) The credit for efficiency HVAC equipment in Option 3a was adjusted from 0.5 to 1.0 credit based on the lowering of the federal standards and the lowering of the typical base case furnace. The efficiency was also lowered in response to the federal action.

(d) The efficiency for an air source heat pump in Option 3b was increased based on new federal requirements and the efficiency threshold generally required by utility incentive programs.

(e) The credit for Option 3c, closed loop heat pumps was decreased from 2.0 to 1.5 after reevaluation of the base code energy use and the additional energy savings provided through the measure.

(f) Item 3d for ductless mini-split systems was changed editorially to match the requirements in Section R403.7.1 (See item 39, above).

(g) Item 4, high efficiency HVAC distribution system (and accompanying footnote) was revised for clarity and ease of inspection.

(h) Item 5, efficient water heating, was revised based on new federal standards that went into effect in April. The credit value of item 5b was also reduced based on reevaluation of baseline energy savings. Additionally, three new options were added: An option for central water heating in multi-family, condensing water heaters, and drain water heat recovery.

(i) Lastly, item 6 now specifies that the requirement for generation is per housing unit.

48. **Existing Buildings** (2015 IECC Change). As noted in item 2, above, all requirements for existing buildings were moved into a new Chapter 5 and broken out into Additions, Alterations, Repairs and Change of Use.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27A.020, 19.27A.025, 19.27A.045, 19.27A.160.

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

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Krista Braaksma, 1500 Jefferson S.E., P.O. Box 41449, Olympia, WA, (360) 407-9278.

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

#### Small Business Economic Impact Statement

**Description:** SBCC is filing a proposed rule to adopt the updated 2015 edition of the IECC with state amendments, known as the 2015 WSEC: Chapters 51-11R and 51-11C WAC. Since 1985 SBCC has been responsible to update new editions of the building code per RCW 19.27.074.

The administrative compliance requirements are under the authority of the local government. RCW 19.27.050. Enforcement activities including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-51 WAC include specific technical requirements for building construction to be consistent with national standards.

WSEC is updated every three years by SBCC. The code development process conducted by the model code organization is open to all interest groups within the design and construction industry and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

**Professional Services:** Washington has had a statewide building code in effect since 1974. The local enforcement

authority having jurisdiction administers the codes through the building and/or fire departments. Administrative procedures for state building code compliance are established and will not be changed by the adoption of the update to the current building codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state building code.

The proposed rule updates the state building code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the building code are existing within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** SBCC accepts proposals to amend the WSEC to meet the legislative goals. The statewide code amendment proposal process is defined in chapter 51-04 WAC and the SBCC bylaws. Proposals must increase the energy efficiency in buildings. Each proponent must identify where a proposed amendment has an economic impact and must quantify costs. SBCC developed a specific set of forms for WSEC, so proponents could identify where a proposed amendment was editorial, technical or a policy change.

SBCC received one hundred fifty-four proposals to improve WSEC. The energy code technical advisory group (TAG) recommended approval of one hundred sixteen amendments as submitted or as modified. Of those, TAG identified twenty-one as editorial corrections, and eighty-seven as technical corrections. The remaining eight proposed amendments were identified by TAG as having a significant cost.

The energy code TAG and the SBCC economic workgroup determined there is a cost for compliance on businesses for the following proposed state amendments. SBCC recommended filing the proposed rule to allow input through the public hearing process. See the preliminary cost-benefit analysis of the 2015 WSEC for a detailed review of each of these amendments.

Proposal Number	Section/Subject	Economic Workgroup Comments
15-E009	R403.7.1 Ductless mini-split heat pumps	Look at costs outside of the Tacoma area. Note that there is a side benefit of cooling being provided without additional cost.
15-E012 (Mod 2)	R406.2 Additional requirements	Look at analysis of Option 2 point requirements, small house requirement in particular.

Proposal Number	Section/Subject	Economic Workgroup Comments
15-E029 and E036	Table C402.1.1 Appendix A Mass Walls	Requesting more information on the analysis done by the minority report proponents.
15-E070	C403.2.6.1 Dedicated outdoor air systems	Look at a model for east of the Cascades
15-E098	C405.14 Controlled receptacles	
15-E114	C405.4.2 Lighting power allowance	
15-E121	C406 Additional requirements	Looking for more cost-benefit data from the proponents, example analyses

**Loss of Sales or Revenue:** The proposed rules make the state code for building construction consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated building code. For these businesses there will be a gain in sales and revenue.

The results of reduced energy use in buildings include avoiding the need for new power generation, reducing environmental impact, and providing local employment. The legislative findings state that energy efficiency is the cheapest, quickest, and cleanest way to meet rising energy needs, confront climate change, and boost our economy.

**Cost of Compliance for Small Businesses:** The majority of businesses affected by the updates to the building codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small businesses. The cost to comply with the updated codes is not a disproportionate impact on small business. Where SBCC found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Small Businesses Involved in the Development of the Rule:** SBCC conducted open public meetings of the energy code TAG, available via telephone conference bridge and over the internet, and allowed comment on every item on every agenda. The SBCC appointed over one hundred representatives of all segments of the business and construction community to serve on the TAGs.

**List of Industries:** Below is a list of industries required to comply with the building code.

NAICS #	Type of Business	Businesses with fewer than 50 employees	Businesses with 50 or more employees
236115	New single-family housing construction	2523	18
236116	New multifamily housing construction	69	4
236118	Residential remodelers	4298	3

NAICS #	Type of Business	Businesses with fewer than 50 employees	Businesses with 50 or more employees
236210	Industrial building construction	88	8
236220	Commercial and institutional building construction	1151	40
238120	Structural steel and precast concrete contractors	154	10
238130	Framing contractors	1866	17
238140	Masonry contractors	517	1
238150	Glass and glazing contractors	208	6
238190	Other foundation, structure, and building exterior contractors	145	1
238220	Plumbing, heating, and air-conditioning contractors	2245	66
238290	Other building equipment contractors	315	6
238310	Drywall and insulation contractors	898	18
321911	Wood window and door manufacturing	31	1
327331	Concrete block and brick manufacturing	13	1
332311	Prefabricated metal building and component manufacturing	16	4
332312	Fabricated structural metal manufacturing	67	8
332321	Metal window and door manufacturing	10	1
332322	Sheet metal work manufacturing	69	8
333415	Air-conditioning and warm air heating equipment	13	2
335110	Electric lamp bulb and part manufacturing	3	
335121	Residential electric lighting fixture manufacturing	14	
335122	Commercial, industrial, and institutional electric light	2	1
335129	Other lighting equipment manufacturing	3	1
423320	Brick, stone, and related construction material merchant	68	1
423330	Roofing, siding, and insulation material merchant wholesale	33	4
423390	Other construction material merchant wholesalers	78	
423720	Plumbing and heating equipment and supplies (hydronics)	99	6
423730	Warm air heating and air-conditioning equipment and supplies	48	1
531110	Lessors of residential buildings and dwellings	1525	152
531120	Lessors of nonresidential buildings (except mini warehouse)	2046	7
541310	Architectural services	579	19
541330	Engineering services	2351	82
541340	Drafting services	69	
541350	Building inspection services	168	1
922160	Fire protection	246	31

**Estimate of the Number of Jobs That Will Be Created or Lost:** The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2016. Building permits issued prior to that date will be vested under the 2012 Building Code. Permits issued for projects under the 2015 code edition will start with the 2017 construction season.

The construction industry has experienced growth over the period June 2014 to June 2015 (Data from Current Employment Statistics (CES)).

Wage and salary workers	2015	2014
Residential building construction	25,600	22,400
Nonresidential building construction	18,700	16,500
Specialty trade contractors	114,200	101,400

A copy of the statement may be obtained by contacting Tim Nogler, SBCC, P.O. Box 41449, Olympia, WA 98504-

1449, phone (360) 407-9280, fax (360) 586-9088, e-mail sbcc@ga.wa.gov.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Tim Nogler, SBCC, P.O. Box 41449, Olympia, WA 98504-1449, phone (360) 407-9280, fax (360) 586-9088, e-mail sbcc@ga.wa.gov.

August 4, 2015  
David F. Kokot  
Council Chair

## Chapter 51-11R WAC

### STATE BUILDING CODE ADOPTION AND AMENDMENT OF THE ((2012)) 2015 EDITION OF THE INTERNATIONAL ENERGY CONSERVATION CODE, RESIDENTIAL

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10100 Section R101—Scope and general requirements.**

**R101.1 Title.** This code shall be known as the ((*International Energy Conservation Code* of THE STATE OF WASHINGTON)) *Washington State Energy Code*, and shall be cited as such. It is referred to herein as "this code."

**R101.2 Scope.** This code applies to *residential buildings* and the buildings sites and associated systems and equipment. This code shall be the maximum and minimum energy code for residential construction in each town, city and county.

**R101.3 Intent.** This code shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective. This code is not intended to abridge safety, health or environmental requirements contained in other applicable codes or ordinances.

**R101.4 Applicability.** Where, in any specific case, different sections of this code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern.

~~((**R101.4.1 Existing buildings.** Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.~~

**R101.4.2 Historic buildings.** The building official may modify the specific requirements of this code for historic buildings and require in lieu of alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings or structures that are listed in the state or national register of historic places; designated as a historic property under local or state

designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state registers of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the national register of historic places.

**R101.4.3 Additions, alterations, renovations or repairs.** Additions, alterations, renovations or repairs to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portion(s) of the existing building or building system to comply with this code. Additions, alterations, renovations or repairs shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code if the addition alone complies or if the existing building and addition comply with this code as a single building.

**EXCEPTION:** The following need not comply provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Glass only replacements in an existing sash and frame.
3. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation. 2x4 framed walls shall be insulated to a minimum of R-15 and 2x6 framed walls shall be insulated to a minimum of R-21.
4. Construction where the existing roof, wall or floor cavity is not exposed.
5. Reroofing for roofs where neither the sheathing nor the insulation is exposed. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Replacement of existing doors that separate *conditioned space* from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates a *conditioned space* from the exterior shall not be removed.
7. Alterations that replace less than 60 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.
8. Alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the *alteration* does not increase the installed interior lighting power.

The building official may approve designs of alterations or repairs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The alteration or repair improves the energy efficiency of the building; or
2. The alteration or repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

**R101.4.3.1 Mechanical systems.** When a space conditioning system is altered by the installation or replacement of space conditioning equipment (including replacement of the air handler, outdoor condensing unit of a split system air conditioner or heat pump, cooling or heating coil, or the furnace

heat exchanger), the duct system that is connected to the new or replacement space conditioning equipment shall be tested as specified in WSU RS-33. The test results shall be provided to the building official and the homeowner.

EXCEPTIONS:

1. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in WSU RS-33.
2. Ducts with less than 40 linear feet in unconditioned spaces.
3. Existing duct systems constructed, insulated or sealed with asbestos.
4. Additions of less than 750 square feet.

**R101.4.4 Change in occupancy or use.** Any space not within the scope of Section R101.2 which is converted to space that is within the scope of Section R101.2 shall be brought into full compliance with this code.

Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code.

**R101.4.5 Change in space conditioning.** Any none conditioned space that is altered to become *conditioned space* shall be required to be brought into full compliance with this code.

**R101.4.6) R101.4.1 Mixed occupancy.** Where a building includes both *residential* and *commercial* occupancies, each occupancy shall be separately considered and meet the applicable provisions of the ((IECC)) WSEC - Commercial and Residential Provisions.

**R101.5 Compliance.** *Residential buildings* shall meet the provisions of ((IECC)) WSEC - Residential Provisions. *Commercial buildings* shall meet the provisions of ((IECC)) WSEC - Commercial Provisions.

**R101.5.1 Compliance materials.** The *code official* shall be permitted to approve specific computer software, worksheets, compliance manuals and other similar materials that meet the intent of this code.

~~((R101.5.2 Low energy buildings. The following buildings, or portions thereof, separated from the remainder of the building by *building thermal envelope* assemblies complying with this code shall be exempt from the *building thermal envelope* provisions of this code.~~

1. Those with a peak design rate of energy usage less than 3.4 Btu/h • ft<sup>2</sup> (10.7 W/m<sup>2</sup>) or 1.0 watt/ft<sup>2</sup> (10.7 W/m<sup>2</sup>) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Greenhouses isolated from any conditioned space and not intended for occupancy.)

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10200 Section R102—**~~(**Alternate materials—Method of construction, design or insulating systems.**)~~ **Applicability—Duties and powers of the code official.**

**R102.1 ((General.** This code is not intended to prevent the use of any material, method of construction, design or insu-

lating system not specifically prescribed herein, provided that such construction, design or insulating system has been *approved* by the *code official* as meeting the intent of this code.) **Alternate materials, design and methods of construction and equipment.** The provisions of this code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. The *code official* shall be permitted to approve an alternative material, design or method of construction where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10300 Section R103—Construction documents.**

**R103.1 General.** Construction documents, technical report and other supporting data shall be submitted in one or more sets with each application for a permit. The construction documents and technical reports shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the *code official* is authorized to require necessary construction documents to be prepared by a registered design professional.

EXCEPTION: The *code official* is authorized to waive the requirements for construction documents or other supporting data if the *code official* determines they are not necessary to confirm compliance with this code.

**R103.2 Information on construction documents.** Construction documents shall be drawn to scale upon suitable material. Electronic media documents are permitted to be submitted when *approved* by the *code official*. Construction documents shall be of sufficient clarity to indicate the location, nature and extent of the work proposed, and show in sufficient detail pertinent data and features of the building, systems and equipment as herein governed. Details shall include, but are not limited to, the following as applicable((;):

1. Insulation materials and their R-values((;))
2. Fenestration U-factors and SHGCs((;))
3. Area-weighted U-factor and SHGC calculations((;))
4. Mechanical system design criteria((;))
5. Mechanical and service water heating system and equipment types, sizes and efficiencies((; ~~economizer description~~);)
6. Equipment and systems controls((; ~~fan motor horsepower (hp) and controls~~);)
7. Duct sealing, duct and pipe insulation and location((; ~~lighting fixture schedule with wattage and control narrative~~; and)
8. Air sealing details.

**R103.2.1 Building thermal envelope depiction.** The building's thermal envelope shall be represented on the construction documents.

**R103.3 Examination of documents.** The *code official* shall examine or cause to be examined the accompanying construction documents and shall ascertain whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances. The *code official* is authorized to utilize a registered design professional or other approved entity not affiliated with the building design or construction in conducting the review of the plans and specifications for compliance with the code.

**R103.3.1 Approval of construction documents.** When the *code official* issues a permit where construction documents are required, the construction documents shall be endorsed in writing and stamped "Reviewed for Code Compliance." Such *approved* construction documents shall not be changed, modified or altered without authorization from the *code official*. Work shall be done in accordance with the *approved* construction documents.

One set of construction documents so reviewed shall be retained by the *code official*. The other set shall be returned to the applicant, kept at the site of work and shall be open to inspection by the *code official* or a duly authorized representative.

**R103.3.2 Previous approvals.** This code shall not require changes in the construction documents, construction or designated occupancy of a structure for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the construction of which has been pursued in good faith within 180 days after the effective date of this code and has not been abandoned.

**R103.3.3 Phased approval.** The *code official* shall have the authority to issue a permit for the construction of part of an energy conservation system before the construction documents for the entire system have been submitted or *approved*, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this code. The holders of such permit shall proceed at their own risk without assurance that the permit for the entire energy conservation system will be granted.

**R103.4 Amended construction documents.** ~~((Changes made during construction that are not in compliance))~~ Work shall be installed in accordance with the *approved* construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

**R103.5 Retention of construction documents.** One set of *approved* construction documents shall be retained by the *code official* for a period of not less than 180 days from date of completion of the permitted work, or as required by state or local laws.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10400 Section R104—Inspections.**

**R104.1 General.** Construction or work for which a permit is required shall be subject to inspection by the *code official* or his or her designated agent, and such construction or work shall remain accessible and exposed for inspection purposes until *approved*. It shall be the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes. Neither the *code official* nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material, product, system or building component required to allow inspection to validate compliance with this code.

**R104.2 Required** ~~((**approvals.** Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the *code official*. The *code official*, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the *code official*))~~ **inspections.** The *code official* or his or her designated agent, upon notification, shall make the inspections set forth in Sections R104.2.1 through R104.2.5.

**R104.2.1 Footing and foundation inspection.** Inspections associated with footings and foundations shall verify compliance with the code as to *R*-value, location, thickness, depth of burial and protection of insulation as required by the code and approved plans and specifications.

~~((**R104.2.1 Wall insulation inspection.** The building official, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the *International Residential Code*. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.~~

~~**R104.3))**~~ **R104.2.2 Framing and rough-in inspection.** Inspections at framing and rough-in shall be made before application of interior finish and shall verify compliance with the code as to types of insulation and corresponding *R*-values and their correct location and proper installation; fenestration properties (*U*-factor and SHGC) and proper installation; and air leakage controls as required by the code and approved plans and specifications.

**R104.2.2.1 Wall insulation inspection.** The building official, upon notification, shall make a wall insulation inspection in addition to those inspections required in Section R109 of the *International Residential Code*. This inspection shall be made after all wall and cavity insulation is in place and prior to cover.

**R104.2.3 Plumbing rough-in inspection.** Inspections at plumbing rough-in shall verify compliance as required by the code and approved plans and specifications as to types of

insulation and corresponding R-values and protection, required controls.

**R104.2.4 Mechanical rough-in inspection.** Inspections at mechanical rough-in shall verify compliance as required by the code and approved plans and specifications as to installed HVAC equipment type and size, required controls, system insulation and corresponding R-value, system air leakage control, programmable thermostats, dampers, whole-house ventilation and minimum fan efficiency.

**EXCEPTION:** Systems serving multiple dwelling units shall be inspected in accordance with Section C104.2.4.

**R104.2.5 Final inspection.** The building shall have a final inspection and not be occupied until *approved*.

~~((R104.4))~~ **R104.3 Reinspection.** A building shall be reinspected when determined necessary by the *code official*.

~~((R104.5))~~ **R104.4 Approved inspection agencies.** The *code official* is authorized to accept reports of ~~((approved))~~ third-party inspection agencies not affiliated with the building design or construction, provided such agencies ((satisfy the requirements)) are approved as to qualifications and reliability relevant to the building components and systems they are inspecting.

~~((R104.6))~~ **R104.5 Inspection requests.** It shall be the duty of the holder of the permit or their duly authorized agent to notify the *code official* when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.

~~((R104.7))~~ **R104.6 Reinspection and testing.** Where any work or installation does not pass an initial test or inspection, the necessary corrections shall be made so as to achieve compliance with this code. The work or installation shall then be resubmitted to the *code official* for inspection and testing.

~~((R104.8))~~ **R104.7 Approval.** After the prescribed tests and inspections indicate that the work complies in all respects with this code, a notice of approval shall be issued by the *code official*.

~~((R104.8.1))~~ **R104.7.1 Revocation.** The *code official* is authorized to, in writing, suspend or revoke a notice of approval issued under the provisions of this code wherever the certificate is issued in error, or on the basis of incorrect information supplied, or where it is determined that the building or structure, premise, or portion thereof is in violation of any ordinance or regulation or any of the provisions of this code.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10600 Section R106—Referenced standards.**

**R106.1 Referenced codes and standards.** The codes and standards referenced in this code shall be those listed in Chapter 5, and such codes and standards shall be considered as part of the requirements of this code to the prescribed

extent of each such reference and as further regulated in Sections R106.1.1 and R106.1.2.

**R106.1.1 Conflicts.** Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

**R106.1.2 Provisions in referenced codes and standards.** Where the extent of the reference to a referenced code or standard includes subject matter that is within the scope of this code, the provisions of this code, as applicable, shall take precedence over the provisions in the referenced code or standard.

~~**R106.2 ((Conflicting requirements.** Where the provisions of this code and the referenced standards conflict, the provisions of this code shall take precedence.~~

~~**R106.3)) Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.~~

~~**((R106.4)) R106.3 Other laws.** The provisions of this code shall not be deemed to nullify any provisions of local, state or federal law. In addition to the requirements of this code, all occupancies shall conform to the provisions included in the state building code (chapter 19.27 RCW). In case of conflicts among codes enumerated in RCW 19.27.031 (1) through (4) and this code, an earlier named code shall govern over those following. In the case of conflict between the duct sealing and insulation requirements of this code and the duct insulation requirements of Sections 603 and 604 of the *International Mechanical Code*, the duct insulation requirements of this code shall govern.~~

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-10800 Section R108—Stop work order.**

**R108.1 Authority.** Whenever the *code official* finds any work regulated by this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe, the *code official* is authorized to issue a stop work order.

**R108.2 Issuance.** The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

**R108.3 Emergencies.** Where an emergency exists, the *code official* shall not be required to give a written notice prior to stopping the work.

**R108.4 Failure to comply.** Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be ~~((liable to a~~



~~fine as established by the applicable governing entity)) subject to a fine as set by the applicable governing authority.~~

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20201 Section R202.1—A.**

**ABOVE-GRADE WALL.** A wall enclosing *conditioned space* that is not a below-grade wall. This includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable end walls, walls enclosing a mansard roof and skylight shafts.

**ACCESSIBLE.** Admitting close approach as a result of not being guarded by locked doors, elevation or other effective means (see "*Readily accessible*").

**ADDITION.** An extension or increase in the *conditioned space* floor area or height of a building or structure.

**ADVANCED FRAMED WALLS.** Studs framed on 24-inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and one stud is used to support each header. Headers consist of double 2x material with R-10 insulation between the header and exterior sheathing. Interior partition wall/exterior wall intersections are fully insulated in the exterior wall. (See **Standard Framing** and Appendix A, of this code.)

**AIR BARRIER.** Material(s) assembled and joined together to provide a barrier to air leakage through the building envelope. An air barrier may be a single material or a combination of materials.

**ALTERATION.** Any construction, retrofit or renovation of an existing structure other than repair or addition that requires a permit. Also, a change in a building, electrical, gas, mechanical or plumbing system that involves an extension, addition or change to the arrangement, type or purpose of the original installation that requires a permit.

**APPROVED.** Approval by the *code official* as a result of investigation and tests conducted by him or her, or by reason of accepted principles or tests by nationally recognized organizations.

**APPROVED AGENCY.** An established and recognized agency regularly engaged in conducting tests or furnishing inspection services, when such agency has been approved by the code official.

**AUTOMATIC.** Self-acting, operating by its own mechanism when actuated by some impersonal influence, as, for example, a change in current strength, pressure, temperature or mechanical configuration (see "Manual").

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20203 Section R202.3—C.**

**C-FACTOR (THERMAL CONDUCTANCE).** The coefficient of heat transmission (surface to surface) through a building component or assembly, equal to the time rate of heat flow per unit area and the unit temperature difference between the warm side and cold side surfaces (Btu/h ft<sup>2</sup> × °F) [W/(m<sup>2</sup> × K)].

**CIRCULATING HOT WATER SYSTEM.** A specifically designed water distribution system where one or more pumps are operated in the service hot water piping to circulate heated water

from the water-heating equipment to the fixture supply and back to the water-heating equipment.

**CLIMATE ZONE.** A geographical region based on climatic criteria as specified in this code.

**CODE OFFICIAL.** The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.

**COMMERCIAL BUILDING.** For this code, all buildings that are not included in the definition of "Residential buildings."

**CONDITIONED FLOOR AREA.** The horizontal projection of the floors associated with the *conditioned space*.

**CONDITIONED SPACE.** An area ((~~or room within a building being heated or cooled, containing uninsulated ducts, or with a fixed opening directly into an adjacent conditioned space~~)), room or space that is enclosed within the building thermal envelope and that is directly or indirectly heated or cooled. Spaces are indirectly heated or cooled where they communicate through openings with conditioned spaces, where they are separated from conditioned spaces by uninsulated walls, floors or ceilings, or where they contain uninsulated ducts, piping or other sources of heating or cooling.

**CONTINUOUS AIR BARRIER.** A combination of materials and assemblies that restrict or prevent the passage of air through the building thermal envelope.

**CONTINUOUS INSULATION (c.i.).** ((~~Insulation~~)) Insulating material that is continuous across all structural members without thermal bridges other than fasteners and service openings. It is installed on the interior or exterior or is integral to any opaque surface of the building envelope.

**CURTAIN WALL.** Fenestration products used to create an external nonload-bearing wall that is designed to separate the exterior and interior environments.

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

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20205 Section R202.5—E.**

**ENERGY ANALYSIS.** A method for estimating the annual energy use of the *proposed design* and *standard reference design* based on estimates of energy use.

**ENERGY COST.** The total estimated annual cost for purchased energy for the building functions regulated by this code, including applicable demand charges.

**ENERGY SIMULATION TOOL.** An *approved* software program or calculation-based methodology that projects the annual energy use of a building.

((~~ENTRANCE DOOR.~~ Fenestration products used for ingress, egress and access in nonresidential buildings including, but not limited to, exterior entrances that utilize latching hardware and automatic closers and contain over 50 percent glass specifically designed to withstand heavy use and possibly abuse.))

**EXTERIOR WALL.** Walls including both above-grade walls and below-grade walls.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20206 Section R202.6—F.**

~~FENESTRATION. ((Skylights, roof windows, vertical windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque/glazed doors. Fenestration includes products with glass and nonglass glazing materials.))~~ Products classified as either vertical fenestration or skylights.

**VERTICAL FENESTRATION.** Windows (fixed or moveable), opaque doors, glazed doors, glazed block and combination opaque/glazed doors composed of glass or other transparent or translucent glazing materials and installed at a slope of at least 60 degrees from horizontal.

**SKYLIGHT.** Glass or other transparent or translucent glazing material installed with a slope of less than 60 degrees from horizontal.

**FENESTRATION AREA.** Total area of the fenestration measured using the rough opening, and including the glazing, sash and frame.

**FENESTRATION PRODUCT, FIELD-FABRICATED.** A fenestration product whose frame is made at the construction site of standard dimensional lumber or other materials that were not previously cut, or otherwise formed with the specific intention of being used to fabricate a fenestration product or exterior door. Field fabricated does not include site-built fenestration.

**FENESTRATION PRODUCT, SITE-BUILT.** A fenestration designed to be made up of field-glazed or field-assembled units using specific factory cut or otherwise factory-formed framing and glazing units. Examples of site-built fenestration include storefront systems, curtain walls, and atrium roof systems.

**F-FACTOR.** The perimeter heat loss factor for slab-on-grade floors ( $\text{Btu/h} \times \text{ft} \times \text{°F}$ ) [ $\text{W}/(\text{m} \times \text{K})$ ].

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

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20208 Section R202.8—H.**

**HEATED SLAB-ON-GRADE FLOOR.** Slab-on-grade floor construction in which the heating elements, hydronic tubing, or hot air distribution system is in contact with, or placed within or under, the slab.

**HIGH-EFFICACY LAMPS.** Compact fluorescent lamps, T-8 or smaller diameter linear fluorescent lamps, or lamps with a minimum efficacy of:

1. 60 lumens per watt for lamps over 40 watts;
2. 50 lumens per watt for lamps over 15 watts to 40 watts; and
3. 40 lumens per watt for lamps 15 watts or less.

**HISTORIC BUILDINGS.** Buildings that are listed in or eligible for listing in the *National Register of Historic Places*, or designated as historic under an appropriate state or local law.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20209 Section R202.9—I.**

**INFILTRATION.** The uncontrolled inward air leakage into a building caused by the pressure effects of wind or the effect of differences in the indoor and outdoor air density or both.

**INSULATED SIDING.** A type of continuous insulation with manufacturer-installed insulating material as an integral part of the cladding product having a minimum R-value of R-2.

**INSULATING SHEATHING.** An insulating board with a core material having a minimum R-value of R-2.

**INTEGRATED ENERGY EFFICIENCY RATIO (IEER).** A single-number figure of merit expressing cooling part-load EER efficiency for unitary air-conditioning and heat pump equipment on the basis of weighted operation at various load capacities for the equipment.

**INTERMEDIATE FRAMED WALLS.** Studs framed on 16-inch centers with double top plate and single bottom plate. Corners use two studs or other means of fully insulating corners, and each opening is framed by two studs. Headers shall be insulated to R-10.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-20218 Section R202.18—R.**

**READILY ACCESSIBLE.** Capable of being reached quickly for operation, renewal or inspection without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders or access equipment (see "*Accessible*").

**REPAIR.** The reconstruction or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

**REROOFING.** The process of recovering or replacing an existing roof covering. See "*Roof recover*" and "*Roof replacement*."

**RESIDENTIAL BUILDING.** For this code, includes detached one- and two-family dwellings and multiple single-family dwellings (townhouses) as well as Group R-2, R-3 and R-4 buildings three stories or less in height above grade plane.

**ROOF ASSEMBLY.** A system designed to provide weather protection and resistance to design loads. The system consists of a roof covering and roof deck or a single component serving as both the roof covering and the roof deck. A roof assembly includes the roof covering, underlayment, roof deck, insulation, vapor retarder and interior finish.

**ROOF RECOVER.** The process of installing an additional roof covering over a prepared existing roof covering without removing the existing roof covering.

**ROOF REPAIR.** Reconstruction or renewal of any part of an existing roof for the purposes of its maintenance.

**ROOF REPLACEMENT.** The process of removing the existing roof covering, repairing any damaged substrate and installing a new roof covering.

**R-VALUE (THERMAL RESISTANCE).** The inverse of the time rate of heat flow through a body from one of its bounding surfaces to the other surface for a unit temperature difference between the two surfaces, under steady state conditions, per unit area ( $h \cdot \text{ft}^2 \cdot \text{°F/Btu}$ ) [ $(\text{m}^2 \cdot \text{K})/\text{W}$ ].

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

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-30310 Section R303.1—Identification.**

**R303.1 Identification.** Materials, systems and equipment shall be identified in a manner that will allow a determination of compliance with the applicable provisions of this code.

**R303.1.1 Building thermal envelope insulation.** An *R*-value identification mark shall be applied by the manufacturer to each piece of *building thermal envelope* insulation 12 inches (305 mm) or greater in width. Alternately, the insulation installers shall provide a certification listing the type, manufacturer and *R*-value of insulation installed in each element of the *building thermal envelope*. For blown or sprayed insulation (fiberglass and cellulose), the initial installed thickness, settled thickness, settled *R*-value, installed density, coverage area and number of bags installed shall be *listed* on the certification. For sprayed polyurethane foam (SPF) insulation, the installed thickness of the areas covered and *R*-value of installed thickness shall be *listed* on the certification. For insulated siding, the *R*-value shall be labeled on the product's package and shall be listed on the certification. The insulation installer shall sign, date and post the certification in a conspicuous location on the job site.

**R303.1.1.1 Blown or sprayed roof/ceiling insulation.** The thickness of blown-in or sprayed roof/ceiling insulation (fiberglass or cellulose) shall be written in inches (mm) on markers that are installed at least one for every 300 square feet (28 m<sup>2</sup>) throughout the attic space. The markers shall be affixed to the trusses or joists and marked with the minimum initial installed thickness with numbers a minimum of 1 inch (25 mm) in height. Each marker shall face the attic access opening. Spray polyurethane foam thickness and installed *R*-value shall be *listed* on certification provided by the insulation installer.

**R303.1.2 Insulation mark installation.** Insulating materials shall be installed such that the manufacturer's *R*-value mark is readily observable upon inspection.

**R303.1.3 Fenestration product rating.** *U*-factors of fenestration products (windows, doors and skylights) shall be determined in accordance with NFRC 100.

**EXCEPTION:** Where required, garage door *U*-factors shall be determined in accordance with either NFRC 100 or ANSI/DASMA 105.

*U*-factors shall be determined by an accredited, independent laboratory, and labeled and certified by the manufacturer.

Products lacking such a labeled *U*-factor shall be assigned a default *U*-factor from Table R303.1.3(1), R303.1.3(2) or R303.1.3(4). The solar heat gain coefficient (SHGC) and visible transmittance (VT) of glazed fenestration products (windows, glazed doors and skylights) shall be determined in accordance with NFRC 200 by an accredited, independent laboratory, and labeled and certified by the man-

ufacturer. Products lacking such a labeled SHGC or VT shall be assigned a default SHGC or VT from Table R303.1.3(3).

**EXCEPTIONS:** 1. Units without NFRC ratings produced by a *small business* may be assigned default *U*-factors from Table R303.1.3(5) for vertical fenestration.  
2. Owner-built, nonoperable wood frame window consisting of a double pane unit with low-*e* (*E* = 0.04 or less), 1/2-inch air space with argon fill.

**R303.1.4 Insulation product rating.** The thermal resistance (*R*-value) of insulation shall be determined in accordance with the U.S. Federal Trade Commission *R*-value rule (C.F.R. Title 16, Part 460) in units of h × ft<sup>2</sup> × °F/Btu at a mean temperature of 75°F (24°C).

**R303.1.4.1 Insulated siding.** The thermal resistance (*R*-value) of insulated siding shall be determined in accordance with ASTM C1363. Installation for testing shall be in accordance with the manufacturer's installation instructions.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40100 Section R401—General.**

**R401.1 Scope.** This chapter applies to residential buildings.

**R401.2 Compliance.** Projects shall comply with ((sections identified as "mandatory" and with either sections identified as "prescriptive" or the performance approach in Section R405. In addition, one and two family dwellings and townhouses, as defined in Section 101.2 of the *International Residential Code*, shall comply with Section R406)) one of the following:

1. Sections R401 through R404.

2. Section R405 and the provisions of Sections R401 through R404 labeled "Mandatory."

In addition, dwelling units and sleeping units in a residential building shall comply with Section R406.

**R401.3 Certificate (Mandatory).** A permanent certificate shall be completed by the builder or registered design professional and posted on ((or within three feet of the electrical distribution panel by the builder or registered design professional. The certificate shall be completed by the builder or registered design professional and shall not cover or obstruct the visibility of the circuit directory label, service disconnect label or other required labels)) a wall in the space where the furnace is located, a utility room, or an approved location inside the building. When located on an electrical panel, the certificate shall not cover or obstruct the visibility of the circuit directory label, service disconnect label, or other required labels. The certificate shall list the predominant *R*-values of insulation installed in or on ceiling/roof, walls, foundation (slab, *below-grade wall*, and/or floor) and ducts outside conditioned spaces; *U*-factors for fenestration and the solar heat gain coefficient (SHGC) of fenestration, and the results from any required duct system and building envelope air leakage testing done on the building. Where there is more than one value for each component, the certificate shall list the value covering the largest area. The certificate shall list the types and efficiencies of heating, cooling and service water heating equipment. Where a gas-fired unvented room

heater, electric furnace, or baseboard electric heater is installed in the residence, the certificate shall list "gas-fired unvented room heater," "electric furnace" or "baseboard electric heater," as appropriate. An efficiency shall not be listed for gas-fired unvented room heaters, electric furnaces or electric baseboard heaters.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40210 Section R402.1—General.**

**R402.1 General (Prescriptive).** The *building thermal envelope* shall meet the requirements of Sections R402.1.1 through ~~((R402.1.4))~~ **R402.1.5.**

**EXCEPTION:** The following buildings, or portions thereof, separated from the remainder of the building by building thermal envelope assemblies complying with this code shall be exempt from the building thermal envelope provisions of this code.

1. Those with a peak design rate of energy usage less than 3.4 Btu/h ft<sup>2</sup> (10.7 W/m<sup>2</sup>) or 1.0 watt/ft<sup>2</sup> (10.7 W/m<sup>2</sup>) of floor area for space conditioning purposes.
2. Those that do not contain *conditioned space*.
3. Greenhouses isolated from any conditioned space and not intended for occupancy.

**R402.1.1 Insulation and fenestration criteria.** The *building thermal envelope* shall meet the requirements of Table R402.1.1 based on the climate zone specified in Chapter 3.

**R402.1.2 R-value computation.** Insulation material used in layers, such as framing cavity insulation ~~((and insulating sheathing,))~~ or continuous insulation shall be summed to compute the corresponding component R-value. The manufacturer's settled R-value shall be used for blown insulation. Computed R-values shall not include an R-value for other

building materials or air films. Where insulated siding is used for the purpose of complying with the continuous insulation requirements of Table R402.1.1, the manufacturer must supply an ICC Report that the R-factor has been certified, or use R-5 per inch for extruded polystyrene, and R-6 per inch for polyisocyanurate rigid insulation.

**R402.1.3 U-factor alternative.** An assembly with a U-factor equal to or less than that specified in Table R402.1.3 shall be permitted as an alternative to the R-value in Table R402.1.1.

**R402.1.4 Total UA alternative.** If the total *building thermal envelope* UA (sum of U-factor times assembly area) is less than or equal to the total UA resulting from using the U-factors in Table R402.1.3 (multiplied by the same assembly area as in the proposed building), the building shall be considered in compliance with Table R402.1.1. The U-factors for typical construction assemblies are included in Appendix A in chapter 51-11C WAC. These values shall be used for all calculations. Where proposed construction assemblies are not represented in Appendix A, values shall be calculated in accordance with the ASHRAE *Handbook of Fundamentals* using the framing factors listed in Appendix A where applicable and shall include the thermal bridging effects of framing materials. The SHGC requirements shall be met in addition to UA compliance. When using REScheck, the U-factors calculated by the software based on component R-value descriptions are acceptable. For the base building UA calculation, the maximum glazing area is 15% of the floor area.

**R402.1.5 Vapor retarder.** Wall assemblies in the building thermal envelope shall comply with the vapor retarder requirements of Section R702.7 of the International Residential Code or Section 1405.3 of the International Building Code, as applicable.

**AMENDATORY SECTION** (Amending WSR 13-20-121, filed 10/1/13, effective 11/1/13)

**WAC 51-11R-40211 Table R402.1.1—Insulation and fenestration requirements by component.**

**TABLE R402.1.1  
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT<sup>a</sup>**

Climate Zone	Fenestration U-Factor <sup>b</sup>	Skylight <sup>b</sup> U-Factor	Glazed Fenestration SHGC <sup>b, c</sup>	Ceiling R-Value <sup>k</sup>	Wood Frame Wall <sup>g, m, n</sup> R-Value	Mass Wall R-Value <sup>i</sup>	Floor R-Value	Below-Grade <sup>c, m</sup> Wall R-Value	Slab <sup>d</sup> R-Value & Depth
5 and Marine 4	0.30	0.50	NR	49	21 int	21/ 21 <sup>(h)</sup>	30 <sup>(e)</sup>	10/15/ 21int+TB	10, 2 ft
<del>((6</del>	<del>0.30</del>	<del>0.50</del>	<del>NR</del>	<del>49</del>	<del>21+5ei</del>	<del>21+5<sup>h</sup></del>	<del>30<sup>e</sup></del>	<del>10/15/ 21int+TB</del>	<del>10, 4 ft))</del>

For SI: 1 foot = 304.8 mm, ci = continuous insulation, int = intermediate framing.

<sup>a</sup> R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the compressed R-value of the insulation from Appendix Table A101.4 shall not be less than the R-value specified in the table.

<sup>b</sup> The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration. ~~((Exception: Skylights may be excluded from glazed fenestration SHGC requirements in Climate Zones 1 through 3 where the SHGC for such skylights does not exceed 0.30.))~~

<sup>c</sup> "10/15/21+TB" means R-10 continuous insulation on the exterior of the wall, or R-15 on the continuous insulation on the interior of the wall, or R-21 cavity insulation plus a thermal break between the slab and the basement wall at the interior of the basement wall. "10/15/21+TB" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulation on the interior or exterior of the wall. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall. "TB" means thermal break between floor slab and basement wall.

<sup>d</sup> R-10 continuous insulation is required under heated slab on grade floors. See R402.2.9.1.

<sup>e</sup> There are no SHGC requirements in the Marine Zone.

<sup>f</sup> ~~((Basement wall insulation is not required in warm-humid locations as defined by Figure R301.1 and Table R301.1.))~~ Reserved.

<sup>g</sup> Reserved.

<sup>h</sup> ~~((First value is cavity insulation, second is continuous insulation or insulated siding, so "13+5" means R-13 cavity insulation plus R-5 continuous insulation or insulated siding. If structural sheathing covers 40 percent or less of the exterior, continuous insulation R-value shall be permitted to be reduced by no more than R-3 in the locations where structural sheathing is used to maintain a consistent total sheathing thickness.))~~ Reserved.

<sup>i</sup> The second R-value applies when more than half the insulation is on the interior of the mass wall.

<sup>j</sup> Reserved.

<sup>k</sup> For single rafter- or joist-vaulted ceilings, the insulation may be reduced to R-38.

<sup>l</sup> Reserved.

<sup>m</sup> Int. (intermediate framing) denotes standard framing 16 inches on center with headers insulated with a minimum of R-10 insulation.

<sup>n</sup> Log and solid timber walls with a minimum average thickness of 3.5 inches are exempt from this insulation requirement.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40213 Table R402.1.3—Equivalent U-factors.**

**TABLE R402.1.3  
EQUIVALENT U-FACTORS<sup>a</sup>**

Climate Zone	Fenestration U-Factor	Skylight U-Factor	Ceiling U-Factor	Frame Wall U-Factor	Mass Wall U-Factor <sup>b</sup>	Floor U-Factor	Below-Grade Wall U-Factor
5 and Marine 4	0.30	0.50	0.026	0.056	0.056	0.029	0.042
<del>((6-</del>	<del>0.30</del>	<del>0.50</del>	<del>0.026</del>	<del>0.044</del>	<del>0.044</del>	<del>0.029</del>	<del>0.042))</del>

<sup>a</sup> Nonfenestration U-factors shall be obtained from measurement, calculation or an approved source or as specified in Section R402.1.3.

<sup>b</sup> Reserved.

<sup>c</sup> Basement wall U-factor of 0.360 in warm-humid locations as defined by Figure R301.1 and Table R301.1.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40220 Section R402.2—Specific insulation requirements.**

**R402.2 Specific insulation requirements (Prescriptive).** In addition to the requirements of Section R402.1, insulation shall meet the specific requirements of Sections R402.2.1 through ~~((R402.2.12))~~ R402.2.11.

**R402.2.1 Ceilings with attic spaces.** ~~((When Section R402.1.1 would require R-38 in the ceiling, R-30 shall be deemed to satisfy the requirement for R-38 wherever the full height of uncompressed R-30 insulation extends over the wall top plate at the eaves. Similarly, R-38))~~ Where Section R402.1.2 would require R-49 in the ceiling, installing R-38 over 100 percent of the ceiling area requiring insulation shall be deemed to satisfy the requirement for R-49 wherever the full height of uncompressed R-38 insulation extends over the wall top plate at the eaves. This reduction shall not apply to the U-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

**R402.2.1.1 Loose insulation in attic spaces.** Open-blown or poured loose fill insulation may be used in attic spaces where the slope of the ceiling is not more than 3 feet in 12 and there is at least 30 inches of clear distance from the top of the bot-

tom chord of the truss or ceiling joist to the underside of the sheathing at the roof ridge.

**R402.2.3 Eave baffle.** For air permeable insulations in vented attics, a baffle shall be installed adjacent to soffit and eave vents. Baffles shall maintain an opening equal or greater than the size of the vent. The baffle shall extend over the top of the attic insulation. The baffle shall be permitted to be any solid material.

**R402.2.4 Access hatches and doors.** Access doors from conditioned spaces to unconditioned spaces (e.g., attics and crawl spaces) shall be weatherstripped and insulated to a level equivalent to the insulation on the surrounding surfaces. Access shall be provided to all equipment that prevents damaging or compressing the insulation. A wood framed or equivalent baffle or retainer is required to be provided when loose fill insulation is installed, the purpose of which is to prevent the loose fill insulation from spilling into the living space when the attic access is opened, and to provide a permanent means of maintaining the installed R-value of the loose fill insulation.

**EXCEPTION:** Vertical doors that provide access from conditioned to unconditioned spaces shall be permitted to meet the fenestration requirements of Table R402.1.2 based on the applicable climate zone specified in chapter 3.

**R402.2.5 Mass walls.** Mass walls for the purposes of this chapter shall be considered above-grade walls of concrete

block, concrete, insulated concrete form (ICF), masonry cavity, brick (other than brick veneer), earth (adobe, compressed earth block, rammed earth) and solid timber/logs, or any other walls having a heat capacity greater than or equal to 6 Btu/ft<sup>2</sup> x °F (123 kJ/m<sup>2</sup> x K).

**R402.2.6 Steel-frame ceilings, walls, and floors.** Steel-frame ceilings, walls, and floors shall meet the *U*-factor requirements of Table R402.1.3.

**R402.2.7 Floors.** Floor framing cavity insulation shall be installed to maintain permanent contact with the underside of the subfloor decking. Insulation supports shall be installed so spacing is no more than 24((-))inches on center. Foundation vents shall be placed so that the top of the vent is below the lower surface of the floor insulation.

EXCEPTIONS: 1. The floor framing cavity insulation shall be permitted to be in contact with the topside of sheathing or continuous insulation installed on the bottom side of floor framing where combined with insulation that meets or exceeds the minimum Wood Frame Wall *R*-value in Table R402.1.2 and extends from the bottom to the top of all perimeter floor framing members.  
 2. When foundation vents are not placed so that the top of the vent is below the lower surface of the floor insulation, a permanently attached baffle shall be installed at an angle of 30° from horizontal, to divert air flow below the lower surface of the floor insulation.  
 ((2-)) 3. Substantial contact with the surface being insulated is not required in enclosed floor/ceiling assemblies containing ducts where full *R*-value insulation is installed between the duct and the exterior surface.

**R402.2.8 ((Basement)) Below-grade walls.** Below-grade exterior wall insulation used on the exterior (cold) side of the wall shall extend from the top of the below-grade wall to the top of the footing and shall be approved for below-grade use. Above-grade insulation shall be protected. Insulation used on the interior (warm) side of the wall shall extend from the top of the below-grade wall to the below-grade floor level and shall include R-5 rigid board providing a thermal break between the concrete wall and the slab.

**R402.2.9 Slab-on-grade floors.** The minimum thermal resistance (*R*-value) of the insulation around the perimeter of unheated or heated slab-on-grade floors shall be as specified in Table C402.1.1. The insulation shall be placed on the outside of the foundation or on the inside of the foundation wall. The insulation shall extend downward from the top of the slab for a minimum distance as shown in the table or to the top of the footing, whichever is less, or downward to at least the bottom of the slab and then horizontally to the interior or exterior for the total distance shown in the table. A two-inch by two-inch (maximum) pressure treated nailer may be placed at the finished floor elevation for attachment of interior finish materials. Insulation extending away from the building shall be protected by pavement or by a minimum of 10 inches (254 mm) of soil.

**R402.2.9.1 Heated slab-on-grade floors (Mandatory).** The entire area of a heated slab-on-grade floor shall be thermally isolated from the soil with a minimum of R-10 insulation. The insulation shall be an approved product for its intended use. If a soil gas control system is present below the heated

slab-on-grade floor, which results in increased convective flow below the heated slab-on-grade floor, the heated slab-on-grade floor shall be thermally isolated from the sub-slab gravel layer. R-10 heated slab-on-grade floor insulation is required for all compliance paths.

**R402.2.10 Reserved.**

**R402.2.11 Masonry veneer.** Insulation shall not be required on the horizontal portion of the foundation that supports a masonry veneer.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40230 Section R402.3—Fenestration.**

**R402.3 Fenestration (Prescriptive).** In addition to the requirements of Section R402, fenestration shall comply with Sections R402.3.1 through ((R402.3.6)) R402.3.5.

**R402.3.1 *U*-factor.** An area-weighted average of fenestration products shall be permitted to satisfy the *U*-factor requirements.

**R402.3.2 Glazed fenestration SHGC.** An area-weighted average of fenestration products more than 50 percent glazed shall be permitted to satisfy the SHGC requirements.

**R402.3.3 Glazed fenestration exemption.** Up to 15 square feet (1.4 m<sup>2</sup>) of glazed fenestration per dwelling unit shall be permitted to be exempt from *U*-factor and SHGC requirements in Section R402.1.1. This exemption shall not apply to the *U*-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

**R402.3.4 Opaque door exemption.** One side-hinged opaque door assembly up to 24 square feet (2.22 m<sup>2</sup>) in area is exempted from the *U*-factor requirement in Section R402.1.1. This exemption shall not apply to the *U*-factor alternative approach in Section R402.1.3 and the total UA alternative in Section R402.1.4.

**R402.3.5 Reserved.**

~~((R402.3.6 Replacement fenestration. Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for *U*-factor and SHGC in Table R402.1.1.))~~

AMENDATORY SECTION (Amending WSR 14-24-123, filed 12/3/14, effective 1/3/15)

**WAC 51-11R-40240 Section R402.4—Air leakage.**

**R402.4 Air leakage (Mandatory).** The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections R402.4.1 through R402.4.4.

**R402.4.1 Building thermal envelope.** The *building thermal envelope* shall comply with Sections R402.4.1.1 and R402.4.1.2. The sealing methods between dissimilar materials shall allow for differential expansion and contraction.

**R402.4.1.1 Installation.** The components of the *building thermal envelope* as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. Where required by the *code official*, an *approved* third party shall inspect all components and verify compliance.

**R402.4.1.2 Testing.** The building or dwelling unit shall be tested and verified as having an air leakage rate of not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the *code official*, testing shall be conducted by an *approved* third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the *code official*. Testing shall be performed at any time after creation of all penetrations of the *building thermal envelope*. Once visual inspection has confirmed sealing (see Table R402.4.1.1), operable windows and doors manufactured by *small business* shall be permitted to be sealed off at the frame prior to the test.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weatherstripping or other infiltration control measures;
2. Dampers including exhaust, intake, makeup air, back-draft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open, access hatches to conditioned crawl spaces and conditioned attics shall be open;
4. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

**EXCEPTIONS:**

1. Additions less than 500 square feet of conditioned floor area.
2. Additions tested with the existing home having a combined maximum air leakage rate of 7 air changes per hour. To qualify for this exception, the date of construction of the existing house must be prior to the 2009 Washington State Energy Code.

**R402.4.2 Fireplaces.** New wood-burning fireplaces shall have tight-fitting flue dampers or doors, and outdoor combustion air. When using tight-fitting doors on factory-built fireplaces listed and labeled in accordance with UL 127, the

doors shall be tested and listed for the fireplace. Where using tight-fitting doors on masonry fireplaces, the doors shall be listed and labeled in accordance with UL 907.

**R402.4.3 Air leakage of fenestration.** Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot (1.5 L/s/m<sup>2</sup>), and swinging doors no more than 0.5 cfm per square foot (2.6 L/s/m<sup>2</sup>), when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and *listed and labeled* by the manufacturer.

**EXCEPTIONS:**

1. Field-fabricated fenestration products (windows, skylights and doors).
2. Custom exterior fenestration products manufactured by a small business provided they meet the applicable provisions of Chapter 24 of the *International Building Code*. Once visual inspection has confirmed the presence of a gasket, operable windows and doors manufactured by *small business* shall be permitted to be sealed off at the frame prior to the test.

**R402.4.4 Combustion air openings.** In Climate Zones 3 through 8, where open combustion air ducts provide combustion air to open combustion, space conditioning fuel burning appliances, the appliances and combustion air openings shall be located outside of the building thermal envelope, or enclosed in a room isolated from inside the thermal envelope. Such rooms shall be sealed and insulated in accordance with the envelope requirements of Table R402.1.2, where the walls, floors and ceilings shall meet the minimum of the below-grade wall R-value requirement. The door into the room shall be fully gasketed and any water lines and ducts in the room insulated in accordance with Section R403. The combustion air duct shall be insulated where it passes through conditioned space to a minimum of R-8.

**EXCEPTIONS:**

1. Direct vent appliances with both intake and exhaust pipes installed continuous to the outside.
2. Fireplaces and stoves complying with Section R402.4.2 and Section R1006 of the *International Residential Code*.

**R402.4.5 Recessed lighting.** Recessed luminaires installed in the *building thermal envelope* shall be Type IC-rated and certified under ASTM E283 as having an air leakage rate not more than 2.0 cfm (0.944 L/s) when tested at a 1.57 psf (75 Pa) pressure differential and shall have a label attached showing compliance with this test method. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40241 Table R402.4.1.1—Air barrier and insulation installation.**

**TABLE R402.4.1.1  
AIR BARRIER AND INSULATION INSTALLATION**

((COMPONENT	CRITERIA <sup>A</sup>
Air barrier and thermal barrier	A continuous air barrier shall be installed in the building envelope. Exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed. Air permeable insulation shall not be used as a sealing material.

((COMPONENT	CRITERIA <sup>A</sup>
Cavity insulation installation	<p>All cavities in the thermal envelope shall be filled with insulation. The density of the insulation shall be at the manufacturers' product recommendation and said density shall be maintained for all volume of each cavity. Batt type insulation will show no voids or gaps and maintain an even density for the entire cavity. Batt insulation shall be installed in the recommended cavity depth. Where an obstruction in the cavity due to services, blocking, bracing or other obstruction exists, the batt product will be cut to fit the remaining depth of the cavity. Where the batt is cut around obstructions, loose fill insulation shall be placed to fill any surface or concealed voids, and at the manufacturers' specified density. Where faced batt is used, the installation tabs must be stapled to the face of the stud. There shall be no compression to the batt at the edges of the cavity due to inset stapling installation tabs.</p> <p>Insulation that upon installation readily conforms to available space shall be installed filling the entire cavity and within the manufacturers' density recommendation.</p>
Ceiling/attic	<p>The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed. Access openings, drop down stair or knee wall doors to unconditioned attic spaces shall be sealed. Batt insulation installed in attic roof assemblies may be compressed at exterior wall lines to allow for required attic ventilation.</p>
Walls	<p>Corners and headers shall be insulated and the junction of the foundation and sill plate shall be sealed. The junction of the top plate and top of exterior walls shall be sealed. Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier. Knee walls shall be sealed.</p>
Windows, skylights and doors	<p>The space between window/door jambs and framing and skylights and framing shall be sealed.</p>
Rim joists	<p>Rim joists shall be insulated and include the air barrier.</p>
Floors (including above-garage and cantilevered floors)	<p>Insulation shall be installed to maintain permanent contact with underside of subfloor decking. The air barrier shall be installed at any exposed edge of insulation.</p>
Crawl space walls	<p>Where provided in lieu of floor insulation, insulation shall be permanently attached to the crawl space walls. Exposed earth in unvented crawl spaces shall be covered with a Class I vapor retarder with overlapping joints taped.</p>
Shafts, penetrations	<p>Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.</p>
Narrow cavities	<p>Batts in narrow cavities shall be cut to fit and installed to the correct density without any voids or gaps or compression. Narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.</p>
Garage separation	<p>Air sealing shall be provided between the garage and conditioned spaces.</p>
Recessed lighting	<p>Recessed light fixtures installed in the building thermal envelope shall be air tight, IC-rated, and sealed to the drywall.</p>
Plumbing and wiring	<p>Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls. There shall be no voids or gaps or compression where cut to fit. Insulation that on installation readily conforms to available space shall extend behind piping and wiring.</p>
Shower/tub on exterior wall	<p>Exterior walls adjacent to showers and tubs shall be insulated and the air barrier installed separating them from the showers and tubs.</p>
Electrical/phone box on exterior walls	<p>The air barrier shall be installed behind electrical or communication boxes or air sealed boxes shall be installed.</p>
HVAC register boots	<p>HVAC register boots that penetrate building thermal envelope shall be sealed to the subfloor or drywall.</p>
Fireplace	<p>An air barrier shall be installed on fireplace walls. Fireplaces shall have gasketed doors.))</p>



<u>COMPONENT</u>	<u>AIR BARRIER CRITERIA<sup>a</sup></u>	<u>INSULATION CRITERIA<sup>a</sup></u>
<u>General requirements</u>	<p><u>A continuous air barrier shall be installed in the building envelope.</u></p> <p><u>Exterior thermal envelope contains a continuous air barrier.</u></p> <p><u>Breaks or joints in the air barrier shall be sealed.</u></p>	<p><u>Air-permeable insulation shall not be used as a sealing material.</u></p>
<u>Cavity insulation installation</u>		<p><u>All cavities in the thermal envelope shall be filled with insulation. The density of the insulation shall be at the manufacturers' product recommendation and said density shall be maintained for all volume of each cavity. Batt type insulation will show no voids or gaps and maintain an even density for the entire cavity. Batt insulation shall be installed in the recommended cavity depth. Where an obstruction in the cavity due to services, blocking, bracing or other obstruction exists, the batt product will be cut to fit the remaining depth of the cavity. Where the batt is cut around obstructions, loose fill insulation shall be placed to fill any surface or concealed voids, and at the manufacturers' specified density. Where faced batt is used, the installation tabs must be stapled to the face of the stud. There shall be no compression to the batt at the edges of the cavity due to inset stapling installation tabs.</u></p> <p><u>Insulation that upon installation readily conforms to available space shall be installed filling the entire cavity and within the manufacturers' density recommendation.</u></p>
<u>Ceiling/attic</u>	<p><u>The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed.</u></p> <p><u>Access openings, drop down stair or knee wall doors to unconditioned attic spaces shall be sealed.</u></p>	<p><u>The insulation in any dropped ceiling/soffit shall be aligned with the air barrier.</u></p> <p><u>Batt insulation installed in attic roof assemblies may be compressed at exterior wall lines to allow for required attic ventilation.</u></p>
<u>Walls</u>	<p><u>The junction of the foundation and sill plate shall be sealed. The junction of the top plate and top of exterior walls shall be sealed. Knee walls shall be sealed.</u></p>	<p><u>Cavities within corners and headers of frame walls shall be insulated by completely filling the cavity with a material having a thermal resistance of R-3 per inch minimum.</u></p> <p><u>Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier.</u></p>
<u>Windows, skylights and doors</u>	<p><u>The space between window/door jambs and framing and skylights and framing shall be sealed.</u></p>	
<u>Rim joists</u>	<p><u>Rim joists shall include the air barrier.</u></p>	<p><u>Rim joists shall be insulated.</u></p>

<u>COMPONENT</u>	<u>AIR BARRIER CRITERIA<sup>a</sup></u>	<u>INSULATION CRITERIA<sup>a</sup></u>
<u>Floors (including above garage and cantilevered floors)</u>	<u>The air barrier shall be installed at any exposed edge of insulation.</u>	<u>Floor framing cavity insulation shall be installed to maintain permanent contact with the underside of subfloor decking or floor framing cavity insulation shall be permitted to be in contact with the topside of sheathing or continuous insulation installed on the underside of floor framing and extend from the bottom to the top of all perimeter floor framing members.</u>
<u>Crawl space walls</u>	<u>Exposed earth in unvented crawl spaces shall be covered with a Class I, black vapor retarder with overlapping joints taped.</u>	<u>Where provided instead of floor insulation, insulation shall be permanently attached to the crawlspace walls.</u>
<u>Shafts, penetrations</u>	<u>Duct shafts, utility penetrations, and flue shafts opening to exterior or unconditioned space shall be sealed.</u>	
<u>Narrow cavities</u>		<u>Batts in narrow cavities shall be cut to fit and installed to the correct density without any voids or gaps or compression, or narrow cavities shall be filled by insulation that on installation readily conforms to the available cavity space.</u>
<u>Garage separation</u>	<u>Air sealing shall be provided between the garage and conditioned spaces.</u>	
<u>Recessed lighting</u>	<u>Recessed light fixtures installed in the building thermal envelope shall be sealed to the drywall.</u>	<u>Recessed light fixtures installed in the building thermal envelope shall be air tight and IC rated.</u>
<u>Plumbing and wiring</u>		<u>Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls. There shall be no voids or gaps or compression where cut to fit. Insulation that on installation readily conforms to available space shall extend behind piping and wiring.</u>
<u>Shower/tub on exterior wall</u>	<u>The air barrier installed at exterior walls adjacent to showers and tubs shall separate them from the showers and tubs.</u>	<u>Exterior walls adjacent to showers and tubs shall be insulated.</u>
<u>Electrical/phone box on exterior wall</u>	<u>The air barrier shall be installed behind electrical or communication boxes or air sealed boxes shall be installed.</u>	
<u>HVAC register boots</u>	<u>HVAC register boots that penetrate building thermal envelope shall be sealed to the subfloor or drywall.</u>	
<u>Concealed sprinklers</u>	<u>When required to be sealed, concealed fire sprinklers shall only be sealed in a manner that is recommended by the manufacturer. Caulking or other adhesive sealants shall not be used to fill voids between fire sprinkler cover plates and walls or ceilings.</u>	

IC = insulation contact.

<sup>a</sup> In addition, inspection of log walls shall be in accordance with the provisions of ICC-400.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40250 Section R402.5—Maximum fenestration *U*-factor and SHGC.**

**R402.5 Maximum fenestration *U*-factor ~~((and SHGC))~~ (Mandatory).** The area-weighted average maximum fenestration *U*-factor permitted using tradeoffs from Section R402.1.4 or R405 shall be 0.48 ~~((in Climate Zones 4 and 5 and 0.40 in Climate Zones 6 through 8))~~ for vertical fenestration, and 0.75 ~~((in Climate Zones 4 through 8))~~ for skylights. ~~((The area-weighted average maximum fenestration SHGC permitted using tradeoffs from Section R405 in Climate Zones 1 through 3 shall be 0.50.))~~

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40310 Section R403.1—Controls.**

**R403.1 Controls (Mandatory).** At least one thermostat shall be provided for each separate heating and cooling system.

**R403.1.1 Programmable thermostat.** Where the primary heating system is a forced-air furnace, at least one thermostat per dwelling unit shall be capable of controlling the heating and cooling system on a daily schedule to maintain different temperature set points at different times of the day. The thermostat shall allow for, at a minimum, a 5-2 programmable schedule (weekdays/weekends) and be capable of providing at least two programmable setback periods per day. This thermostat shall include the capability to set back or temporarily operate the system to maintain *zone* temperatures down to 55°F (13°C) or up to 85°F (29°C). The thermostat shall initially be programmed by the manufacturer with a heating temperature set point no higher than 70°F (21°C) and a cooling temperature set point no lower than 78°F (26°C). The thermostat and/or control system shall have an adjustable deadband of not less than 10°F.

EXCEPTIONS: 1. Systems controlled by an occupant sensor that is capable of shutting the system off when no occupant is sensed for a period of up to 30 minutes.  
2. Systems controlled solely by a manually operated timer capable of operating the system for no more than two hours.

**R403.1.2 Heat pump supplementary heat (Mandatory).** Unitary air cooled heat pumps shall include controls that minimize supplemental heat usage during start-up, set-up, and defrost conditions. These controls shall anticipate need for heat and use compression heating as the first stage of heat. Controls shall indicate when supplemental heating is being used through visual means (e.g., LED indicators). Heat pumps equipped with supplementary heaters shall be installed with controls that prevent supplemental heater operation above 40°F. At final inspection the auxiliary heat lock out control shall be set to 35°F or less.

NEW SECTION

**WAC 51-11R-40315 Section R403.2—Hot water boiler.**

**R403.2 Hot water boiler outdoor temperature setback.** Hot water boilers that supply heat to the building through one- or two-pipe heating systems shall have an outdoor temperature setback control that lowers the boiler water temperature based on the outdoor temperature.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40320 Section ~~((R403.2))~~ R403.3—Ducts.**

~~((R403.2))~~ **R403.3 Ducts.** Ducts and air handlers shall be in accordance with Sections ~~((R403.2.1 through R403.2.3))~~ R403.3.1 through R403.3.5.

~~((R403.2.1))~~ **R403.3.1 Insulation (Prescriptive).** Ducts outside the building thermal envelope shall be insulated to a minimum of R-8. Ducts within a concrete slab or in the ground shall be insulation to R-10 with insulation designed to be used below grade.

EXCEPTION: Ducts or portions thereof located completely inside the *building thermal envelope*. Ducts located in crawl spaces do not qualify for this exception.

~~((R403.2.2))~~ **R403.3.2 Sealing (Mandatory).** Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with either the *International Mechanical Code* or *International Residential Code*, as applicable.

EXCEPTIONS: 1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.  
~~((2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.~~  
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches of water column (500 Pa) pressure classification shall not require additional closure systems.))  
2. For ducts having a static pressure classification of less than 2 inches of water column (500 Pa), additional closure systems shall not be required for continuously welded joints and seams, and locking-type joints and seams of other than the snap-lock and button-lock types.

~~((Ducts shall be leak tested in accordance with WSU RS-33, using the maximum duct leakage rates specified. Duct tightness shall be verified by either of the following:~~

1. Postconstruction test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test. Leakage to outdoors shall be less than or equal to 4 cfm (133.3 L/min) per 100 square feet of conditioned floor area.

2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m<sup>2</sup>) of con-

ditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 efm (85 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area.

**EXCEPTION:** The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope. Ducts located in crawl spaces do not qualify for this exception.

**R403.2.2.1) R403.3.2.1 Sealed air handler.** Air handlers shall have a manufacturer's designation for an air leakage of no more than 2 percent of the design air flow rate when tested in accordance with ASHRAE 193.

**((R403.2.3)) R403.3.3 Duct testing (Mandatory).** Ducts shall be leak tested in accordance with WSU RS-33, using the maximum duct leakage rates specified. Duct tightness shall be verified by either of the following:

**EXCEPTION:** The total leakage or leakage to the outdoors test is not required for ducts and air handlers located entirely within the building thermal envelope. For forced air ducts, a maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located in crawl spaces do not qualify for this exception.

A written report of the results shall be signed by the party conducting the test and provided to the *code official*.

**R403.3.4 Duct leakage (Mandatory).** The total leakage of the ducts, where measured in accordance with Section R403.3.3, shall be as follows:

1. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area.

2. Postconstruction test: Leakage to outdoors shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor areas or total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29 m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.

**R403.3.5 Building cavities (Mandatory).** Building framing cavities shall not be used as ducts or plenums. Installation of ducts in exterior walls, floors or ceilings shall not displace required envelope insulation.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40330 Section ((R403.3)) R403.4—Mechanical system piping insulation.**

**((R403.3)) R403.4 Mechanical system piping insulation (Mandatory).** Mechanical system piping capable of carrying fluids above 105°F (41°C) or below 55°F (13°C) shall be insulated to a minimum of R-6.

**EXCEPTION:** Up to 200 feet of hydronic system piping installed within the conditioned space may be insulated with a minimum of 1/2-inch insulation with a *k* value of 0.28.

**((R403.3.1)) R403.4.1 Protection of piping insulation.** Piping insulation exposed to weather shall be protected from damage, including that caused by sunlight, moisture, equipment maintenance, and wind, and shall provide shielding from solar radiation that can cause degradation of the material. Adhesive tape shall not be permitted.

**AMENDATORY SECTION** (Amending WSR 14-24-053, filed 11/25/14, effective 5/1/15)

**WAC 51-11R-40340 Section ((R403.4)) R403.5—Service hot water systems.**

**((R403.4)) R403.5 Service hot water systems.** Energy conservation measures for service hot water systems shall be in accordance with Sections ((R403.4.1 through R403.4.3)) R403.5.1 through R403.5.5.

**((R403.4.1 Circulating hot water systems (Mandatory)).** Circulating hot water systems shall be provided with an automatic or readily accessible manual switch that can turn off the hot water circulating pump when the system is not in use.

**R403.4.2) R403.5.1 Heated water circulation and temperature maintenance system (Mandatory).** Heated water circulation systems shall be in accordance with Section R403.4.1.1. Heat trace temperature maintenance systems shall be in accordance with Section R403.4.1.2. Automatic controls, temperature sensors and pumps shall be accessible. Manual controls shall be readily accessible.

**R403.5.1.1 Circulation systems.** Heated water circulation systems shall be provided with a circulation pump. The system return pipe shall be a dedicated return pipe or a cold water supply pipe. Gravity and thermos-syphon circulation systems shall be prohibited. Controls for circulating hot water system pumps shall start the pump based on the identification of a demand for hot water within the occupancy. The controls shall automatically turn off the pump when the water in the circulation loop is at the desired temperature and when there is no demand for hot water.

**R403.5.1.2 Heat trace systems.** Electric heat trace systems shall comply with IEEE 515.1 or UL 515. Controls for such systems shall automatically adjust the energy input to the heat tracing to maintain the desired water temperature in the piping in accordance with the times when heated water is used in the occupancy.

**R403.5.2 Demand recirculation systems.** A water distribution system having one or more recirculation pumps that

pump water from a heated water supply pipe back to the heated water source through a cold water supply pipe shall be a demand recirculation water system. Pumps shall have controls that comply with both of the following:

1. The control shall start the pump upon receiving a signal from the action of a user of a fixture or appliance, sensing the presence of a user of a fixture or sensing the flow of hot or tempered water to a fixture fitting or appliance.

2. The control shall limit the temperature of the water entering the cold water piping to 104°F (40°C).

**R403.5.3 Hot water pipe insulation (Prescriptive).** Insulation for hot water pipe, both within and outside the conditioned space, shall have a minimum thermal resistance (R-value) of R-3.

**EXCEPTION:** Pipe insulation is permitted to be discontinuous where it passes through studs, joists or other structural members and where the insulated pipes pass other piping, conduit or vents, provided the insulation is installed tight to each obstruction.

**((R403.4.3)) R403.5.4 Drain water heat recovery units.** Drain water heat recovery units shall comply with CSA 55.2. Drain water heat recovery units shall be in accordance with CSA 55.1. Potable water-side pressure loss of drain water heat recovery units shall be less than 3 psi (20.7 kPa) for individual units connected to one or two showers. Potable water-side pressure loss of drain water heat recovery units shall be less than 2 psi (13.8 kPa) for individual units connected to three or more showers.

**R403.5.5 Electric water heater insulation.** All electric water heaters in unheated spaces or on concrete floors shall be placed on an incompressible, insulated surface with a minimum thermal resistance of R-10.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40350 Section ((R403.5)) R403.6—Mechanical ventilation.**

**((R403.5)) R403.6 Mechanical ventilation (Mandatory).** The building shall be provided with ventilation that meets the requirements of the *International Residential Code* or *International Mechanical Code*, as applicable, or with other approved means of ventilation. Outdoor air intakes and exhausts shall have automatic or gravity dampers that close when the ventilation system is not operating.

**((R403.5.1)) R403.6.1 Whole-house mechanical ventilation system fan efficacy.** Mechanical ventilation system fans shall meet the efficacy requirements of Table ((R403.5.1)) R403.6.1.

**EXCEPTION:** Where mechanical ventilation fans are integral to tested and listed HVAC equipment, they shall be powered by an electronically commutated motor.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40351 Table ((R403.5.1)) R403.6.1—Mechanical ventilation system fan efficacy.**

**TABLE ((R403.5.1)) R403.6.1  
MECHANICAL VENTILATION SYSTEM FAN EFFICACY**

Fan Location	Air Flow Rate Minimum (cfm)	Minimum Efficacy (cfm/watt)	Air Flow Rate Maximum (cfm)
Range hoods	Any	2.8	Any
In-line fan	Any	2.8	Any
Bathroom, utility room	10	1.4	< 90
Bathroom, utility room	90	2.8	Any

For SI: 1 cfm = 28.3 L/min.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40360 Section ((R403.6)) R403.7—Equipment sizing.**

**((R403.6)) R403.7 Equipment sizing and efficiency rating (Mandatory).** Heating and cooling equipment shall be sized in accordance with ACCA Manual S based on building loads calculated in accordance with ACCA Manual J or other *approved* heating and cooling calculation methodologies. The output capacity of heating and cooling equipment shall not be greater than that of the smallest available equipment size that exceeds the loads calculated, including allowable oversizing limits. New or replacement heating and cooling equipment shall have an efficiency rating equal to or greater than the minimum required by federal law for the geographic location where the equipment is installed.

**R403.7.1 Electric resistance zone heated units.** All detached one- and two-family dwellings and multiple single-family dwellings (townhouses) up to three stories in height above grade plane using electric zonal heating as the primary heat source shall install an inverter-driven ductless mini-split heat pump in the largest zone in the dwelling. Building permit drawings shall specify the heating equipment type and location of the heating system.

**EXCEPTION:** Total installed heating capacity of 2 kW per dwelling unit or less.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40370 Section ((R403.7)) R403.8—Systems serving multiple dwelling units.**

**((R403.7)) R403.8 Systems serving multiple dwelling units (Mandatory).** Systems serving multiple dwelling units shall comply with Sections C403 and C404 of the ((~~EC~~)) **WSEC**—Commercial Provisions in lieu of Section R403.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40380 Section ((R403.8)) R403.9—Snow melt system controls.**

**((R403.8)) R403.9 Snow melt system controls (Mandatory).** Snow and ice-melting systems, supplied through

energy service to the building, shall include automatic controls capable of shutting off the system when the pavement temperature is above 50°F, and no precipitation is falling and an automatic or manual control that will allow shutoff when the outdoor temperature is above 40°F.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40390 Section ~~((R403-9))~~ R403.10—Pool(s) and in-ground spas and spa energy consumption.**

~~((R403-9 Pools and in-ground permanently installed spas))~~ **R403.10 Pool and permanent spa energy consumption (Mandatory)**. Pools and ~~((in-ground permanently installed))~~ permanent spas shall comply with Sections ~~((R403-9.1 through R403-9.4.2))~~ R403.10.1 through R403.10.4.2.

~~((R403-9.1))~~ **R403.10.1 Heaters**. ~~((All heaters shall be equipped with a readily accessible on-off switch that is mounted outside of the heater to allow shutting off the heater without adjusting the thermostat setting-))~~ The electric power to heaters shall be controlled by a readily accessible on-off switch that is an integral part of the heater mounted on the exterior of the heater, or external to and within 3 feet (914 mm) of the heater. Operation of such switch shall not change the settings of the heater thermostat. Such switches shall be in addition to a circuit breaker for the power to the heater. Gas-fired heaters shall not be equipped with constant burning pilot lights.

~~((R403-9.2))~~ **R403.10.2 Time switches**. Time switches or other control method that can automatically turn off and on ~~((heaters and pumps))~~ according to a preset schedule shall be installed ~~((on all))~~ for heaters and pump(s) motors. Heaters ~~((, pumps))~~ and pump motors that have built in ~~((timers))~~ time switches shall be deemed in compliance with this requirement.

EXCEPTIONS: 1. Where public health standards require 24-hour pump operation.  
2. ~~((Where pumps are required to))~~ Pumps that operate solar- and waste-heat-recovery pool heating systems.

~~((R403-9.3))~~ **R403.10.3 Covers**. Outdoor heated pools and ~~((in-ground permanently installed))~~ outdoor permanent spas shall be provided with a vapor-retardant cover, or other approved vapor retardant means.

EXCEPTION: ~~((Pools deriving over))~~ Where more than 70 percent of the energy for heating, computed over an operating season, is from site-recovered energy, such as from a heat pump or solar energy source ~~((computed over an operating season)), covers or other vapor-retardant means shall not be required.~~

~~((R403-9.4))~~ **R403.10.4 Residential pool pumps**. Pool pump motors may not be split-phase or capacitor start-induction run type.

~~((R403-9.4.1))~~ **R403.10.4.1 Two-speed capability**.

1. Pump motors: Pool pump motors with a capacity of 1 hp or more shall have the capability of operating at two or

more speeds with low speed having a rotation rate that is no more than one-half of the motor's maximum rotation rate.

2. Pump controls: Pool pump motor controls shall have the capability of operating the pool pump with at least two speeds. The default circulation speed shall be the lowest speed, with a high speed override capability being for a temporary period not to exceed one normal cycle.

~~((R403-9.4.2))~~ **R403.10.4.2 Pump operation**. Circulating water systems shall be controlled so that the circulation pump(s) can be conveniently turned off, automatically or manually, when the water system is not in operation.

#### NEW SECTION

**WAC 51-11R-40391 Section R403.10—Other pools and spas.**

**R403.11 Portable spas (Mandatory)**. The energy consumption of electric-powered portable spas shall be controlled by the requirements of APSP-14.

**R403.12 Residential pools and permanent residential spas**. Residential swimming pools and permanent residential spas that are accessory to detached one- and two-family dwellings and townhouses three stories or less in height above grade plane and that are available only to the household and its guests shall be in accordance with APSP-15.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40410 Section R404.1—Lighting equipment.**

**R404.1 Lighting equipment (Mandatory)**. A minimum of 75 percent of ~~((permanently installed))~~ lamps in permanently installed lighting fixtures shall be high-efficacy lamps.

**R404.1.1 Lighting equipment (Mandatory)**. Fuel gas lighting systems shall not have continuously burning pilot lights.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40530 Section R405.3—Performance-based compliance.**

**R405.3 Performance-based compliance**. Compliance based on simulated energy performance requires that a proposed residence (*proposed design*) be shown to have an annual energy consumption based on site energy expressed in Btu and Btu per square foot of *conditioned floor area* as follows:

1. For structures less than 1,500 square feet of conditioned floor area, the annual energy consumption shall be less than or equal to ~~((97))~~ 80 percent of the annual energy consumption of the *standard reference design*.

2. For structures 1,500 to 5,000 square feet of conditioned floor area, the annual energy consumption shall be no more than ~~((89))~~ 72 percent of the *standard reference design*.

3. For structures over 5,000 square feet of conditioned floor area, the annual energy consumption shall be no more than ~~((83))~~ 66 percent of the *standard reference design*.

**EXCEPTION:** For structures serving Group R-2 occupancies, the annual energy consumption shall be less than or equal to 85 percent of the annual energy consumption of the *standard reference design*.

**AMENDATORY SECTION** (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40540 Section R405.4—Documentation.**

**R405.4 Documentation.** Documentation of the software used for the performance design and the parameters for the building shall be in accordance with Sections R405.4.1 through R405.4.3.

**R405.4.1 Compliance software tools.** Documentation verifying that the methods and accuracy of the compliance software tools conform to the provisions of this section shall be provided to the *code official*.

**R405.4.2 Compliance report.** Compliance software tools shall generate a report that documents that the *proposed design* complies with Section R405.3. ((The compliance documentation shall include the following information:

1. Address or other identification of the residence;
2. An inspection checklist documenting the building component characteristics of the *proposed design* as listed in Table R405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design*, and shall document all inputs entered by the user necessary to reproduce the results;
3. Name of individual completing the compliance report; and
4. Name and version of the compliance software tool.

**EXCEPTION:** Multiple orientations. When an otherwise identical building model is offered in multiple orientations, compliance for any orientation shall be permitted by documenting that the building meets the performance requirements in each of the four cardinal (north, east, south and west) orientations.))

A compliance report on the *proposed design* shall be submitted with the application for the building permit. Upon completion of the building, a compliance report based upon the as-built condition of the building shall be submitted to the *code official* before a certificate of occupancy is issued. Batch sampling of buildings to determine energy code compliance for all buildings in the batch shall be prohibited.

Compliance reports shall include information in accordance with Sections R405.4.2.1 and R405.4.2.2. Where the *proposed design* of a building could be built on different sites where the cardinal orientation of the building on each site is different, compliance of the *proposed design* for the purposes of the application for the building permit shall be based upon the worst-case orientation, worst-case configuration, worst-case building air leakage and worst-case duct leakage. Such worst-case parameters shall be used as inputs to the compliance software for energy analysis.

**R405.4.2.1 Compliance report for permit application.** A compliance report submitted with the application for building permit shall include all of the following:

1. Building street address, or other building site identification.
2. A statement indicating that the *proposed design* complies with Section R405.3.
3. An inspection checklist documenting the building component characteristics of the *proposed design* as indicated in Table R405.5.2(1). The inspection checklist shall show results for both the *standard reference design* and the *proposed design* with all user inputs to the compliance software to generate the results.
4. A site-specific energy analysis report that is in compliance with Section R405.3.
5. Name of the individual performing the analysis and generating the report.
6. Name and version of the compliance software tool.

**R405.4.2.2 Compliance report for certificate of occupancy.** A compliance report submitted for obtaining the certificate of occupancy shall include all of the following:

1. Building street address, or other building site identification.
2. A statement indicating that the as-built building complies with Section R405.3.
3. A certificate indicating that the building passes the performance matrix for code compliance and the energy saving features of the building.
4. A site-specific energy analysis report that is in compliance with Section R405.3.
5. Name of the individual performing the analysis and generating the report.
6. Name and version of the compliance software tool.

**R405.4.3 Additional documentation.** The *code official* shall be permitted to require the following documents:

1. Documentation of the building component characteristics of the *standard reference design*.
2. A certification signed by the builder providing the building component characteristics of the *proposed design* as given in Table R405.5.2(1).
3. Documentation of the actual values used in the software calculations for the *proposed design*.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

WAC 51-11R-40551 Table R405.5.2(1)—Specifications for the standard reference and proposed designs.

TABLE R405.5.2(1)  
SPECIFICATIONS FOR THE STANDARD REFERENCE AND PROPOSED DESIGNS

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Above-grade walls	Type: Mass wall if proposed wall is mass; otherwise wood frame. Gross area: Same as proposed U-factor: From Table R402.1.3 Solar absorptance = 0.75 Remittance = 0.90	As proposed As proposed As proposed As proposed As proposed
Below-grade walls	Type: Same as proposed Gross area: Same as proposed U-factor: From Table R402.1.3, with insulation layer on interior side of walls.	As proposed As proposed As proposed
Above-grade floors	Type: Wood frame Gross area: Same as proposed U-factor: From Table R402.1.3	As proposed As proposed As proposed
Ceilings	Type: Wood frame Gross area: Same as proposed U-factor: From Table R402.1.3	As proposed As proposed As proposed
Roofs	Type: Composition shingle on wood sheathing Gross area: Same as proposed Solar absorptance = 0.75 Emittance = 0.90	As proposed As proposed As proposed As proposed
Attics	Type: Vented with aperture = 1 ft <sup>2</sup> per 300 ft <sup>2</sup> ceiling area	As proposed
Foundations	Type: Same as proposed foundation wall area above and below-grade Soil characteristics: Same as proposed.	As proposed As proposed
Opaque doors	Area: 40 ft <sup>2</sup> Orientation: North U-factor: Same as fenestration from Table R402.1.3.	As proposed As proposed As proposed
<del>((Glazing))</del> Vertical fenestration other than opaque doors <sup>a</sup>	Total area <sup>b</sup> = (a) The proposed glazing area; where proposed glazing area is less than 15% of the conditioned floor area. (b) 15% of the conditioned floor area; where the proposed glazing area is 15% or more of the conditioned floor area.	As proposed
	Orientation: Equally distributed to four cardinal compass orientations (N, E, S & W).	As proposed
	U-factor: From Table R402.1.3	As proposed
	SHGC: From Table R402.1.1 except that for climates with no requirement (NR) SHGC = 0.40 shall be used.	As proposed
	Interior shade fraction: 0.92 - (0.21 × SHGC for the standard reference design) External shading: None	0.92 - (0.21 × SHGC as proposed) As proposed
Skylights	None	As proposed



BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Air exchange rate	Air leakage rate of 5 air changes per hour at a pressure of 0.2 inches w.g. (50 Pa). The mechanical ventilation rate shall be in addition to the air leakage rate and the same as in the proposed design, but no greater than $0.01 \times CFA + 7.5 \times (N_{br} + 1)$ where: $CFA$ = conditioned floor area $N_{br}$ = number of bedrooms - Energy recovery shall not be assumed for mechanical ventilation.	For residences that are not tested, the same air leakage rate as the standard reference design. For tested residences, the measured air exchange rate <sup>(e)</sup> <sup>a</sup> . The mechanical ventilation rate <sup>(d)</sup> <sup>b</sup> shall be in addition to the air leakage rate and shall be as proposed.
Mechanical ventilation	None, except where mechanical ventilation is specified by the proposed design, in which case: Annual vent fan energy use: $kWh/yr = .03942 \times CFA + 29.565 \times (N_{br} + 1)$ where: $CFA$ = conditioned floor area $N_{br}$ = number of bedrooms	As proposed
Internal gains	$IGain = 17,900 + 23.8 \times CFA + 4104 \times N_{br}$ (Btu/day per dwelling unit)	Same as standard reference design
Internal mass	An internal mass for furniture and contents of 8 pounds per square foot of floor area.	Same as standard reference design, plus any additional mass specifically designed as a thermal storage element <sup>(e)</sup> <sup>c</sup> but not integral to the building envelope or structure.
Structural mass	For masonry floor slabs, 80% of floor area covered by R-2 carpet and pad, and 20% of floor directly exposed to room air.	As proposed
	For masonry basement walls, as proposed, but with insulation required by Table R402.1.3 located on the interior side of the walls.	As proposed
	For other walls, for ceilings, floors, and interior walls, wood frame construction.	As proposed
Heating systems <sup>(f, g)</sup> <sup>d, e</sup>	Where the proposed design utilizes electric heating without a heat pump the standard reference design shall be an air source heat pump meeting the requirements of Section C403 of the (( <del>IECC</del> )) <del>WSEC</del> —Commercial Provisions. For all other systems, the same system type as proposed, and the same system efficiency required by prevailing minimum federal standard. Capacity: Sized in accordance with Section R403.6	As proposed
Cooling systems <sup>(f, h)</sup> <sup>d, f</sup>	Same system type as proposed. Same system efficiency as required by prevailing minimum federal standard. Capacity: Sized in accordance with Section R403.6.	As proposed
Service water heating <sup>d, r, f, g</sup> <sup>(h, i)</sup>	Same system type as proposed. Same system efficiency as required by prevailing minimum federal standard. Use: Same as proposed design	As proposed $gal/day = 30 + (10 \times N_{br})$

BUILDING COMPONENT	STANDARD REFERENCE DESIGN	PROPOSED DESIGN
Thermal distribution systems	<p><u>Duct insulation: From Section R403.3.3.</u></p> <p><u>A thermal distribution system efficiency (DSE) of 0.93 shall be applied to both the heating and cooling system efficiencies for all systems.</u></p>	<p><del>((Thermal distribution system efficiency shall be as tested- ø))</del> As specified in Table R405.5.2(2) <del>((if not tested- Duct insulation shall be as proposed))</del>.</p>
Thermostat	<p>Type: Manual, cooling temperature setpoint = 75°F; Heating temperature setpoint = 72°F</p>	Same as standard reference

For SI: 1 square foot = 0.93 m<sup>2</sup>, 1 British thermal unit = 1055 J, 1 pound per square foot = 4.88 kg/m<sup>2</sup>, 1 gallon (U.S.) = 3.785 L, °C = (°F-3)/1.8, 1 degree = 0.79 rad

~~Glazing shall be defined as sunlight-transmitting fenestration, including the area of sash, curbing or other framing elements, that enclose conditioned space. Glazing includes the area of sunlight-transmitting fenestration assemblies in walls bounding conditioned basements. For doors where the sunlight-transmitting opening is less than 50 percent of the door area, the glazing area is the sunlight-transmitting opening area. For all other doors, the glazing area is the rough frame opening area for the door including the door and the frame.~~

~~b For residences with conditioned basements, R-2 and R-4 residences and townhouses, the following formula shall be used to determine glazing area:~~

$$AF = A_g \times FA \times F$$

where:

- ~~AF = Total glazing area.~~
- ~~A<sub>g</sub> = Standard reference design total glazing area.~~
- ~~FA = (Above-grade thermal boundary gross wall area)/(above-grade boundary wall area + 0.5 x below-grade boundary wall area).~~
- ~~F = (Above-grade thermal boundary wall area)/(above-grade thermal boundary wall area + common wall area) or 0.56, whichever is greater.~~

and where:

- ~~Thermal boundary wall is any wall that separates conditioned space from unconditioned space or ambient conditions.~~
- ~~Above-grade thermal boundary wall is any thermal boundary wall component not in contact with soil.~~
- ~~Below-grade boundary wall is any thermal boundary wall in soil contact.~~
- ~~Common wall area is the area of walls shared with an adjoining dwelling unit.~~
- ~~L and CFA are in the same units.)~~

- ~~(e) a Where required by the code official, testing shall be conducted by an approved party. Hourly calculations as specified in the ASHRAE Handbook of Fundamentals, or the equivalent, shall be used to determine the energy loads resulting from infiltration.~~
- ~~(d) b The combined air exchange rate for infiltration and mechanical ventilation shall be determined in accordance with Equation 43 of 2001 ASHRAE Handbook of Fundamentals, page 26.24 and the "Whole-house Ventilation" provisions of 2001 ASHRAE Handbook of Fundamentals, page 26.19 for intermittent mechanical ventilation.~~
- ~~(e) c Thermal storage element shall mean a component not part of the floors, walls or ceilings that is part of a passive solar system, and that provides thermal storage such as enclosed water columns, rock beds, or phase-change containers. A thermal storage element must be in the same room as fenestration that faces within 15 degrees (0.26 rad) of true south, or must be connected to such a room with pipes or ducts that allow the element to be actively charged.~~
- ~~(f) d For a proposed design with multiple heating, cooling or water heating systems using different fuel types, the applicable standard reference design system capacities and fuel types shall be weighted in accordance with their respective loads as calculated by accepted engineering practice for each equipment and fuel type present.~~
- ~~(g) e For a proposed design without a proposed heating system, a heating system with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and proposed design.~~
- ~~(h) f For a proposed design home without a proposed cooling system, an electric air conditioner with the prevailing federal minimum efficiency shall be assumed for both the standard reference design and the proposed design.~~
- ~~(i) g For a proposed design with a nonstorage-type water heater, a 40-gallon storage-type water heater with the prevailing federal minimum energy factor for the same fuel as the predominant heating fuel type shall be assumed. For the case of a proposed design without a proposed water heater, a 40-gallon storage-type water heater with the prevailing federal minimum efficiency for the same fuel as the predominant heating fuel type shall be assumed for both the proposed design and standard reference design.~~

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40552 Table R405.5.2(2)—Default distribution system efficiencies for proposed designs.**

**TABLE R405.5.2(2)  
DEFAULT DISTRIBUTION SYSTEM EFFICIENCIES FOR PROPOSED DESIGNS<sup>a</sup>**

<b>DISTRIBUTION SYSTEM CONFIGURATION AND CONDITION</b>	<b><del>((FORCED AIR SYSTEMS))</del> DISTRIBUTION SYSTEM EFFICIENCY</b>	<b><del>((HYDRONIC SYSTEMS<sup>b</sup>))</del></b>
Distribution system components located in unconditioned space	<del>((-))</del> <u>0.88</u>	<del>((0.95))</del>
<del>((Untested))</del> Distribution systems entirely located in conditioned space <sup>(e) h</sup>	<del>((0.88))</del> <u>0.93</u>	<del>((+))</del>
<del>((“Ductless” systems<sup>d</sup>))</del> Zonal systems <sup>e</sup>	<del>((+))</del> <u>1.00</u>	<del>((-))</del>

For SI: 1 cubic foot per minute = 0.47 L/s, 1 square foot = 0.093m<sup>2</sup>, 1 pound per square inch = 6895 Pa, 1 inch water gauge = 1250 Pa.

<sup>a</sup> ~~((Default))~~ Values given by this table are for ~~((untested))~~ distribution systems, which must still meet ~~((minimum))~~ all prescriptive requirements for duct and pipe system insulation and leakage.

~~((<sup>b</sup>Hydronic systems shall mean those systems that distribute heating and cooling energy directly to individual spaces using liquids pumped through closed-loop piping and that do not depend on ducted, forced airflow to maintain space temperatures.))~~

~~((<sup>e</sup>))<sup>h</sup>~~ Entire system in conditioned space shall mean that no component of the distribution system, including the air-handler unit, is located outside of the conditioned space. All components must be located on the interior side of the thermal envelop (inside the insulation) and also inside of the air barrier. Refrigerant compressors and piping are allowed to be located outside.

~~((<sup>d</sup>Ductless systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer’s air handler enclosure.))~~ <sup>e</sup> Zonal systems are systems where the heat source is located within each room. Systems shall be allowed to have forced airflow across a coil but shall not have any ducted airflow external to the manufacturer’s air-handler enclosure. Hydronic systems do not qualify.

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

**WAC 51-11R-40620 Section R406.2—Additional energy efficiency requirements.**

**OPTION 1:**

**R406.2 Additional energy efficiency requirements (Mandatory).** Each dwelling unit in ~~((one and two family dwellings and townhouses, as defined in Section 101.2 of the International Residential Code))~~ a residential building shall comply with sufficient options from Table R406.2 so as to achieve the following minimum number of credits:

- 1. Small Dwelling Unit: ((0.5 points))  
2.5 credits

Dwelling units less than 1500 square feet in conditioned floor area with less than 300 square feet of fenestration area. Additions to existing building that are ~~((less than 750))~~ greater than 500 square feet of heated floor area but less than 1500 square feet.

- 2. Medium Dwelling Unit: ((4.5 points))  
3.5 credits

All dwelling units that are not included in #1 or #3.

**Exception:** Dwelling units serving R-2 occupancies shall require 2.5 credits.

- 3. Large Dwelling Unit: ((2.5 points))  
4.5 credits

Dwelling units exceeding 5000 square feet of conditioned floor area.

**Exception:** Dwelling units serving R-2 occupancies shall require 2.5 credits.

- 4. Additions less than 500 square feet: 0.5 credits

The drawings included with the building permit application shall identify which options have been selected and the point value of each option, regardless of whether separate mechanical, plumbing, electrical, or other permits are utilized for the project.

**OPTION 2:**

**R406.2 Additional energy efficiency requirements (Mandatory).** Each dwelling unit in ~~((one and two family dwellings and townhouses, as defined in Section 101.2 of the International Residential Code))~~ a residential building shall comply with sufficient options from Table R406.2 so as to achieve the following minimum number of credits:

- 1. Small Dwelling Unit: ((0.5 points))  
1.0 credits

Dwelling units less than 1500 square feet in conditioned floor area with less than 300 square feet of fenestration area. Additions to existing building that are ~~((less than 750))~~ greater than 500 square feet of heated floor area but less than 1500 square feet.

- 2. Medium Dwelling Unit: ((4.5 points))  
2.5 credits

All dwelling units that are not included in #1 or #3.

**Exception:** Dwelling units serving R-2 occupancies shall require 2.5 credits.

- 3. Large Dwelling Unit: ~~((2.5 points))~~ **4.0 credits**

Dwelling units exceeding 5000 square feet of conditioned floor area.

**Exception:** Dwelling units serving R-2 occupancies shall require 2.5 credits.

- 4. Additions less than 500 square feet: **0.5 credits**

The drawings included with the building permit application shall identify which options have been selected and the point value of each option, regardless of whether separate mechanical, plumbing, electrical, or other permits are utilized for the project.

**AMENDATORY SECTION** (Amending WSR 14-24-123, filed 12/3/14, effective 1/3/15)

**WAC 51-11R-40621 Table R406.2—Energy credits.**

**TABLE 406.2  
ENERGY CREDITS ~~((DEBITS))~~**

OPTION	DESCRIPTION	CREDIT(S)
1a	EFFICIENT BUILDING ENVELOPE 1a: Prescriptive compliance is based on Table <del>((R402.1.1))</del> R402.1.2 with the following modifications: Vertical fenestration U = 0.28 Floor R-38 Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab <b>or</b> Compliance based on Section R402.1.4: Reduce the Total UA by 5%.	0.5
1b	EFFICIENT BUILDING ENVELOPE 1b: Prescriptive compliance is based on Table <del>((R402.1.1))</del> R402.1.2 with the following modifications: Vertical fenestration U = 0.25 Wall R-21 plus R-4 Floor R-38 Basement wall R-21 int plus R-5 ci Slab on grade R-10 perimeter and under entire slab	1.0
	Below grade slab R-10 perimeter and under entire slab	

OPTION	DESCRIPTION	CREDIT(S)
	<b>or</b> Compliance based on Section R402.1.4: Reduce the Total UA by 15%.	
1c	EFFICIENT BUILDING ENVELOPE 1c: Prescriptive compliance is based on Table <del>((R402.1.1))</del> R402.1.2 with the following modifications: Vertical fenestration U = 0.22 Ceiling and single-rafter or joist-vaulted R-49 advanced Wood frame wall R-21 int plus R-12 ci Floor R-38 Basement wall R-21 int plus R-12 ci Slab on grade R-10 perimeter and under entire slab Below grade slab R-10 perimeter and under entire slab <b>or</b> Compliance based on Section R402.1.4: Reduce the Total UA by 30%.	2.0
1d <sup>a</sup>	EFFICIENT BUILDING ENVELOPE 1d: Prescriptive compliance is based on Table R402.1.2 with the following modifications: Vertical fenestration U = 0.24	0.5
2a	AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2a: <del>((and))</del> Compliance based on R402.4.1.2: Reduce the tested air leakage to <del>((4.0))</del> <b>3.0</b> air changes per hour maximum <b>and</b> All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a high efficiency fan (maximum 0.35 watts/cfm), not interlocked with the furnace fan. Ventilation systems using a furnace including an ECM motor are allowed, provided that they are controlled to operate at low speed in ventilation only mode. To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the qualified ventilation system.	0.5
2b	AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2b: Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 2.0 air changes per hour maximum <b>and</b>	1.0

OPTION	DESCRIPTION	CREDIT(S)
	<p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.70.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	
2c	<p><b>AIR LEAKAGE CONTROL AND EFFICIENT VENTILATION 2c:</b></p> <p><b>and</b></p> <p>Compliance based on Section R402.4.1.2: Reduce the tested air leakage to 1.5 air changes per hour maximum</p> <p>All whole house ventilation requirements as determined by Section M1507.3 of the <i>International Residential Code</i> shall be met with a heat recovery ventilation system with minimum sensible heat recovery efficiency of 0.85.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the maximum tested building air leakage and shall show the heat recovery ventilation system.</p>	1.5
3a <sup>b</sup>	<p><b>HIGH EFFICIENCY HVAC EQUIPMENT 3a:</b></p> <p>Gas, propane or oil-fired furnace with minimum AFUE of <del>((95))</del> <u>94%</u>, or gas, propane or oil-fired boiler with minimum AFUE of 92%.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	<del>((0.5))</del> <u>1.0</u>
3b <sup>b</sup>	<p><b>HIGH EFFICIENCY HVAC EQUIPMENT 3b:</b></p> <p>Air-source heat pump with minimum HSPF of <del>((8.5))</del> <u>9.0</u></p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0
3c <sup>b</sup>	<p><b>HIGH EFFICIENCY HVAC EQUIPMENT 3c:</b></p> <p>Closed-loop ground source heat pump; with a minimum COP of 3.3</p> <p><b>or</b></p> <p>Open loop water source heat pump with a maximum pumping hydraulic head of 150 feet and minimum COP of 3.6</p>	<del>((2.0))</del> <u>1.5</u>

OPTION	DESCRIPTION	CREDIT(S)
	<p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	
3d <sup>b</sup>	<p><b>HIGH EFFICIENCY HVAC EQUIPMENT 3d:</b></p> <p><b>DUCTLESS SPLIT SYSTEM HEAT PUMPS, ZONAL CONTROL:</b></p> <p>In homes where the primary space heating system is zonal electric heating, a ductless heat pump system shall be installed and provide heating to <del>((at least one))</del> <u>the largest</u> zone of the housing unit.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the heating equipment type and the minimum equipment efficiency.</p>	1.0
4	<p><b>HIGH EFFICIENCY HVAC DISTRIBUTION SYSTEM:((*))</b></p> <p>All heating and cooling system components installed inside the conditioned space. <u>This includes all equipment and distribution system components such as forced air ducts, hydronic piping, hydronic floor heating loop, convectors and radiators.</u> All combustion equipment shall be direct vent or sealed combustion.</p> <p><del>((Locating system components in conditioned crawl spaces is not permitted under this option.))</del></p> <p><u>For forced air ducts: A maximum of 10 linear feet of return ducts and 5 linear feet of supply ducts may be located outside the conditioned space. All metallic ducts located outside the conditioned space must have both transverse and longitudinal joints sealed with mastic. If flex ducts are used, they cannot contain splices. Flex duct connections must be made with nylon straps and installed using a plastic strapping tensioning tool. Ducts located outside the conditioned space must be insulated to a minimum of R-8.</u></p> <p><u>Locating system components in conditioned crawl spaces is not permitted under this option.</u></p> <p>Electric resistance heat <del>((is))</del> <u>and ductless heat pumps</u> are not permitted under this option.</p> <p>Direct combustion heating equipment with AFUE less than 80% is not permitted under this option.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the location of the heating and cooling equipment and all the ductwork.</p>	1.0

OPTION	DESCRIPTION	CREDIT(S)
5a	<p>EFFICIENT WATER HEATING 5a:  <del>((Water heating system shall include one of the following:</del>                      Gas, propane or oil water heater with a minimum EF of 0.62</p> <p><del>or</del></p> <p>Electric water heater with a minimum EF of 0.93.</p> <p><del>and for both cases))</del></p> <p>All showerhead and kitchen sink faucets installed in the house shall be rated at 1.75 GPM or less. All other lavatory faucets shall be rated at 1.0 GPM or less.<sup>(b) 5</sup></p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the <del>((water heater equipment type and the minimum equipment efficiency and shall specify the))</del> maximum flow rates for all showerheads, kitchen sink faucets, and other lavatory faucets.</p>	0.5
5b	<p>EFFICIENT WATER HEATING 5b:                      Water heating system shall include one of the following:                      Gas, propane or oil water heater with a minimum EF of <del>((0.82))</del> <u>0.74</u></p> <p><del>or</del></p> <p><del>((Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems</del></p> <p><del>or</del></p> <p>Electric heat pump water heater with a minimum EF of 2.0 and meeting the standards of NEEA's Northern Climate Specifications for Heat Pump Water Heaters</p> <p><del>or</del></p> <p>Water heater heated by ground source heat pump meeting the requirements of Option 3c.</p> <p><del>or</del></p> <p><u>For R-2 occupancy, a central heat pump water heater with an EF greater than 2.0 that would supply DHW to all the units through a central water loop insulated with R-8 minimum pipe insulation.</u></p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency <del>((and, for solar water heating systems, the calculation of the minimum energy savings))</del>.</p>	<del>((1.5))</del> <u>1.0</u>

OPTION	DESCRIPTION	CREDIT(S)
<u>5c</u>	<p>EFFICIENT WATER HEATING <u>5c</u>:                      Water heating system shall include one of the following:                      Gas, propane or oil water heater with a minimum EF of 0.91</p> <p><del>or</del></p> <p><u>Solar water heating supplementing a minimum standard water heater. Solar water heating will provide a rated minimum savings of 85 therms or 2000 kWh based on the Solar Rating and Certification Corporation (SRCC) Annual Performance of OG-300 Certified Solar Water Heating Systems.</u></p> <p><del>or</del></p> <p>Electric heat pump water heater with a minimum EF of 2.0 and meeting the standards of NEEA's Northern Climate Specifications for Heat Pump Water Heaters.</p> <p><u>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall specify the water heater equipment type and the minimum equipment efficiency and, for solar water heating systems, the calculation of the minimum energy savings.</u></p>	
<u>5d</u>	<p>EFFICIENT WATER HEATING <u>5d</u>:                      A drain water heat recovery unit(s) shall be installed, which captures waste water heat from all the showers, and has a minimum efficiency of 40% if installed for equal flow or a minimum efficiency of 52% if installed for unequal flow. Such units shall be rated in accordance with the CSA B55.1 standard and be so labeled.</p> <p><u>To qualify to claim this credit, the building permit drawings shall include a plumbing diagram that specifies the drain water heat recovery units and the plumbing layout needed to install it and labels or other documentation shall be provided that demonstrates that the unit complies with the standard.</u></p>	<u>0.5</u>
6	<p>RENEWABLE ELECTRIC ENERGY:                      For each 1200 kWh of electrical generation per housing unit provided annually by on-site wind or solar equipment a 0.5 credit shall be allowed, up to 3 credits. Generation shall be calculated as follows:                      For solar electric systems, the design shall be demonstrated to meet this requirement using the National Renewable Energy Laboratory calculator PVWATTS. Documentation noting solar access shall be included on the plans.                      For wind generation projects designs shall document annual power generation based on the following factors:</p>	0.5

OPTION	DESCRIPTION	CREDIT(S)
	<p>The wind turbine power curve; average annual wind speed at the site; frequency distribution of the wind speed at the site and height of the tower.</p> <p>To qualify to claim this credit, the building permit drawings shall specify the option being selected and shall show the photovoltaic or wind turbine equipment type, provide documentation of solar and wind access, and include a calculation of the minimum annual energy power production.</p>	

Footnotes:

~~((<sup>a</sup> Interior Duct Placement. Ducts included as Option 4 of Table R406.2 shall be placed wholly within the heated envelope of the housing unit. The placement shall be inspected and certified to receive the credits associated with this option.~~

EXCEPTION:

~~Ducts complying with this section may have up to 5% of the total linear feet of ducts located in the exterior cavities or buffer spaces of the dwelling. If this exception is used the ducts will be tested to the following standards: Post-construction test: Leakage to outdoors shall be less than or equal to 1 CFM per 100 ft<sup>2</sup> of conditioned floor area when tested at a pressure differential of 0.1 inches.~~

w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.)<sup>a</sup> Projects using this option may not use option 1a, 1b, or 1c

<sup>b</sup> Projects may only include credit from one space heating option, 3a, 3b, 3c or 3d. When a housing unit has two pieces of equipment (i.e., two furnaces) both must meet the standard to receive the credit.

~~((b)<sup>c</sup> Plumbing Fixtures Flow Ratings. Low flow plumbing fixtures (water closets and urinals) and fittings (faucets and showerheads) shall comply with the following requirements:~~

~~1 Residential bathroom lavatory sink faucets: Maximum flow rate - 3.8 L/min (1.0 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.~~

~~2 Residential kitchen faucets: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.~~

~~3 Residential showerheads: Maximum flow rate - 6.6 L/min (1.75 gal/min) when tested in accordance with ASME A112.18.1/CSA B125.1.~~

AMENDATORY SECTION (Amending WSR 13-04-055, filed 2/1/13, effective 7/1/13)

~~**WAC 51-11R-50000 Chapter 5—((Referenced standards.)) Existing buildings.** ((This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section R106.~~

<del><b>AAMA</b></del>	<del>American Architectural Manufacturers Association 1827 Walden Office Square Suite 550 Schaumburg, IL 60173-4268</del>	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/1.S.2/A C440-11	North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights	R402.4.3
<del><b>ACCA</b></del>	<del>Air Conditioning Contractors of America 2800 Shirlington Road, Suite 300 Arlington, VA 22206</del>	
Standard reference number	Title	Referenced in code section number
Manual J-11	Residential Load Calculation Eighth Edition	R403-6
Manual S-10	Residential Equipment	R403-6
<del><b>ASHRAE</b></del>	<del>American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. 1791 Tullie Circle, N.E. Atlanta, GA 30329-2305</del>	
Standard reference number	Title	Referenced in code section number
ASHRAE-2009	ASHRAE Handbook of Fundamentals R402.1.4, Table R405.5.2(1)	
ASHRAE 193-2010	Method of Test for Determining the Airtightness of HVAC Equipment	R403.2.2.1
<del><b>ASTM</b></del>	<del>ASTM International 100 Barr Harbor Drive</del>	

Standard reference number	Title	Referenced in code section number
	West Conshohocken, PA 19428-2859	
E-283-04	Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors Under Specified Pressure Differences Across the Specimen	R402.4.4
<b>CSA</b>	Canadian Standards Association 5060 Spectrum Way Mississauga, Ontario, Canada L4W 5N6	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights	R402.4.3
<b>ICC</b>	International Code Council, Inc. 500 New Jersey Avenue, N.W. 6th Floor Washington, DC 20001	
Standard reference number	Title	Referenced in code section number
IBC-12	International Building Code	R201.3, R303.2, R402.2.10
ICC 400-12	Standard on the Design and Construction of Log Structures	Table R402.4.1.1
IFC-12	International Fire Code	R201.3
IFGC-12	International Fuel Gas Code	R201.3
IMC-12	International Mechanical Code	R201.3, R403.2.2, R403.5
IRC-12	International Residential Code	R104.2.1, R201.3, R303.2, R401.2, R403.2.2, R403.5, R406.1, R406.2, Table R406.2
<b>NEEA</b>	Northwest Energy Efficiency Alliance 421 S.W. 6th Ave., Suite 600 Portland, OR 97204	
Standard reference number	Title	Referenced in code section number
NEEA-2011	Northern Climate Specification for Heat Pump-Water Heaters, Vers. 4.0	Table R406.2
<b>NFRC</b>	National Fenestration Rating Council, Inc. 6305 Ivy Lane, Suite 140 Greenbelt, MD 20770	
Standard reference number	Title	Referenced in code section number
100-2010	Procedure for Determining Fenestration Products-U-factors	R303.1.3
200-2010	Procedure for Determining Fenestration Product Solar Heat Gain Coefficients and Visible Transmittance at Normal Incidence	R303.1.3
400-2010	Procedure for Determining Fenestration Product Air Leakage	R402.4.3
<b>US FTC</b>	United States Federal Trade Commission 600 Pennsylvania Avenue N.W. Washington, DC 20580	
Standard reference number	Title	Referenced in code section number
C.F.R. Title 16 (May 31, 2005)	R-value	Rule R303.1.4
<b>WDMA</b>	Window and Door Manufacturers Association 1400 East Touhy Avenue, Suite 470 Des Plaines, IL 60018	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights	R402.4.3



<b>WSU</b>	Washington State University Energy Extension Program 905 Plum Street S.E., Bldg 3 P.O. Box 43165 Olympia, WA 98506-3166	
Standard reference number	Title	Referenced in code section number
WSU-RS-33	Duct Testing Standard for New and Existing Construction Publication No. WSUEEP12-016	R403.2.2))

NEW SECTION

**WAC 51-11R-50100 Section R501—General.**

**R501.1 Scope.** The provisions of this chapter shall control the alteration, repair, addition and change of occupancy of existing buildings and structures.

**R501.1.1 Additions, alterations, or repairs.** Additions, alterations, or repairs to an existing building, building system or portion thereof shall comply with Sections R502, R503 or R504. Unaltered portions of the existing building or building supply system shall not be required to comply with this code.

**R501.2 Existing buildings.** Except as specified in this chapter, this code shall not be used to require the removal, alteration or abandonment of, nor prevent the continued use and maintenance of, an existing building or building system lawfully in existence at the time of adoption of this code.

**R501.3 Maintenance.** Buildings and structures, and parts thereof, shall be maintained in a safe and sanitary condition. Devices and systems that are required by this code shall be maintained in conformance with the code edition under which installed. The owner or the owner's authorized agent shall be responsible for the maintenance of buildings and structures. The requirements of this chapter shall not provide the basis for removal or abrogation of energy conservation, fire protection and safety systems and devices in existing structures.

**R501.4 Compliance.** Alterations, repairs, additions and changes of occupancy to, or relocation of, existing buildings and structures shall comply with the provisions for alterations, repairs, additions and changes of occupancy or relocation, respectively, in the *International Residential Code*, *International Building Code*, *International Fire Code*, *International Fuel Gas Code*, *International Mechanical Code*, *Uniform Plumbing Code*, *International Property Maintenance Code*, and NFPA 70.

**R501.5 New and replacement materials.** Except as otherwise required or permitted by this code, materials permitted by the applicable code for new construction shall be used. Like materials shall be permitted for repairs, provided hazards to life, health or property are not created. Hazardous materials shall not be used where the code for new construction would not permit their use in buildings of similar occupancy, purpose and location.

**R501.6 Historic buildings.** The building official may modify the specific requirements of this code for historic buildings and require in lieu of alternate requirements which will result in a reasonable degree of energy efficiency. This modification may be allowed for those buildings or structures that

are listed in the state or national register of historic places; designated as a historic property under local or state designation law or survey; certified as a contributing resource with a national register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the national or state register of historic places either individually or as a contributing building to a historic district by the state historic preservation officer or the keeper of the *National Register of Historic Places*.

NEW SECTION

**WAC 51-11R-50200 Section R502—Additions.**

**R502.1 General.** Additions to an existing building, building system or portion thereof shall conform to the provisions of this code as those provisions relate to new construction without requiring the unaltered portion of the existing building or building system to comply with this code. Additions shall not create an unsafe or hazardous condition or overload existing building systems. An addition shall be deemed to comply with this code where the addition alone complies, where the existing building and addition comply with this code as a single building, or where the building with the addition uses no more energy than the existing building. Additions shall be in accordance with Section R502.1.1 or R502.1.2.

An addition shall be deemed to comply with this code if the addition alone complies, if the existing building and addition comply as a single building, or if the building with the addition uses no more energy than the existing building.

**R502.1.1 Prescriptive compliance.** Additions shall comply with Sections R502.1.1.1 through R502.1.1.4.

**R502.1.1.1 Building envelope.** New building envelope assemblies that are part of the addition shall comply with Sections R402.1, R402.2, R402.3.1 through R402.3.5, and R402.4.

**EXCEPTION:** Where nonconditioned space is changed to conditioned space the building envelope of the addition shall comply where the UA, as determined in Section R402.1.4, of the existing building and the addition, and any alterations that are part of the project, is less than or equal to UA generated for the existing building.

**R502.1.1.2 Heating and cooling systems.** New heating, cooling and duct systems that are part of the addition shall comply with Sections R403.1, R403.2, R403.3, R403.5, and R403.6.

**EXCEPTION:** The following need not comply with the testing requirements of Section R403.3.3:  
1. Additions of less than 750 square feet.

2. Duct systems that are documented to have been previously sealed as confirmed through field verification and diagnostic testing in accordance with procedures in WSU RS-33.
3. Ducts with less than 40 linear feet in unconditioned spaces.
4. Existing duct systems constructed, insulated or sealed with asbestos.

**R502.1.1.3 Service hot water systems.** New service hot water systems that are part of the addition shall comply with Section R403.4.

**R502.1.1.4 Lighting.** New lighting systems that are part of the addition shall comply with Section 404.1.

**R502.1.2 Existing plus addition compliance (Simulated Performance Alternative).** Where nonconditioned space is changed to conditioned space the addition shall comply where the annual energy use of the addition and the existing building, and any alterations that are part of the project, is less than or equal to the annual energy use of the existing building when modeled in accordance with Section R405. The addition and any alterations that are part of the project shall comply with Section R405 in its entirety.

#### NEW SECTION

#### **WAC 51-11R-50300 Section R503—Alterations.**

**R503.1 General.** Alterations to any building or structure shall comply with the requirements of the code for new construction. Alterations shall be such that the existing building or structure is no less conforming to the provisions of this code than the existing building or structure was prior to the alteration.

Alterations to an existing building, building system or portion thereof shall conform to the provisions of this code as they relate to new construction without requiring the unaltered portions of the existing building or building system to comply with this code. Alterations shall not create an unsafe or hazardous condition or overload existing building systems.

Alterations shall be such that the existing building or structure uses no more energy than the existing building or structure prior to the alteration. Alterations to existing buildings shall comply with Sections R503.1.1 through R503.2

The *code official* may approve designs of alterations which do not fully conform to all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

The alteration improves the energy efficiency of the building; or

The alteration is energy efficient and is necessary for the health, safety, and welfare of the general public.

**R503.1.1 Building envelope.** Building envelope assemblies that are part of the alteration shall comply with Section R402.1.2 or R402.1.4, Sections R402.2.1 through R402.2.12, R402.3.1, R402.3.2, R402.4.3, and R402.4.4.

EXCEPTION: The following alterations need not comply with the requirements for new construction provided the energy use of the building is not increased:

1. Storm windows installed over existing fenestration.
2. Existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation. 2 x 4 framed walls shall be insulated to a minimum of R-15 and 2 x 6 framed walls shall be insulated to a minimum of R-21.
3. Construction where the existing roof, wall or floor cavity is not exposed.
4. Roof recover.
5. Roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing.
6. Surface-applied window film installed on existing single pane fenestration assemblies to reduce solar heat gain provided the code does not require the glazing fenestration to be replaced.

**R503.1.1.1 Replacement fenestration.** Where some or all of an existing fenestration unit is replaced with a new fenestration product, including sash and glazing, the replacement fenestration unit shall meet the applicable requirements for *U*-factor and SHGC in Table R402.1.2.

**R503.1.2 Heating and cooling systems.** New heating, cooling and duct systems that are part of the alteration shall comply with Sections R403.1, R403.2, R403.3, and R403.6.

EXCEPTIONS:

1. Where ducts from an existing heating and cooling system are extended, duct systems with less than 40 linear feet in unconditioned spaces shall not be required to be tested in accordance with Section R403.2.2.
2. Existing duct systems constructed, insulated or sealed with asbestos.

**R503.1.3 Service hot water systems.** New service hot water systems that are part of the alteration shall comply with Section R403.4.

**R503.1.4 Lighting.** New lighting systems that are part of the alteration shall comply with Section R404.1.

EXCEPTION: Alterations that replace less than 50 percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power.

**R503.2 Change in space conditioning.** Any nonconditioned or low-energy space that is altered to become conditioned space shall be required to be brought into full compliance with this code.

EXCEPTION: Where the simulated performance option in Section R405 is used to comply with this section, the annual energy use of the proposed design is permitted to be 110 percent of the annual energy use otherwise allowed by Section R405.3.

#### NEW SECTION

#### **WAC 51-11R-50400 Section R504—Repairs.**

**R504.1 General.** Buildings, structures and parts thereof shall be repaired in compliance with Section R501.3 and this section. Work on nondamaged components that is necessary for the required repair of damaged components shall be considered part of the repair and shall not be subject to the requirements for alterations in this chapter. Routine maintenance required by Section R501.3, ordinary repairs exempt from permit, and abatement of wear due to normal service condi-

tions shall not be subject to the requirements for repairs in this section.

The *code official* may approve designs of repairs which do not fully conform with all of the requirements of this code where in the opinion of the building official full compliance is physically impossible and/or economically impractical and:

1. The repair improves the energy efficiency of the building; or
2. The repair is energy efficient and is necessary for the health, safety, and welfare of the general public.

**R504.2 Application.** For the purposes of this code, the following shall be considered repairs.

1. Glass only replacements in an existing sash and frame.
2. Roof repairs.
3. Repairs where only the bulb and/or ballast within the existing luminaires in a space are replaced provided that the replacement does not increase the installed interior lighting power.

NEW SECTION

**WAC 51-11R-51000 Chapter 6—Referenced standards.** This chapter lists the standards that are referenced in various sections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in Section R106.

<b>AAMA</b>	American Architectural Manufacturers Association 1827 Walden Office Square Suite 550 Schaumburg, IL 60173-4268	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A C440-11	North American Fenestration Standard/Specifications for Windows, Doors and Unit Skylights .....	R402.4.3
<b>ACCA</b>	Air Conditioning Contractors of America 2800 Shirlington Road, Suite 300 Arlington, VA 22206	
Standard reference number	Title	Referenced in code section number
Manual J-11	Residential Load Calculation Eighth Edition .....	R403.7
Manual S-10	Residential Equipment .....	R403.7
<b>ASHRAE</b>	American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. 1791 Tullie Circle, N.E. Atlanta, GA 30329-2305	
Standard reference number	Title	Referenced in code section number
ASHRAE-2009 ASHRAE 193-2010	ASHRAE Handbook of Fundamentals Method of Test for Determining the Airtightness of HVAC Equipment .....	R402.1.4, Table R405.5.2(1) R403.3.2.1
<b>ASTM</b>	ASTM International 100 Barr Harbor Drive West Conshohocken, PA 19428-2859	
Standard reference number	Title	Referenced in code section number
C1363-11	Standard Test Method for Thermal Performance of Building Materials and Envelope Assemblies by Means of a Hot Box Apparatus .....	R303.1.4.1

NEW SECTION

**WAC 51-11R-50500 Section R505—Change of occupancy or use.**

**R505.1 Change in occupancy or use.** Any space not within the scope of Section R101.2 which is converted to space that is within the scope of Section R101.2 shall be brought into full compliance with this code.

Spaces undergoing a change in occupancy that would result in an increase in demand for either fossil fuel or electrical energy shall comply with this code.

Any space that is converted to a dwelling unit or portion thereof from another use or occupancy shall comply with this code.

**EXCEPTION:** Where the simulated performance option in Section R405 is used to comply with this section, the annual energy use of the proposed design is permitted to be 110 percent of the annual energy use otherwise allowed by Section R405.3.

E 283-04	Test Method for Determining the Rate of Air Leakage Through Exterior Windows, Curtain Walls and Doors Under Specified Pressure Differences Across the Specimen	R402.4.5
<b>CSA</b>	Canadian Standards Association 5060 Spectrum Way Mississauga, Ontario, Canada L4W 5N6	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights	R402.4.3
CSA 55.1-2012	Test Method for Measuring Efficiency and Pressure Loss of Drain Water Heat Recovery Systems	R403.5.4, Table R406.2
CSA 55.2-2012	Drain Water Heat Recovery Units	R403.5.4
<b>ICC</b>	International Code Council, Inc. 500 New Jersey Avenue, N.W. 6th Floor Washington, DC 20001	
Standard reference number	Title	Referenced in code section number
IBC-15	International Building Code	R201.3, R303.2, R402.11, R4501.4
ICC 400-15	Standard on the Design and Construction of Log Structures	Table R402.5.1.1
IFC-15	International Fire Code	R201.3, R501.4
IFGC-15	International Fuel Gas Code	R201.3, R501.4
IMC-15	International Mechanical Code	R201.3, R403.3.2, R403.6, R501.4
IPMC-15	International Property Maintenance Code	R501.4
IRC-15	International Residential Code	R104.2.1, R201.3, R303.2, R401.2, R403.2.2, R403.5, R406.1, R406.2, Table R406.2
<b>IEEE</b>	The Institute of Electrical and Electronic Engineers, Inc. 3 Park Avenue New York, NY 10016-5997	
Standard reference number	Title	Referenced in code section number
515.1-2012	IEEE Standard for the Testing, Design, Installation and Maintenance of Electrical Resistance Trace Heating for Commercial Applications	R403.5.1.2
<b>NEEA</b>	Northwest Energy Efficiency Alliance 421 S.W. 6th Ave., Suite 600 Portland, OR 97204	
Standard reference number	Title	Referenced in code section number
NEEA-2011	Northern Climate Specification for Heat Pump Water Heaters, Vers. 4.0	Table R406.2
<b>NFRC</b>	National Fenestration Rating Council, Inc. 6305 Ivy Lane, Suite 140 Greenbelt, MD 20770	
Standard reference number	Title	Referenced in code section number
100-2010	Procedure for Determining Fenestration Products U-factors	R303.1.3
200-2010	Procedure for Determining Fenestration Product Solar Heat Gain Coefficients and Visible Transmittance at Normal Incidence	R303.1.3
400-2010	Procedure for Determining Fenestration Product Air Leakage	R402.4.3
<b>UL</b>	Underwriters Laboratory 333 Pflingsten Road	

	Northbrook, IL 60062	
Standard reference number	Title	Referenced in code section number
UL 127-11	Factory Built Fireplace .....	R402.4.2
UL 515-11	Electric Resistance Heat Tracing for Commercial and Industrial Applications .....	R403.5.1.2
UL 907-94	Fireplace Accessories (with revisions through April 2010) .....	R402.4.2
<b>US-FTC</b>	United States-Federal Trade Commission 600 Pennsylvania Avenue N.W. Washington, DC 20580	
Standard reference number	Title	Referenced in code section number
C.F.R. Title 16 (May 31, 2005)	R-value .....	Rule R303.1.4
<b>WDMA</b>	Window and Door Manufacturers Association 1400 East Touhy Avenue, Suite 470 Des Plaines, IL 60018	
Standard reference number	Title	Referenced in code section number
AAMA/WDMA/CSA 101/I.S.2/A440-11	North American Fenestration Standard/Specification for Windows, Doors and Unit Skylights .....	R402.4.3
<b>WSU</b>	Washington State University Energy Extension Program 905 Plum Street S.E., Bldg 3 P.O. Box 43165 Olympia, WA 98506-3166	
Standard reference number	Title	Referenced in code section number
WSU RS 33	Duct Testing Standard for New and Existing Construction Publication No. WSUEEP15-016 .....	R403.3.3

**WSR 15-16-105  
PROPOSED RULES  
WASHINGTON STATE UNIVERSITY**

[Filed August 4, 2015, 11:19 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 15-02-075.

Title of Rule and Other Identifying Information: New chapter 504-38 WAC, Health and safety regulations specific to Washington State University (WSU) Pullman.

Hearing Location(s): Lighty 405, WSU Pullman, Pullman, Washington, on September 22, 2015, at 4:00 p.m.

Date of Intended Adoption: October 30, 2015.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, e-mail prf.forms@wsu.edu, fax (509) 335-3969, by September 22, 2015.

Assistance for Persons with Disabilities: Contact Joy Faerber, (509) 335-2005, by September 18, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WSU is adding health and safety policy and regulations for WSU Pullman. WSU seeks a tobacco-free campus to include all campus grounds, state-owned vehicles, and equipment at Pullman. This will be in addition to the WSU Spokane and WSU Vancouver campuses that are already tobacco-free. The Washington Clean Indoor Act currently prohibits smoking in pub-

lic buildings and places of employment, as well as within twenty-five feet of doors, windows, and ventilation intakes.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: WSU, public.

Name of Agency Personnel Responsible for Drafting: Dwight Hagihara, Executive Director, Environmental Health and Safety and Risk Management, Environmental Health 62A, Pullman, Washington 99164-1172, (509) 335-3051; Implementation: Olivia Yang, Interim Vice-President, Finance and Administration, French Administration 442, Pullman, Washington 99164-1045, (509) 335-2600; and Enforcement: Bill Gardner, Associate Vice-President, Public Safety, Safety 60, Pullman, Washington 99164-7300, (509) 335-8548.

No small business economic impact statement has been prepared under chapter 19.85 RCW. This rule has no impact on small business.

A cost-benefit analysis is not required under RCW 34.05.328. The university does not consider this rule to be a significant legislative rule.

August 4, 2015  
Deborah L. Bartlett, Director  
Procedures, Records, and Forms  
University Rules Coordinator

## Chapter 504-38 WAC

## HEALTH AND SAFETY REGULATIONS SPECIFIC TO WASHINGTON STATE UNIVERSITY PULLMAN

NEW SECTION

**WAC 504-38-010 Tobacco and nicotine use—Authority.** Pursuant to RCW 28B.30.150(1), the Washington State University (WSU) board of regents is granted authority to establish rules and regulations for tobacco and nicotine use on property owned, operated, and/or maintained by the university.

NEW SECTION

**WAC 504-38-020 Tobacco and nicotine products.** Washington State University Pullman acknowledges the findings of the United States Surgeon General that tobacco use in any form, active and passive, is a significant health hazard. The university further recognizes that the United States Environmental Protection Agency classifies environmental tobacco smoke as a class A carcinogen. In light of these health risks, and in support of a safe and healthy learning/working environment, WSU Pullman establishes the restrictions in this section, WAC 504-38-010, and 504-38-030, otherwise collectively referred to as the WSU Pullman tobacco and nicotine use policy.

(1) Tobacco and nicotine usage is not permitted within the perimeter of WSU Pullman property. Smoking and nicotine use materials must be secured, extinguished, and/or disposed of prior to entering WSU Pullman property or exiting private vehicles. Improper disposal, including spitting smokeless tobacco or discarding cigarette butts on the ground or out of a vehicle, is not permitted.

(2) The WSU Pullman tobacco and nicotine use policy applies to all students, faculty, and staff or other persons using university facilities.

(3) The WSU Pullman tobacco and nicotine use policy is not intended to impede on institutional review board (IRB) research projects. IRB-approved research projects are exempt from this policy.

(4) The WSU Pullman tobacco and nicotine use policy is not intended to impede on WSU tobacco and nicotine cessation programs.

(5) Definitions. For the purposes of this chapter, the terms "tobacco and nicotine use products" and "property" are defined as follows:

(a) Tobacco and nicotine use products. Cigarettes, cigars, pipes, hookah, all forms of smokeless tobacco, electronic cigarettes, nicotine inhalers, clove cigarettes, and other alternative products made primarily with or from tobacco.

(b) Property. All buildings, grounds, state-owned vehicles and equipment (motor pool, maintenance) including, but not limited to, parking lots, bus stops, county-owned and WSU-maintained streets or sidewalks, recreational fields, golf course, and all open common areas within the WSU Pullman campus. This also includes noncontiguous WSU-owned property located within the city limits of Pullman, Washington, and in Whitman County, Washington.

(6) The sale or free distribution of tobacco or nicotine products or tobacco-related merchandise is prohibited on university property.

(7) Sponsorship of campus events by tobacco or nicotine promoting organizations is prohibited.

(8) Advertisement of tobacco or nicotine products at university events is prohibited regardless of sponsorship.

(9) Tobacco or nicotine use on university property or improper disposal of smoking materials may result in disciplinary action. Employees may be subject to corrective or disciplinary action and students may be referred to the WSU Pullman office of student conduct. Other violators may be trespassed from the WSU Pullman campus and subject to other sanctions available to enforce the tobacco and nicotine use policy.

(10) Signage. Signs are to be posted at prominent locations regarding applicable restrictions.

NEW SECTION

**WAC 504-38-030 Tobacco and nicotine use—Communication and compliance.** (1) The following WSU Pullman persons and departments are responsible for ensuring that the WSU Pullman tobacco and nicotine use policy is communicated to employees, students, visitors, and others in the WSU Pullman community as indicated:

- (a) Human resources regarding employees;
- (b) Student affairs regarding students;
- (c) Department supervisors and leads regarding their visitors, guests, and contractors;
- (d) Communications and scheduling offices for events regarding their attendees, guests, and visitors;
- (e) Finance and administration regarding outside contractors and vendors;
- (f) President's office regarding partner institutions, its visitors, and guests;
- (g) Athletics regarding their patrons, visitors, and guests.

(2) Members of the WSU Pullman community may notify public safety of repeat offenders and/or of disruptive behavior. The enforcement of the tobacco and nicotine use rules and regulations in this section, WAC 504-38-010 and 504-38-020 is the responsibility of the public safety department with the assistance of all members of the WSU Pullman community.

(3) Each of the above responsible persons and departments may establish procedures and protocols, consistent with each other and the WSU Pullman tobacco and nicotine use policy. Such procedures and protocols are to be designed to assist and encourage students and employees to enroll in tobacco and nicotine use cessation programs, comply with this policy, and to observe state smoking laws.

(4) Any person who repeatedly violates the WSU Pullman tobacco and nicotine use policy may be asked to leave the property and/or may be removed and subject to trespass admonition. Employees may be subject to corrective or disciplinary action and students may be subject to student conduct action. Public safety officers are authorized to control and regulate facilities use as prescribed by this policy.

(5) Any person interfering with a university public safety officer in the discharge of the WSU Pullman tobacco and nic-

otine use policy may be in violation of WSU Pullman policy and state law (RCW).

**WSR 15-16-106**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
 (Washington Apple Health)  
 [Filed August 4, 2015, 11:32 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-08-102.

Title of Rule and Other Identifying Information: WAC 182-531A-700 Stage three: Delivery of ABA services, 182-531A-800 Provider requirements, 182-531A-900 Covered services, 182-531A-1000 Noncovered services, and 182-531A-1200 Services provided via telemedicine.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf) or directions can be obtained by calling (360) 725-1000), on September 8, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than September 9, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by September 8, 2015, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Amber Loughheed by September 1, 2015, e-mail [amber.loughheed@hca.wa.gov](mailto:amber.loughheed@hca.wa.gov), or (360) 725-1349, TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules align HCA's provider requirements in WAC 182-531A-0800 with those set by the behavior analyst certification board (BACB). Amendments throughout all sections correct inaccurate WAC references, clarify language and simplify the rule's structure.

Reasons Supporting Proposal: The BACB has changed eligibility standards to sit for board certified behavior analyst (BCBA) certification.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: RCW 41.05.021, 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Chantelle Diaz, P.O. Box 2716, Olympia, WA 98504-2716, (360) 725-1842; Implementation and Enforcement: Lin Payton, P.O. Box 5506, Olympia, WA 98504-5506, (360) 725-1194.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The joint administrative [rules] review committee has not requested the filing of a small business economic impact statement, and these rules do

not impose a disproportionate cost impact on small businesses.

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

August 4, 2015

Wendy Barcus

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

**WAC 182-531A-0700 Applied behavior analysis (ABA)—Stage three: Delivery of ABA services.** (1) ~~((Applied behavioral analysis must be prior authorized))~~ A provider must obtain prior authorization (PA) before delivery of applied behavior analysis (ABA) services. To request PA, a provider must submit the following documents to the medicaid agency:

(a) The comprehensive diagnostic evaluation and multidisciplinary clinical treatment plan completed by the center of excellence (COE) described in this chapter;

(b) The ABA assessment and ABA therapy treatment plan described in this chapter; and

(c) ~~((Other))~~ Any documents required ~~((as described in))~~ by the agency's ABA provider guide.

(2) After the services are prior authorized, ~~((the ABA therapy treatment plan is implemented by))~~ the lead behavior analysis therapist (LBAT) or a therapy assistant (TA) implements the ABA therapy treatment plan in conjunction with other care team members. The LBAT is responsible for communicating and collaborating with other care team members to ensure ~~((consistency in))~~ consistent approaches to ~~((achieve))~~ achieving treatment goals.

(3) If services are rendered by a ~~((therapy assistant, the therapy assistant))~~ TA, he or she must:

(a) Assess the client's response to techniques and report that response to the LBAT;

(b) Provide direct on-site services in the client's natural setting ~~((found))~~ (for example, in the home, office, clinic, or community), or in the day services program;

(c) Be supervised directly by an LBAT for ~~((a minimum of))~~ at least five percent of total direct care per week ~~((e.g., one hour per twenty hours of care)))~~;

(d) Consult the LBAT ~~((when considering modification to technique, when barriers and challenges occur that prohibit implementation of plan, and as otherwise clinically indicated (see WAC 182-531-1426 for appropriate procedures and physical interventions and WAC 182-531-1428 for prohibited procedures and physical interventions);))~~ if:

(i) Considering modifying a technique;

(ii) A barrier or challenge prevents implementation of the treatment plan; and

(iii) Clinically indicated.

(e) Ensure family involvement through modeling, coaching, and training to support generalization and maintenance of achieved behaviors;

(f) ~~((Keep documentation of))~~ Document each visit with the client ~~((and family to include))~~ or family and include:

~~(i) Targeted behavior, interventions, response, modifications in techniques~~((, and a))~~~~;

~~(ii) A plan for the next visit~~((, along with))~~~~;

~~(iii) Behavior tracking sheets that record and graph data collected for each visit; and~~

~~((g) Maintain documentation of family's confirmation that the visit occurred, recording signature, and date.)~~ (iv) Confirmation that each visit has occurred, recording the parent's signature and the date.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

**WAC 182-531A-0800 Applied behavior analysis (ABA)—Provider requirements.**

**Center of excellence.**

(1) ~~((Stage one. The))~~ A center of ~~((excellence's (COE's)))~~ excellence (COE) may be an entity or an individual. The COE's evaluating and prescribing providers must function as a multidisciplinary care team ~~((whether facility-based or practitioner-based.~~

~~(a) The qualifications for a COE are:~~

~~(i) The entity or individual employs:~~

~~(A))~~.

~~(2) The COE must employ:~~

~~(a) A person ~~((or persons))~~ licensed under Title 18 RCW who is experienced in the diagnosis and treatment of autism spectrum disorders and has a specialty in one of the following:~~

~~((H)) (i) Neurology;~~

~~((HH)) (ii) Pediatric neurology;~~

~~((HHH)) (iii) Developmental pediatrics;~~

~~((HVV)) (iv) Psychology;~~

~~((VV)) (v) Psychiatry; or~~

~~(vi) Pediatric psychiatry; or~~

~~((VI) Psychiatry; or~~

~~(B)) (b) A licensed midlevel practitioner (i.e., advanced registered nurse practitioner (ARNP) or physician assistant (PA)) who has been trained by and works under the tutelage of one of the specialists in ~~(a)((i)(A))~~ of this subsection and meets the qualifications in ~~((a)(ii) of this subsection; or~~~~

~~(C) Another))~~ subsection (3) of this section; or

~~(c) A qualified medical provider who meets qualifications in ~~((a)(ii))~~ subsection (3) of this ~~((subsection))~~ section and who has been designated by the agency as a ~~((center of excellence by the agency))~~ COE.~~

~~((ii) The entity or individual has been))~~ (3) The COE must be prequalified by the agency as meeting or employing ~~((persons meeting))~~ people who meet the following criteria:

~~((A))~~ (a) Physicians and psychologists must have demonstrated expertise ~~((to diagnose))~~ in diagnosing an autism spectrum disorder by:

~~(i) Using a validated diagnostic tool ~~((or confirm))~~~~;

~~(ii) Confirming the diagnosis by observing the client's behavior~~((s))~~ and interviewing family members~~((s))~~; or~~

~~(iii) Reviewing the documentation available from the client's primary care provider, ~~((the child's))~~ individualized edu-~~

~~cation plan ~~((HEP))~~, or individualized family service plan ~~((IFSP); or~~~~

~~(B) Have sufficient experience in or knowledge of);~~

~~(b) Physicians and psychologists must understand the medically necessary use of applied behavior analysis (ABA);~~

~~((C) Are)) and~~

~~(c) Physicians and psychologists must be sufficiently qualified to conduct and document a comprehensive diagnostic evaluation, and ~~((to))~~ develop a multidisciplinary clinical treatment plan ~~((as described in WAC 182-531-1418(2); and~~ (iii) The entity or individual is)) under WAC 182-531A-0500(2).~~

~~(4) The COE must be enrolled with the agency or the client's ~~((MCO))~~ managed care organization, unless the client has third-party insurance.~~

~~((b))~~ (5) Examples of providers who can qualify ~~((and be paid for these services))~~ as a designated COE ~~((are))~~ include:

~~((i))~~ (a) Multidisciplinary clinics;

~~((ii))~~ (b) Individual qualified provider offices; and

~~((iii))~~ (c) Neurodevelopmental centers.

~~((2))~~ (6) All ABA providers must meet the specified minimum qualifications and comply with applicable state laws.

~~((a))~~ **Lead behavior analysis therapist ~~((LBAT))~~.**

~~((i) Requirements.~~

~~(A))~~ (7) The lead behavior analysis therapist (LBAT) must be:

~~((H))~~ (a) Licensed by the department of health (DOH) to practice independently as a physician, psychologist, or licensed mental health practitioner under Title 18 RCW, or credentialed as a certified counselor or certified counselor advisor under Title 18 RCW, in good standing ~~((with no license))~~ and without disciplinary restrictions, either formal or informal; ~~((or~~

~~(H))~~ (b) Employed by or contracted with an agency that is enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency and be licensed by DOH to practice independently as a physician, psychologist, licensed mental health practitioner, or credentialed as a counselor, under Title 18 RCW in good standing ~~((with no license))~~ and without disciplinary restrictions, either formal or informal; or

~~((HH))~~ (c) Employed or contracted with an agency that is enrolled as a participating provider and licensed by the department of social and health services' division of behavioral health and recovery (DBHR) with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC.

~~((B))~~ (8) The LBAT must~~((:~~

~~(H))~~ enroll as a servicing provider ~~((and))~~, be authorized to supervise ancillary providers~~((, and~~

~~(H) Be))~~, and be:

~~(a) A~~ board-certified behavior analyst (BCBA) with proof of board certification through the Behavior Analysis Certification Board (BACB); or

~~((H))~~ Have two hundred twenty-five hours of course work related to behavior analysis and either: Seven hundred fifty hours of supervision under a BCBA, or two years of



~~practical experience designing and implementing comprehensive ABA therapy treatment plans. (a)(i)(B)(III) of this subsection is retroactive to January 1, 2013.~~

~~((ii) Role.) (b) Eligible to sit for board certification under standards set by the BACB; or~~

~~(c) Certified by the BACB as an assistant behavior analyst (BCaBA) and practice according to the scope and responsibilities defined by the BACB.~~

~~(9) If the LBAT's role is filled by a BCaBA, the responsibilities below must be fulfilled by both the BCaBA and the supervising BCBA, as required by the BACB. The LBAT must:~~

~~((A)) (a) Develop and maintain an ABA therapy treatment plan that is comprehensive, incorporating treatment ((being)) provided by other health care professionals, and that states how all treatment will be coordinated((-as applicable)); and~~

~~((B)) (b) Supervise ((a minimum of)) at least five percent of the total direct care provided by the therapy assistant per week ((e.g., one hour per twenty hours of care)).~~

~~((b)) Therapy assistant. ((Requirements:~~

~~(i) Therapy assistants) (10) The therapy assistant (TA) must be:~~

~~((A)) (a) Able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; ((or~~

~~((B)) (b) Employed by or contracted with an agency ((that is)) enrolled as a participating provider and licensed by DOH as a hospital, a residential treatment facility, or an in-home services agency with a home health service category to provide ABA services, and be able to practice independently by being licensed by DOH as a licensed mental health practitioner or credentialed as a counselor under Title 18 RCW in good standing with no license restrictions; or~~

~~((C)) (c) Employed by or contracted with an agency ((that is)) enrolled as a participating provider and licensed by DBHR as a community mental health agency with certification to provide ABA services, and be able to meet the staff requirements specified in chapter 388-877A WAC;~~

~~((ii) The therapy assistant must:~~

~~((A) Have) (11) The TA must enroll as a performing or servicing provider and have:~~

~~(a) Sixty hours of ABA training that includes applicable ABA principles and techniques, services, and caring for a ((child)) client with core symptoms of autism; and~~

~~((B) Have a written) (b) A letter of attestation signed by the lead LBAT, documenting that the ((therapy assistant)) TA has demonstrated competency in implementing ABA therapy treatment plans and delivering ABA services ((prior to providing services without supervision to covered clients; and~~

~~(C) Enroll as a performing/servicing provider.~~

~~(iii) Role. The therapy assistant must:~~

~~(A))~~

~~(12) The TA must:~~

~~(a) Deliver services according to the ABA therapy treatment plan; and~~

~~((B)) (b) Be supervised by an LBAT who meets the requirements ((in (a)(i) of this subsection)) under subsection (7), (8), and (9) of this section; and~~

~~((C)) (c) Review the client's progress with the LBAT at least every two weeks to confirm that the ABA therapy treatment plan still meets the ((child's)) client's needs. If changes are clinically indicated, they must be made by the LBAT.~~

~~((e) Licensure for facility-based day program setting. This applies to the model described in WAC 182-531-1420 (2)(a).))~~

#### **Facility-based day program.**

~~(13) All facility-based day program providers must meet the requirements under WAC 182-531A-0600 (3)(a), and meet the following licensure requirements:~~

~~(a) Outpatient hospital facilities ((providing these services)) must meet the applicable DOH licensure requirements((-);~~

~~(b) A clinic or nonhospital-based facility ((providing these services)) must be licensed as a community mental health agency by DBHR((-as described in)) under chapter 388-877A WAC((-);~~

~~(c) A provider rendering direct ABA services must meet the qualifications and applicable licensure or certification requirements as described in this subsection, as applicable((-other)); and~~

~~(d) Any provider((s)) serving as a member((s)) of the multidisciplinary care team must be licensed or certified under Title 18 RCW((-as required)).~~

**AMENDATORY SECTION** (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

**WAC 182-531A-0900 Applied behavior analysis (ABA)—Covered services.** (1) The medicaid agency covers only the following applied behavior analysis (ABA) services, delivered in settings described in ~~((stage two, as noted in WAC 182-531-1420 (1) and (2).))~~ WAC 182-531A-0600, for eligible clients:

(a) The ABA assessments ~~((to))~~ that determine the relationship between environmental events and the client's behaviors;

(b) The direct provision of ABA services by the therapy assistant (TA) or lead behavior analysis therapist (LBAT);

(c) Initial ABA assessment and development of a written, initial ABA therapy treatment plan, limited to one per year;

(d) Up to four additional ABA assessments and revisions of the initial ABA therapy treatment plan per year, if necessary to meet client's needs ~~((, limited to four per year));~~

(e) Supervision of the ~~((therapy assistant))~~ TA;

(f) Training and evaluation of family members or caregivers to carry out the approved ABA therapy treatment plans;

(g) Observation of the client's behavior to determine the effectiveness of the approved ABA therapy treatment plan; and

(h) On-site assistance in ~~((a difficult or crisis situation))~~ the event of a crisis.

(2) The agency covers the following services, which may be provided in conjunction with ABA services under other agency programs (~~and be consistent with the program rules in the Washington Administrative Code~~):

- ~~(a) Speech and language therapy;~~
- ~~(b) Occupational therapy;~~
- ~~(c) Physical therapy;~~
- ~~(d) Counseling;~~
- ~~(e) Interpreter services;~~
- ~~(f) Dietician services)) Counseling;~~
- (b) Dietician services;
- (c) Interpreter services;
- (d) Occupational therapy;
- (e) Physical therapy;
- (f) Speech and language therapy; and
- (g) Transportation services.

(3) The agency does not authorize payment of ABA services (~~if the services are duplicative of services being rendered~~) that duplicate services provided in another setting.

(4) (~~Limits in amount or frequency of the covered services described in this section are subject to the provisions in WAC 182-501-0169, limitation extension.~~) If a provider's request for covered services exceeds limitations in this section, the agency evaluates the request under WAC 182-501-0169.

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

**WAC 182-531A-1000 Applied behavior analysis (ABA)—Noncovered services.** The medicaid agency does not cover (~~the following~~) certain services under the applied behavior analysis (ABA) program (~~including, but~~) include, but are not limited to:

- (1) Autism camps;
- (2) Dolphin therapy;
- (3) Equine therapy(~~)~~ or hippo therapy;
- (4) Primarily educational services;
- (5) Recreational therapy;
- (6) Respite care;
- (7) Safety monitoring services;
- (8) School-based health care services or early intervention program-based services under WAC 182-531A-0600 (3)(b)(iii), unless prior authorized (~~and as described in WAC 182-531-1420 (2)(b)(iii))~~);
- (9) Vocational rehabilitation;
- (10) Life coaching; and

(11) Treatment that is unproven or investigational (~~(e.g.)~~) for example, holding therapy, Higashi (day life therapy), auditory integration therapy).

AMENDATORY SECTION (Amending WSR 14-24-083, filed 12/1/14, effective 1/1/15)

**WAC 182-531A-1200 Applied behavior analysis (ABA)—Services provided via telemedicine.** Telemedicine, as defined in (~~WAC 182-531-1730~~) chapter 182-531 WAC, may be used to provide the following authorized services:

- (1) Program supervision when the client is present; and
- (2) Family training, which does not require the client's presence.

**WSR 15-16-107**  
**PROPOSED RULES**  
**BUILDING CODE COUNCIL**  
[Filed August 4, 2015, 11:50 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-074.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 International Building Code (IBC), chapter 51-50 WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10:00 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10:00 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail sbcc@ga.wa.gov, fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the 2015 edition of the IBC, published by the IBC, with state amendments to incorporate proposed changes as adopted by the Washington SBCC. The rules will provide increased clarity and life safety measures for construction in Washington state.

	WAC	Section	Changes in 2015	Discussion
1	51-50-003		Adopts by reference the IBC.	Updated to adopt the 2015 IBC.
2	51-50-007		Includes in the adoption the International Existing Building Code (IEBC).	Updated to adopt the 2015 IEBC.
3	51-50-008		Establishes the effective date.	July 1, 2016.
4	51-50-009		Recyclable materials and solid waste storage.	Adds a definition of compost and requires storage space for compost.

	WAC	Section	Changes in 2015	Discussion
5	51-50-0202		Definitions.	Adds definitions: Assisted living facility, bottle filling station, climate zone, efficiency dwelling unit, staged evacuation; deletes definitions published in the 2015 IBC: Air impermeable insulation; nonstructural concrete.
6	51-50-0306	306.2	Moderate-hazard factory industrial, Group F-1.	Adds marijuana growing of more than fifteen plants and marijuana processing.
7	51-50-0308	308.3.3	Licensed care facilities.	Classifies assisted living facilities as Group I-1/ Condition 2.
8		308.4.2	Licensed care facilities.	Deletes reference to Group R-2 for residential treatment facilities.
9	51-50-0303	310.2	Definitions.	Adds definitions for guest room and lodging house consistent with 2015 IBC.
10		310.4	Residential Group R-2.	Removes assisted living facilities and residential treatment facilities from Group R-2.
11	51-50-0312	312.1	General.	Adds marijuana growing of fifteen or fewer plants.
12	51-50-0403	403.5.4	Smokeproof enclosures.	Updates references for exit stairways requiring smokeproof enclosures. State amendment provides an exception.
13	51-50-0407		Reserved.	Deletes state amendment for Group I-2 care suite separation to be consistent with the 2015 IBC.
14	51-50-0408	408.9	Smoke removal.	Requires natural or mechanical ventilation for smoke removal in smoke compartments.
15	51-50-0412	412.8.3	Means of egress.	Specifies means of egress from heliports and helistops.
16	51-50-0420	420.6	Subdivisions of building spaces—Smoke barriers.	Deletes state amendment related to Group R-2 licensed residential treatment.
17		420.7.1	Submittal standards.	Deletes state amendment.
18		420.7.4	Smoke and CO alarm requirements.	Removes specific reference to adult family homes, which are covered elsewhere in the code.
19		420.7.5	Escape windows and doors.	Editorial code section reference.
20		420.7.6	Fire apparatus access roads and water supply for fire protection.	Deletes state amendment requiring access roads, reserved for the local authority.
21		420.7.7	Grab bar general requirements.	References ICC A117.1 to replace grab bar, stair and handrail requirements, sections 420.7.7 through 420.7.9.
22		420.7.8	Shower stalls.	Renumbered.
23		420.8	Licensed care cooking facilities.	State amendment allows kitchens to open to a corridor under certain conditions in Group I-1 Condition 2 assisted living.
24	51-50-0422	422.3.1	Means of egress.	Allows a staged evacuation in ambulatory care facilities.
25	51-50-0427	427.1	Electric vehicle charging infrastructure.	New section. Requires minimum number of parking spaces in new construction in Group B, R-1, R-2.

	WAC	Section	Changes in 2015	Discussion
26	51-50-0503	503.1	General.	Portions of a building separated by one or more fire walls are considered separate buildings for the purpose of height and area.
27	51-50-0504	504.4.1	Stair enclosure pressurization increase.	Defines legally required standby power.
28		504.4	Roof structures.	Deletes obsolete section.
29	51-50-0505	505.2.1	Area limitation.	Corrects language related to equipment platforms.
30		505.2.1.1	Aggregate area of mezzanines and equipment platforms.	Provides equipment platform requirements.
31		505.3.1	Area limitation.	Mezzanine area limits determination.
32	51-50-0506		Building area modifications.	Deletes state amendment related basements— Section number reserved.
33	51-50-0510	510.2	Horizontal building separation distance.	Continued use of podium buildings for licensed care in certain circumstances.
34	51-50-0706	706.1	General.	Modifies the charging language to clarify separation of buildings.
35	51-50-0716	716.5.9	Door closing.	Adds exception for certain Group I, Condition 2 assisted living facilities.
36	51-50-0903	903.2.1.6	Assembly occupancies on roofs.	All levels of the building must be sprinklered.
37		903.2.1.8	Nightclub.	Renumbered.
38		903.2.3	Group E.	Change "occupancies" to Group E fire areas; new exceptions for Group E sprinkler requirements.
39		903.2.6	Group I.	New amendment for Group I sprinklers— Modifies exceptions.
40	51-50-0907	907.2.3	Group E.	Provides exceptions re: Location and exiting.
41		907.2.6.1	Group I-1.	New section; automatic smoke detection for Group I-1 exceptions.
42		907.2.6.4	Group I-4 occupancies.	Modifies current state amendment regarding requirements and exceptions for Group I-4 manual fire alarm systems.
43		907.2.9.1.1	Group R-2 assisted living facilities.	New section provides requirements and exceptions for assisted living facility manual fire alarm systems.
44		907.2.9.4	Group R-2 assisted living facilities.	New section provides requirements and exceptions for assisted living facility automatic smoke detection systems.
45		907.5.2.1.2	Maximum sound pressure.	New section sets minimum/maximum limits for audible alarm notification appliances.
46		907.10	NICET.	New sections 907.10.1 through 107.10.3 set standards for certification for fire alarm systems.
47	51-50-0908		Emergency alarm systems - deleted/moved.	Section number reserved.
48	51-50-0909	909.21.12	Hoistway venting.	Removes reference to section 3004.
49	51-50-0911		Fire command center - deleted/moved.	Section number reserved.

	WAC	Section	Changes in 2015	Discussion
50	51-50-0915	915.1	Carbon monoxide detection.	Moved/modified from WAC 51-50-0908.
51	51-50-1004	1004.2	Increased occupant load.	Refers to occupant load for licensed day care.
52	51-50-1006	1006.2.2.6	Electrical equipment rooms.	Specifies certain electrical rooms/means of egress.
53	51-50-1007		Accessible means of egress - moved.	Section number reserved.
54	51-50-1008		Doors, gates and turnstiles - moved.	Section number reserved.
55	51-50-1009		Stairways and handrails - moved. Accessible means of egress.	Moved to WAC 51-50-1011. Moved from WAC 51-50-1007.
56	51-50-1010		Ramps - moved. Doors, gates and turnstiles.	Moved from WAC 51-50-1008.
57	51-50-1011		Stairways.	Moved from WAC 51-50-1009 and renamed.
58	51-50-1012		Ramps.	Moved from WAC 51-50-10100.
59	51-50-1018		Corridors.	Section number reserved/moved.
60	51-50-1020	1020.5	Air movement in corridors.	Moved from Section 1018.5.
61	51-50-1028	1028.4.1	Width or capacity.	Egress court requirements.
62	51-50-1030	1030.1	Emergency escape and rescue.	Provides requirements and exceptions re: Basements that contain sleeping rooms.
63	51-50-1101	1101.2.4	(ICC A117.1 Section 407.4.6.2.2) Arrangement of elevator car buttons.	Arrangement of elevator buttons is prescribed.
64	51-50-1107	1107.6.2.2.1	Type A units.	Specifies bedrooms in monasteries and convents to be counted as sleeping units for certain purposes.
65		1107.6.2.3	Group R-2 other than live/work units, apartment houses, monasteries and convents.	
66		1203.1	Ventilation.	Adds a reference to the mechanical code for ambulatory care facilities.
67	51-50-4400	1203.2	Attic spaces.	Modifies current amendment to specify ventilator to be installed per manufacturer instructions; replaces previous exceptions and deletes Table 1093.2.1.
68		1203.3	Unvented attic and unvented enclosed rafter assemblies.	New section; renumbers existing amendment in 1203 re: Under floor ventilation to 1203.4. The new section permits unvented attics and enclosed rafter assemblies under some circumstances.
69		1203.4	Underfloor ventilation.	Renumbered from 1203.3.
70		1203.5	Natural ventilation.	Renumbered from 1203.4.
71		1203.7	Other ventilation and exhaust systems.	New section specifies ventilation/exhaust systems for operations that involve flammable or combustible sources.
72	51-50-1204	1204.1	Equipment and systems.	Sets minimum indoor temperature and adds an exception for Group F, H, S or U occupancies.
73	51-50-1208	1208.2	Minimum ceiling heights.	State amendment deleted, revert to the model code.

	WAC	Section	Changes in 2015	Discussion
74	51-50-1210	1210.4	Toilet rooms/not adopted.	State amendment deleted, reverts to the model code.
75	51-50-1403	1403.5	Vertical and lateral flame propagation.	State amendment deleted, reverts to the model code.
76	51-50-1607	Table 1607.1	Minimum uniformly distributed live loads, $L_0$ , and minimum concentrated live loads.	Revises live loads for balconies to be consistent with national standards.
77	51-50-1702	1702.1	Definitions.	Definitions referenced from Chapter 2, state amendment adds a definition of small business.
78	51-50-1705		Required verification and inspection.	State amendment deleted, covered by the model code.
79	51-50-1709	1709.5	Exterior window and door assemblies.	Renumbered from 1710.5.
80	51-50-1710	1710.5	Deleted.	Renumbered; section number reserved.
81	51-50-1901	1901.2.1	Anchoring to concrete.	State amendment deleted, covered by the model code.
82	51-50-1903	1903.1	Specifications for tests and materials - general.	State amendment deleted, covered by the model code.
83	51-50-1904		Durability requirements.	State amendment deleted, covered by the model code.
84	51-50-1905	1905.1	Modification to ACI 318 - general.	State amendment deleted, covered by the model code.
85	51-50-1908		Anchorage to concrete - allowable stress design.	Section removed from the model code.
86	51-50-1909		Anchorage to concrete - strength design.	Section removed from the model code.
87	51-50-21070	2107.1	General.	Renumbering references.
88		2107.2	TMS 402/ACI 530/ASCE 5, Section 2.1.8.7.1.1, lap splices.	State amendment deleted, covered by the model code.
89		2107.2.1	Lap splices.	State amendment deleted, covered by the model code.
90		2107.5	TMS 402/ACI 530/ASCE 5.	Modifies and renumbers references.
91	51-50-2111	2111.8	Fireplaces.	Renumbered.
92		2111.8.1	Lintel and throat.	Renumbered.
93	51-50-2407	2407.1.1	Loads.	Reference Table 1607.8.
94		2407.1.2	Structural glass baluster panels.	Handrails required for certain guards.
95	51-50-2603	2603.10	Wind resistance.	Allows option for compliance standard.
96	51-50-2900	2902.1	Minimum number of fixtures.	Removes reference to occupancy type for determining number of fixtures.
97		2902.2	Separate facilities.	Separate bathroom facilities not required for drinking/dining with an occupant load of thirty or fewer.
98		2902.2.1	Family or assisted-use toilet facilities serving as separate facilities.	Modification to clarify family and assisted-use facilities are separate.
99		2902.3	Employee and public toilet facilities.	New exception for required toilet facilities for public access areas less than 300 sq. ft.

	WAC	Section	Changes in 2015	Discussion
100		2902.3.1.1	Food preparation areas.	State amendment deleted, moved to 2902.3.6.
101		2902.3.3	Location of toilet facilities in malls.	Clarifies maximum travel distance as distance of travel.
102		2902.3.6	Prohibited toilet room location.	Toilet rooms not to open directly to rooms for food preparation for the public.
103		2902.4	Signage.	Clarifies signage for sex designation and signs for accessible toilet facilities.
104		2902.4.1	Directional signage.	Requires signage to be visible from main entrance to the building or tenant space.
105		2902.5	Drinking fountain location.	Clarifies travel distance as distance of travel.
106		2902.5.4	Bottle filling stations.	New section. Requires Group E with occupant load over thirty to provide bottle filling stations on each floor.
107		2902.9	Small occupancies.	Drinking fountains not required for occupancy of fifteen or less.
108	51-50-3002	3002.4	Elevator car to accommodate ambulance stretcher.	Modifies 3002.4 to provide that buildings with elevators having four or more stories above or below grade must accommodate certain ambulance stretchers in R-1, R-2, or I occupancies.
109	51-50-3004		Hoistway venting.	Moved to WAC 51-50-3009.
110	51-50-3005	3005.2	Machine room venting.	Renumbers/replaces 3006.2 Venting, in WAC 51-50-3006 Machine rooms.
111	51-50-3006		Machine rooms.	Moved to WAC 51-50-3005.
112	51-50-3009		Hoistway venting.	New section - replaces WAC 51-50-3004 Hoistway venting.
113		3009.1	Vents required.	Specifies where vents are required for elevators and dumbwaiters of more than three stories.
114	51-50-3109	3109.1	Swimming pools, spas and hot tubs.	Requires residential pools, spas and hot tubs to comply with the International Swimming Pool and Spa Code. Public pools regulated by chapter 246-260 WAC.
115	51-50-3401		General.	Chapter 34 replaced with IEBC.
116	51-50-3500		Reference standards.	State amendment deleted, chapter covered in the model code.
	51-50-480000		2015 IEBC.	
117	51-50-480101	101.4	Applicability.	State amendment deleted, covered by the model code.
118		101.4.1	Buildings not previously occupied.	State amendment deleted, covered by the model code.
119	51-50-480102		Applicability.	State amendment deleted, covered by the model code.
120	51-50-480403	403.1	Alterations - general.	Allows a 7 foot ceiling height in existing dwelling units.
121	51-50-480407	407.1	Change of occupancy - conformance.	Allows the use of Chapter 10 to evaluate risk.

	WAC	Section	Changes in 2015	Discussion
122	51-50-480409	409.1	Moved structures - conformance.	Requires compliance with all codes adopted by Washington state for new buildings when buildings are moved into any jurisdiction; except Group R-3 single family buildings.
123	51-50-480410	410.6	Accessibility - alterations.	Requires compliance with IBC; allows exceptions.
124		410.8.10	Toilet rooms.	Allows reduction in number of required plumbing facilities to provide access.
125	51-50-480505		Alteration—Level 3.	State amendment deleted, covered in model code.
126	51-50-480705	705.1.5	Accessibility - dining areas.	Section not adopted.
127		705.1.9	Toilet rooms.	Allows reduction in number of required plumbing facilities to provide access.
128	51-50-480708	708.1	Energy conservation.	Compliance required with WSEC for Level 1 alterations.
129	51-50-480804		Fire protection.	Deleted; section number reserved.
130	51-50-480906	906.1	Accessibility - general.	Compliance with Sections 705 and 706 required.
131		906.2	Type B dwelling or sleeping units.	Eliminates exception for buildings occupied prior to 1991.
132	51-50-480907	907.4.1	Structural evaluation and analysis.	Requires engineering evaluation for certain structures assigned to Seismic Design Category D. Updates benchmark standard.
133	51-50-481012		Change of occupancy classification.	State amendment deleted. Section covered in the model code.
134	51-50-481201	1201.1	Historic buildings - general.	Deletes reference to Chapter 2.
135	51-50-481301	1301.1	Relocated or moved buildings - scope.	Requirements for relocated or moved structures; includes relocatable buildings.
136	51-50-490000		Appendix N—Solar readiness.	New section, not effective unless adopted by the local jurisdiction. Requires solar zones on certain structures; allows exceptions.

Note: Those not listed on the table above remain as adopted in 2012.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074 [19.27.074].

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Joanne T. McCaughan, 1500 Jefferson Street, Olympia, (360) 407-9279.

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

technical requirements for building construction to be consis-

#### Small Business Economic Impact Statement

**Description:** SBCC is filing a proposed rule to adopt the updated 2015 edition of the IBC (chapter 51-50 WAC). Since 1985 the SBCC has been responsible to update new editions of the building code per RCW 19.27.074. The IBC is updated every three years by the International Code Council (ICC). The code development process conducted by the model code organization is open to all interest groups within the design and construction industry and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

The administrative compliance requirements are under the authority of the local government. RCW 19.27.050. Compliance activities including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-50 WAC include specific tent with national standards.



**Professional Services:** Washington has had a statewide building code in effect since 1974. The local enforcement authority having jurisdiction administers the codes through the building and/or fire departments. Administrative procedures for state building code compliance are established and will not be changed by the adoption of the update to the current building codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state building code.

The proposed rule updates the state building code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the building code are existing within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** The cost of compliance incurred by Washington businesses includes training and educational materials. A complete set of the 2015 model codes on CD rom costs \$985 for ICC members. These publications are also available online at <http://codes.iccsafe.org/I-Codes.html>. The ICC chapters offer training for continuing education credits to architects, engineers and building inspectors for \$285.

The 2015 edition of the IBC contains fourteen significant amendments with a cost impact. These items were identified through the model code development process, and reviewed by the SBCC building code technical advisory group (TAG) and the economic workgroup.

1. Table 509 Incidental Uses amended to require an automatic sprinkler system or a one hour fire separation where ambulatory care incidental uses occur. The amendment will increase the cost of construction for ambulatory care facilities.

2. Section 3006.2 Hoistway opening protection amended to include Group I-1 Condition 2 assisted living facilities. The amendment will increase the cost of construction for those facilities.

3. Section 1008.3 Illumination emergency power required for means of egress illumination in several additional areas including electrical equipment rooms, fire command centers, and public restrooms. This code change will increase the cost of construction and provides a higher level of safety.

4. Section 1010.1.9.9 Electromagnetically locked egress doors for controlled access are allowed to be used for Group I-1 assisted living facilities. Where the access control is used it will increase the cost of construction.

5. Section 1207 Sound transmission regulation between sleeping units in hotels and motels is added in this section. There will be a cost impact on some facilities not already built to the higher standard.

6. Section 1505.10 Roof gardens and landscaped roofs must meet a standard for external fire design. Roof gardens are optional, where installed there may be a cost associated with meeting the fire standard.

7. Section 1705.12.9 Cold formed steel special bolted moment frames require a periodic special inspection. The amendment will result in added cost for this type of structural element, the benefit is better quality construction. Not many projects will be affected.

8. Section 1904 Concrete durability requirements added to replace the weathering probability map. The amendment may increase the cost of construction for structural concrete but decrease the cost for nonstructural concrete. Cost is variable depending on the project.

9. Table 2304.10.1 Fastening schedule for wood framed buildings amended to be consistent with IRC, resulting in a negligible cost increase and substantial savings by preventing structural deficiency.

10. Section 3005.4 Elevator machine rooms and machinery spaces for fire service access elevators and occupant evacuation elevators are not allowed a reduction in enclosure protection. Not allowing the reduction will increase the cost of construction, and increase fire safety.

11. Section 3102.7 Lateral restraint for membrane covered structures is added. This change may require an increase in capacity for some structural members and will result in a moderate increase in the overall cost of construction. The cost impact is justified on the basis of occupant safety and the reduced chanced [chances] of collapse.

12. Existing building code sections 403.6 and 403.7 require bracing for unreinforced masonry (URM) buildings that undergo an alteration involving fifty percent or more of the building area. Parapets must be reinforced and wall anchors are required at the roof line. The added cost is small compared to total cost of a typical project, and there is no added cost in many jurisdictions in high seismic areas that already have similar provisions or targeted mitigation programs.

13. Existing building code section 403.8 requires evaluation of roof to wall connections for wind load where more than fifty percent of the roof diaphragm is removed. The added cost will apply to deficient buildings in high wind areas.

14. Existing building code section 410.7 adds accessibility to drinking fountains to the requirements. The cost will not exceed twenty percent of the cost for the alteration, as provided in the exception to providing access.

The building code TAG and the SBCC economic workgroup determined there is a cost for compliance on businesses for the following proposed state amendments.

**1. Proposal 15-035:**

**IBC 306.2 Moderate Hazard Factory Industrial Group F-1:** Marijuana growing of more than fifteen plants—Marijuana processing.

**IBC 312 Utility and Miscellaneous Group U:** Marijuana growing of fifteen or fewer plants.

This amendment addresses a new business in Washington state and provides a threshold for classifying the occupancy of buildings or structures used for growing marijuana. The building code TAG modified the proposal to include Group U as an option for occupancy classification of marijuana growing facilities. The SBCC economic workgroup has requested additional input into the appropriate threshold for allowing the Group U occupancy classification used for barns, greenhouses and other utility or agricultural buildings, instead of the Group F-1 moderate hazard factory classification, which can mean added fire safety, sanitary and structural requirements, depending on building area, type of construction, access to water supply and other factors. The cur-

rent building code is silent on the occupancy classification of these buildings. A state amendment specifying occupancy classification would provide consistency across the state.

SBCC amendments to the fire code provides an exception to the fire flow requirement for Group U occupancies under 500 square feet. A second exception is proposed in the 2015 proposed rule:

**507.3 Fire flow.** Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method.

Exceptions:

1. Fire flow is not required for structures under 500 square feet with a B, U or R-1 occupancy where structures are at least 30 feet from any other structure and are used only for recreation.

2. In rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the *International Wild-land-Urban Interface Code*.

The SBCC economic workgroup requested additional information regarding the licensing of marijuana producers. According to their 2014 annual report, producer licenses have been issued in thirty-two of the thirty-nine counties by the Washington state liquor and cannabis board (WSLCB). The WSLCB rules address the size of marijuana production:

**WAC 314-55-075 What is a marijuana producer license and what are the requirements and fees related to a marijuana producer license?**

(6) The maximum amount of space for marijuana production is initially limited to two million square feet, to be increased based on marketplace demand, but not to exceed eight and one-half million square feet without board approval. Applicants must designate on their operating plan the size category of the production premises and the amount of actual square footage in their premises that will be designated as plant canopy. There are three categories as follows:

- (a) Tier 1 - Less than two thousand square feet;
- (b) Tier 2 - Two thousand square feet to ten thousand square feet; and
- (c) Tier 3 - Ten thousand square feet to thirty thousand square feet.

From the WSLCB 2014 Annual Report

	Applications Processed	Applications On Hold
Producer Tier 1	57	110
Producer Tier 2	21	107
Producer Tier 3	18	90

**2. Proposal 15-041:**

**IBC Section 202 Definitions, Section 2902.5.4 Bottle Filling Stations:** For new construction, this amendment requires bottle filling stations in Group E school buildings with an occupant load over thirty, and permits substituting bottle filling stations for up to fifty percent of required drinking fountains in all buildings. Most water bottle filling station models do cost more than regular drinking fountains - the range of additional costs depends on the model. There are stand-alone water bottle filling station versions that would be

close to or just slightly above the cost of a regular drinking fountain. A typical price would be \$400-800 depending on whether the water is chilled and filtered. The building code TAG modified the proposal to be mandatory in schools and voluntary in all other buildings.

**3. Proposal 15-044:**

**IBC Section 427 Electric Vehicle (EV) Charging Infrastructure:** For new construction with over ten on-site parking spaces, this proposed state amendment requires electric vehicle infrastructure be provided to five percent of parking spaces serving Group B business and Group R-1 residential motels and hotels and ten percent of parking spaces serving Group R-2 apartment buildings. The infrastructure may be added electrical service capacity including space for future meters, panels capable of adding 208/240 volt 40 amp service capacity and conduit to the parking spaces served. The estimated cost ranges from \$484 per parking space for a building mounted system to \$1254 for a free standing charging station. According to the proponent's statement of need: "If the basic design of the building electrical room and EV designated parking are considered during design, cost for adding EV charging will be minimized. Installing any needed electrical conduit during construction will be less expensive than providing it after the parking is paved, sidewalks are poured and the landscaping is complete."

**4. Proposal 15-048:**

**IBC Appendix N Solar Readiness:** This proposed state amendment is a nonmandatory appendix chapter available for local adoption. For new nonresidential buildings this amendment defines a "Solar Zone" and specifies requirements and elements of a solar ready zone. The SBCC economic workgroup review concluded that since the appendix is optional and the local jurisdiction can amend the appendix where adopted, that there is not a cost based on SBCC action.

**Loss of Sales or Revenue:** The proposed rules make the state code for building construction consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated building code.

The update will result in some cost outlay for some small businesses for specific building projects, for a transition period. Other small businesses would see an increase in revenue. The amendments to the building codes affect over 25,000 small businesses in the state, where construction activity occurs. The primary intent of the amendments is to improve the safety features in buildings and provide consistency and fairness across the state, for a predictable business environment. The amendments should result in enhanced safety and value in buildings.

**Cost of Compliance for Small Businesses:** Determine whether the proposed rule will have a disproportionate cost impact on small businesses, compare the cost of compliance for small business with the cost of compliance for the ten percent of businesses that are the largest businesses.

The majority of businesses affected by the updates to the building codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small businesses. The cost to comply with the updated codes is not a disproportionate impact on small business. Where SBCC

found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Reducing the Costs of the Rule on Small Businesses:**

The revision history for the 2015 model code amendments shows several hundred amendments proposed by industry and local governments which add flexibility and clarity to the code and coordinate rules, and represent a savings for small business building owners and operators.

SBCC conducted a detailed review process, including participation at the national code development hearings, to document significant economic impacts of the proposed code amendments.

These amendments are proposed to reduce the cost of compliance on small businesses:

**IBC 304.1 Business Group B.** Small food processing establishments and commercial kitchens no larger than 2,500 sq. ft. and with no associated dining area are now Group B occupancies. The same uses which are larger than 2,500 sq. ft. are unchanged as F-1.

This amendment allows small businesses operating in buildings with a kitchen to be treated as a business occupancy instead of a factory occupancy.

**IBC 304.1 Business Group B.** Clarifying language has been added relating to the occupancy classification of train-

ing or skill development not in a school or academic program. Examples have been added including but not limited to tutoring centers, martial arts studios, gymnastics and similar uses when not classified as Group A.

This amendment allows small businesses providing educational services to be classified as business occupancy instead of an educational occupancy.

**IBC 310 Residential Group R-3.** This amendment uses a Group R-3 classification for lodging homes, also known as bed and breakfast, with five or fewer guestrooms. This allows these small businesses to operate as single family homes.

**IBC 2902.2 Plumbing Fixtures, Separate Facilities.** This amendment allows a single restroom facility in a drinking and dining establishment with an occupant load of thirty or fewer.

**Small Businesses Involved in the Development of the Rule:** SBCC conducted eleven open public meetings of the building code TAG, available via telephone conference bridge and over the internet, and allowed comment on every item on every agenda. SBCC appointed over one hundred representatives of all segments of the business and construction community to serve on the TAGs.

**List of Industries:** Below is a list of industries required to comply with the building code:

NAICS #	Type of Business	Businesses with fewer than 50 employees	Businesses with 50 or more employees
236115	New single-family housing construction	2523	18
236116	New multifamily housing construction	69	4
236118	Residential remodelers	4298	3
236210	Industrial building construction	88	8
236220	Commercial and institutional building construction	1151	40
238110	Poured concrete foundation and structure contractors	987	14
238120	Structural steel and precast concrete contractors	154	10
238130	Framing contractors	1866	17
238140	Masonry contractors	517	1
238150	Glass and glazing contractors	208	6
238160	Roofing contractors	925	11
238170	Siding contractors	558	1
238190	Other foundation, structure, and building exterior contractors	145	1
238220	Plumbing, heating, and air-conditioning contractors	2245	66
238290	Other building equipment contractors	315	6
238310	Drywall and insulation contractors	898	18
238990	All other specialty trade contractors	1141	15
321213	Engineered wood member (except truss) manufacturing	10	4
321214	Truss manufacturing	14	4
321911	Wood window and door manufacturing	31	1
327310	Cement manufacturing	3	1
327320	Ready-mix concrete manufacturing	41	7

NAICS #	Type of Business	Businesses with fewer than 50 employees	Businesses with 50 or more employees
327331	Concrete block and brick manufacturing	13	1
332311	Prefabricated metal building and component manufacturing	16	4
332312	Fabricated structural metal manufacturing	67	8
332321	Metal window and door manufacturing	10	1
332322	Sheet metal work manufacturing	69	8
333415	Air-conditioning and warm air heating equipment	13	2
335110	Electric lamp bulb and part manufacturing	3	
335121	Residential electric lighting fixture manufacturing	14	
335122	Commercial, industrial, and institutional electric light	2	1
335129	Other lighting equipment manufacturing	3	1
423310	Lumber, plywood, millwork, and wood panel merchant wholesale	196	12
423320	Brick, stone, and related construction material merchant	68	1
423330	Roofing, siding, and insulation material merchant wholesale	33	4
423390	Other construction material merchant wholesalers	78	
423720	Plumbing and heating equipment and supplies (hydronics)	99	6
423730	Warm air heating and air-conditioning equipment and supplies	48	1
531110	Lessors of residential buildings and dwellings	1525	152
531120	Lessors of nonresidential buildings (except miniwarehouse)	2046	7
541310	Architectural services	579	19
541330	Engineering services	2351	82
541340	Drafting services	69	
541350	Building inspection services	168	1
922160	Fire protection	246	31
	Total	25,903	598

**Estimate of the Number of Jobs That Will Be Created or Lost:** The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2016. Building permits issued prior to that date will be vested under the 2012 building code. Permits issued for projects under the 2015 code edition will start with the 2017 construction season.

The construction industry has experienced growth over the period June 2014 to June 2015. Data from current employment statistics (CES):

Wage and salary workers	2015	2014
Residential building construction	25,600	22,400
Nonresidential building construction	18,700	16,500
Specialty trade contractors	114,200	101,400

A copy of the statement may be obtained by contacting Tim Nogler, P.O. Box 41449, Olympia, WA 98504-1449,

phone (360) 407-9277, fax (360) 407-9088, e-mail sbcc@ga.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. SBCC is not one of the agencies identified as required to prepare an analysis. However, SBCC intends to prepare an analysis prior to the final adoption of these rules and a copy can be requested using the same information as provided for the small business economic impact statement.

August 4, 2015  
David F. Kokot  
Chair

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-003 International Building Code.** The ((2012)) 2015 edition of the *International Building Code*, including Appendix E, published by the International Code Council is hereby adopted by reference with the exceptions noted in this chapter of the Washington Administrative Code.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-007 Exceptions.** The exceptions and amendments to the *International Building Code* contained in the provisions of chapter 19.27 RCW shall apply in case of conflict with any of the provisions of these rules.

The provisions of this code do not apply to temporary growing structures used solely for the commercial production of horticultural plants including ornamental plants, flowers, vegetables, and fruits. "Temporary growing structure" means a structure that has the sides and roof covered with polyethylene, polyvinyl, or similar flexible synthetic material and is used to provide plants with either frost protection or increased heat retention. A temporary growing structure is not considered a building for purposes of this code.

The provisions of this code do not apply to the construction, alteration, or repair of temporary worker housing except as provided by rule adopted under chapter 70.114A RCW or chapter 37, Laws of 1998 (SB 6168). "Temporary worker housing" means a place, area, or piece of land where sleeping places or housing sites are provided by an employer for his or her employees or by another person, including a temporary worker housing operator, who is providing such accommodations for employees, for temporary, seasonal occupancy, and includes "labor camps" under RCW 70.54.110.

Codes referenced which are not adopted through RCW 19.27.031 or chapter 19.27A RCW shall not apply unless specifically adopted by the authority having jurisdiction. The ~~((2012))~~ 2015 International Existing Building Code is included in the adoption of this code in Section ~~((3401.5))~~ 101.4.7 and amended in WAC 51-50-480000.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-008 Implementation.** The *International Building Code* adopted under chapter 51-50 WAC shall become effective in all counties and cities of this state on July 1, ~~((2013))~~ 2016.

AMENDATORY SECTION (Amending WSR 04-01-108, filed 12/17/03, effective 7/1/04)

**WAC 51-50-009 Recyclable materials, compost, and solid waste storage.** For the purposes of this section, the following definitions shall apply:

COMPOST means biodegradable solid wastes that are separated for composting such as food waste, food soiled paper and yard waste.

RECYCLED MATERIALS means those solid wastes that are separated for recycling or reuse, such as papers, metals and glass.

All local jurisdictions shall require that space be ~~((provide))~~ provided for the storage of recycled materials, compost, and solid waste for all new buildings.

EXCEPTION: Group R-3 and Group U Occupancies.

The storage area shall be designed to meet the needs of the occupancy, efficiency of pickup, and shall be available to occupants and haulers.

AMENDATORY SECTION (Amending WSR 14-24-089, filed 12/1/14, effective 5/1/15)

### WAC 51-50-0200 Chapter 2—Definitions.

#### SECTION 202—DEFINITIONS.

ADULT FAMILY HOME. A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

~~((AIR IMPERMEABLE INSULATION. An insulation having an air permeance equal to or less than 0.02 L/s m<sup>2</sup> at 75 Pa pressure differential tested in accordance with ASTM E2178 or ASTM E283.))~~ ASSISTED LIVING FACILITY. A home or other institution, licensed by the state of Washington, providing housing, basic services and assuming general responsibility for the safety and well-being of residents under chapters 18.20 RCW and 388-78A WAC. These facilities may provide care to residents with symptoms consistent with dementia requiring additional security measures.

BOTTLE FILLING STATION. A plumbing fixture connected to the potable water distribution system and sanitary drainage system that is designed and intended for filling personal use drinking water bottles or containers not less than 10 inches (254 mm) in height. Such fixtures can be separate from or integral to a drinking fountain and can incorporate a water filter and a cooling system for chilling the drinking water.

CHILD CARE. The care of children during any period of a 24-hour day.

CHILD CARE, FAMILY HOME. A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

CLIMATE ZONE. A geographical region that has been assigned climatic criteria as specified in the Washington State Energy Code.

CLUSTER. Clusters are multiple portable school classrooms separated by less than the requirements of the building code for separate buildings.

EFFICIENCY DWELLING UNIT. A dwelling unit containing only one habitable room.

HOSPICE CARE CENTER. A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

NIGHTCLUB. An A-2 Occupancy use under the 2006 *International Building Code* in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding

adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

~~((NONSTRUCTURAL CONCRETE. Any element made of plain or reinforced concrete that is not part of a structural system required to transfer either gravity or lateral loads to the ground.))~~

**PORTABLE SCHOOL CLASSROOM.** A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections and is designed to be used as an educational space with or without a permanent foundation. The structure shall be capable of being demounted and relocated to other locations as needs arise.

**SMALL BUSINESS.** Any business entity (including a sole proprietorship, corporation, partnership or other legal entity) which is owned and operated independently from all other businesses, which has the purpose of making a profit, and which has fifty or fewer employees.

**STAGED EVACUATION.** A method of emergency response that engages building components and trained staff to provide occupant safety during an emergency. Emergency response involves moving or holding certain occupants at temporary locations for a brief period of time before evacuating the building. This response is used by ambulatory surgery facility and assisted living facilities to protect the health and safety of fragile occupants and residents.

#### NEW SECTION

#### **WAC 51-50-0306 Section 306—Factory Group F.**

**306.2 Moderate-hazard factory industrial, Group F-1.** Factory industrial uses that are not classified as factory industrial F-2 low hazard shall be classified as F-1 moderate hazard and shall include, but not be limited to, the following:

- Aircraft (manufacturing, not to include repair)
- Appliances
- Athletic equipment
- Automobiles and other motor vehicles
- Bakeries
- Beverages: Over 16 percent alcohol content
- Bicycles
- Boats
- Brooms or brushes
- Business machines
- Cameras and photo equipment
- Canvas or similar fabric
- Carpets and rugs (includes cleaning)
- Clothing
- Construction and agricultural machinery
- Disinfectants
- Dry cleaning and dyeing
- Electric generation plants
- Electronics
- Engines (including rebuilding)
- Food processing establishments and commercial kitchens not associated with restaurants, cafeterias and similar dining facilities more than 2,500 square feet (232m<sup>2</sup>) in area
- Furniture

- Hemp products
- Jute products
- Laundries
- Leather products
- Machinery
- Marijuana growing of more than 15 plants
- Marijuana processing
- Metals
- Millwork (sash and door)
- Motion pictures and television filming (without spectators)
- Musical instruments
- Optical goods
- Paper mills or products
- Photographic film
- Plastic products
- Printing or publishing
- Recreational vehicles
- Refuse incineration
- Shoes
- Soaps and detergents
- Textiles
- Tobacco
- Trailers
- Upholstering
- Wood; distillation
- Woodworking (cabinet)

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

#### **WAC 51-50-0308 Section 308—Institutional Group I.**

**308.2 Definitions.** The following terms are defined in Chapter 2:

- 24-HOUR CARE.**
- Custodial Care.
- Detoxification Facilities.
- Foster Care Facilities.
- HOSPICE CARE CENTER.**
- Hospitals and psychiatric hospitals.
- Incapable of self-preservation.
- Medical care.
- Nursing homes.

~~((308.3.2))~~ **308.3.3 Licensed care facilities.** Assisted living facilities as licensed by Washington state under chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC shall be classified as Group ~~((R-2))~~ I-1, Condition 2.

~~((308.3.3))~~ **308.3.5 Adult family homes.** Adult family homes licensed by Washington state shall be classified as Group R-3 or shall comply with the *International Residential Code*.

**308.4 Institutional Group I-2.** ~~((This))~~ Institutional Group I-2 occupancy shall include buildings and structures used for *medical care* on a 24-hour basis for more than five persons who are *incapable of self-preservation*. This group shall include, but not be limited to, the following:

Foster care facilities.  
 Detoxification facilities.  
 Hospice care centers.  
 Hospitals.  
 Nursing homes.  
 Psychiatric hospitals.

~~((308.4.2 Licensed care facilities. Assisted living facilities as licensed by Washington state under chapter 388-78A WAC and residential treatment facilities as licensed by Washington state under chapter 246-337 WAC shall be classified as Group R-2.))~~

**308.6.5 Family home child care.** Family home child care licensed by Washington state for the care of twelve or fewer children shall be classified as Group R-3 or shall comply with the *International Residential Code*.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0310 Section 310—Residential Group R.**

**310.2 Definitions.** The following terms are defined in Chapter 2:

**ADULT FAMILY HOME.**  
**BOARDING HOUSE.**  
**CHILD CARE.**  
**CHILD CARE, FAMILY HOME.**  
**CONGREGATE LIVING FACILITIES.**  
**DORMITORY.**  
**GROUP HOME.**  
**GUEST ROOM.**  
**LODGING HOUSE.**  
**PERSONAL CARE SERVICE.**  
**TRANSIENT.**

**310.4 Residential Group R-2.** Residential occupancies containing *sleeping units* or more than two *dwelling units* where the occupants are primarily permanent in nature, including:

Apartment houses  
~~((Assisted living facilities as licensed by Washington state under chapter 388-78A WAC))~~  
*Boarding houses* (nontransient) with more than 16 occupants  
*Congregate living facilities* (nontransient) with more than 16 occupants  
 Convents  
*Dormitories*  
 Fraternities and sororities  
 Hotels (nontransient)  
*Live/work units*  
 Monasteries  
 Motels (nontransient)  
~~((Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC))~~  
 Vacation timeshare properties

~~((310.5.2))~~ **310.5.3 Adult family homes, family home child care.** Adult family homes and family home child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

~~((310.5.3))~~ **310.5.4 Foster family care homes.** Foster family care homes licensed by Washington state are permitted to comply with the *International Residential Code*, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

**310.6 Residential Group R-4.** R-4 classification is not adopted. Any reference in this code to R-4 does not apply.

NEW SECTION

**WAC 51-50-0312 Section 312—Utility and miscellaneous Group U.**

**312.1 General.** Buildings and structures of an accessory character and miscellaneous structures not classified in any specific occupancy shall be constructed, equipped and maintained to conform to the requirements of this code commensurate with the fire and life hazard incidental to their occupancy. Group U shall include, but not be limited to, the following:

Agricultural buildings  
 Aircraft hangers, accessory to a one- or two-family residence (see Section 412.5)  
 Barns  
 Carports  
 Fences more than 6 feet (1829 mm) in height  
 Grain silos, accessory to a residential occupancy  
 Greenhouses  
 Livestock shelters  
 Marijuana growing of 15 or fewer plants  
 Private garages  
 Retaining walls  
 Sheds  
 Stables  
 Tanks  
 Towers

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0403 Section 403—High-rise buildings.**

**403.5.4 Smokeproof ((~~exit~~)) enclosures.** Every required *interior exit stairway* serving floors more than 75 feet (22,860 mm) above the lowest level of fire department vehicle access shall be a *smokeproof enclosure* in accordance with Sections 909.20 and ~~((1022.10))~~ 1023.10.

EXCEPTION: Unless required by other sections of this code, portions of such stairways which extend to serve floors below the level of exit discharge need not comply with Sections 909.20 and 1022.10 provided the portion of the stairway below is separated from the level of exit discharge with a 1 hour fire barrier.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0407 ((~~Group I-2~~)) Reserved.**

~~((407.4.3.2 Separation. Care suites shall be separated from other portions of the building by a smoke partition complying with Section 710. Partitions within suites are not required to~~

be smoke resistant or fire resistance rated unless required by another section of this code.))

#### NEW SECTION

##### **WAC 51-50-0408 Group I-3.**

**408.9 Smoke removal.** To facilitate smoke removal in post-fire salvage and overhaul operations, each *smoke compartment* shall be equipped with natural or mechanical *ventilation* for removal of products of combustion in accordance with one of the following:

1. Easily identifiable, manually operable windows or panels shall be distributed around the perimeter of each floor at not more than 50-foot (15,240 mm) intervals. The area of operable windows or panels shall be not less than 40 square feet (3.7 m<sup>2</sup>) per 50 linear feet (15,240 mm) of perimeter.

EXCEPTIONS: 1. Each *sleeping unit* having an *exterior wall* shall be permitted to be provided with 2 square feet (0.19 m<sup>2</sup>) of venting area in lieu of the area specified in Item 1.  
2. Windows shall be permitted to be fixed provided that glazing can be cleared by fire fighters.

2. Roof vents capable of being manually operated or skylights with glazing that can be cleared by firefighters, with dimensions as set forth in Section 910.3.3, shall be distributed in accordance with Section 910.3.4. The maximum center-to-center spacing between vents shall be 100 feet (45,720 mm) and the venting ratio of effecting area of vent openings to floor area of a *smoke compartment* shall be 1:150.

3. Mechanical air-handling equipment providing one exhaust air change every 15 minutes for the area involved. Return and exhaust air shall be moved directly to the outside without recirculation to other portions of the building.

4. Any other approved design that will produce equivalent results.

#### NEW SECTION

##### **WAC 51-50-0412 Section 412—Aircraft-related occupancies.**

**[F]412.8.3 Means of egress.** The means of egress from heliports and helistops shall comply with the provisions of Chapter 10. Landing areas located on buildings or structures shall have two or more means of egress. For landing areas less than 60 feet in length or less than 2,000 square feet in area, the second means of egress is permitted to be a fire escape, alternating tread device or ladder leading to the floor below. On Group I-2 roofs with helistops or helipads, rooftop structures enclosing exit stair enclosures or elevator shafts shall be enclosed with fire barriers and opening protectives that match the rating of their respective shaft enclosures below.

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

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

##### **WAC 51-50-0420 Section 420—Groups I-1, R-1, R-2, R-3.**

~~((420.6 Subdivision of building spaces—Smoke barriers. Smoke barriers complying with Section 709 shall be installed on all floors of a Group R-2 boarding home or residential treatment facility licensed by Washington state. The smoke barrier shall subdivide the floor into at least two compartments complying with Section 407.5.))~~

**420.7 Adult family homes.** This section shall apply to all newly constructed adult family homes and all existing single-family homes being converted to adult family homes. This section shall not apply to those adult family homes licensed by the state of Washington department of social and health services prior to July 1, 2001.

~~((420.7.1 Submittal standards. In addition to the requirements of Section 107, the submittal shall identify the project as a Group R-3 adult family home occupancy. A floor plan shall be submitted identifying the means of egress and the components in the means of egress such as stairs, ramps, platform lifts and elevators. The plans shall indicate the rooms used for clients and the sleeping room classification of each room.))~~

**420.7.2 Sleeping room classification.** Each sleeping room in an adult family home shall be classified as one of the following:

1. Type S - Where the means of egress contains stairs, elevators or platform lifts.

2. Type NS1 - Where one means of egress is at grade level or a ramp constructed in accordance with Section 420.7.8 is provided.

3. Type NS2 - Where two means of egress are at grade level or ramps constructed in accordance with Section 420.7.8 are provided.

**420.7.3 Types of locking devices and door activation.** All bedrooms and bathroom doors shall be openable from the outside when locked.

Every closet door shall be readily openable from the inside.

Operable parts of door handles, pulls, latches, locks and other devices installed in adult family homes shall be operable with one hand and shall not require tight grasping, pinching, or twisting of the wrist. Pocket doors shall have graspable hardware available when in the closed or open position.

The force required to activate operable parts shall be 5.0 pounds (22.2 N) maximum. Required exit door(s) shall have no additional locking devices. Required exit door hardware shall unlock inside and outside mechanisms when exiting the building allowing reentry into the adult family home without the use of a key, tool or special knowledge.

**420.7.4 Smoke and carbon monoxide alarm requirements.** ~~((All adult family homes shall be equipped with smoke and carbon monoxide alarms installed as required in Section 908.7.))~~ Alarms shall be installed in such a manner so that the detection device warning is audible from all areas of the dwelling upon activation of a single alarm.

**420.7.5 Escape windows and doors.** Every sleeping room shall be provided with emergency escape and rescue windows as required by Section ~~((4029))~~ 1030. No alternatives to the sill height such as steps, raised platforms or other devices



placed by the openings will be approved as meeting this requirement.

**420.7.6** (~~Fire apparatus access roads and water supply for fire protection.~~ Adult family homes shall be served by fire apparatus access roads and water supplies meeting the requirements of the local jurisdiction.) **Reserved.**

**420.7.7 Grab bar general requirements.** Where facilities are designated for use by adult family home clients, grab bars for water closets, bathtubs and shower stalls shall be installed according ~~(to this section)~~ **ICC A117.1.**

~~(420.7.7.1 Grab bar cross section.~~ Grab bars with a circular cross section shall have an outside diameter of 1 1/4 inches minimum and 2 inches maximum. Grab bars with noncircular cross section shall have a cross section dimension of 2 inches maximum and a perimeter dimension of 4 inches minimum and 4 5/8 inches maximum.

~~420.7.7.2 Grab Bar Installation.~~ Grab bars shall have a spacing of 1 1/2 inches between the wall and the bar. Projecting objects, control valves and bathtub or shower stall enclosure features above, below and at the ends of the grab bar shall have a clear space of 1 1/2 inches to the grab bar.

EXCEPTION: Swing-up grab bars shall not be required to meet the 1 1/2 inch spacing requirement.

Grab bars shall have a structural strength of 250 pounds applied at any point on the grab bar, fastener, mounting device or supporting structural member. Grab bars shall not be supported directly by any residential grade fiberglass bathing or showering unit. Acrylic bars found in bathing units shall be removed.

Fixed position grab bars, when mounted, shall not rotate, spin or move and have a graspable surface finish.

~~420.7.7.3 Grab Bars at Water Closets.~~ Water closets shall have grab bars mounted on both sides. Grab bars can be a combination of fixed position and swing-up bars. Grab bars shall meet the requirements of Section 420.7.7. Grab bars shall mount between 33 inches and 36 inches above floor grade. Centerline distance between grab bars, regardless of type used, shall be between 25 inches minimum and 30 inches maximum.

~~420.7.7.3.1 Fixed position grab bars.~~ Fixed position grab bars shall be a minimum of 36 inches in length and start 12 inches from the rear wall.

~~420.7.7.3.2 Swing up grab bars.~~ Swing-up grab bars shall be a minimum of 28 inches in length from the rear wall.

~~420.7.7.4 Grab bars at bathtubs.~~ Horizontal and vertical grab bars shall meet the requirements of Section 420.7.7.

~~420.7.7.4.1 Vertical grab bars.~~ Vertical grab bars shall be a minimum of 18 inches long and installed at the control end wall and head end wall. Grab bars shall mount within 4 inches of the exterior of the bath tub edge or within 4 inches within the bath tub. The bottom end of the bar shall start between 36 inches and 42 inches above floor grade.

EXCEPTION: The required vertical grab bar can be substituted with a floor to ceiling grab bar meeting the requirements of Section 420.7.7 at the control end and head end entry points.

~~420.7.7.4.2 Horizontal grab bars.~~ Horizontal grab bars shall be provided at the control end, head end, and the back wall within the bathtub area. Grab bars shall be mounted between 33 inches and 36 inches above floor grade. Control end and head end grab bars shall be 24 inches minimum in length. Back wall grab bars shall be 36 inches minimum in length.

~~420.7.7.5 Grab bars at shower stalls.~~ Where shower stalls are provided to meet the requirements for bathing facilities, grab bars shall meet the requirements of Section 420.7.7.

EXCEPTION: Shower stalls with permanent built-in seats are not required to have vertical or horizontal grab bars at the seat end wall. A vertical floor to ceiling grab bar shall be installed within 4 inches of the exterior of the shower aligned with the nose of the built-in seat.

~~420.7.7.5.1 Vertical grab bars.~~ Vertical grab bars shall be 18 inches minimum in length and installed at the control end wall and head end wall. Vertical bars shall be mounted within 4 inches of the exterior of the shower stall or within 4 inches of the inside of the shower stall. The bottom end of vertical bars mount between 36 inches and 42 inches above floor grade.

~~420.7.7.5.2 Horizontal grab bars.~~ Horizontal grab bars shall be installed on all sides of the shower stall mounted between 33 inches and 36 inches above the floor grade. Horizontal grab bars shall be a maximum of 6 inches from adjacent walls. Horizontal grab bars shall not interfere with shower control valves.

**420.7.8 Ramps.** All interior and exterior ramps, when provided, shall be constructed in accordance with Section 1010 with a maximum slope of 1 vertical to 12 horizontal.

EXCEPTION: Where it is technically infeasible to comply with Section 1010, ramps in existing buildings being converted to use as adult family homes shall be permitted to comply with the following:

1. They shall have a maximum slope of 1 unit vertical in 12 units horizontal (8 percent slope).
2. Landings of at least 3 feet by 3 feet (914 mm by 914 mm) shall be provided at the top and bottom of the ramp, where doors open onto the ramp, and where the ramp changes direction.

**420.7.8.1 Handrails for ramps.** Handrails shall be provided for ramps in accordance with Section 1010.9.

EXCEPTION: Where it is technically infeasible to comply with Section 1010.9, ramps in existing buildings being converted to use as adult family homes shall be permitted to comply with the following:

1. Handrails shall be installed on both sides of ramps with a rise of more than 6 inches and a slope between 1 vertical to 12 horizontal and 1 vertical and 20 horizontal.
2. Handrail height, measured above the finished surface of the ramp slope, shall be not less than 34 inches (864 mm) and not more than 38 inches (965 mm).
3. Handrails shall comply with Section 1012.3.

4. Handrails where required on ramps shall be continuous for the full length of the ramp. Handrail ends shall be returned or shall terminate in newel posts or safety terminals. Handrails adjacent to a wall shall have a space of not less than 1 1/2 inches (38 mm) between the wall and the handrails.

**420.7.9 Stair treads and risers.** Stair treads and risers shall be constructed in accordance with Section 1009.

**EXCEPTION:** Where it is technically infeasible to comply with Section 1009, stair treads and risers in existing buildings being converted to use as adult family homes shall be permitted to comply with the following:

1. The maximum riser height shall be 7 3/4 inches (196 mm). The riser shall be measured vertically between leading edges of the adjacent treads. The greatest riser height within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm). Risers shall be vertical or sloped from the underside of the nosing of the tread above at an angle not more than 30 degrees (0.51 rad) from the vertical. Open risers are permitted provided that the opening between treads does not permit the passage of a 4-inch diameter (102 mm) sphere. The opening between adjacent treads is not limited on stairs with a total rise of 30 inches (762 mm) or less.
2. The minimum tread depth shall be 10 inches (254 mm). The tread depth shall be measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge. The greatest tread depth within any flight of stairs shall not exceed the smallest by more than 3/8 inch (9.5 mm).
3. Winder treads shall have a minimum tread depth of 10 inches (254 mm) measured between the vertical planes of the foremost projection of adjacent treads at the intersections with the walkline. Winder treads shall have a minimum tread depth of 6 inches (152 mm) at any point within the clear width of the stair. Within any flight of stairs, the largest winder tread depth at the walkline shall not exceed the smallest winder tread by more than 3/8 inch (9.5 mm). Consistently shaped winders at the walkline shall be allowed within the same flight of stairs as rectangular treads and do not have to be within 3/8 inch (9.5 mm) of the rectangular tread depth.
4. The radius of curvature at the nosing shall be no greater than 9/16 inch (14 mm). A nosing not less than 3/4 inch (19 mm) but not more than 1 1/4 inches (32 mm) shall be provided on stairways with solid risers. The greatest nosing projection shall not exceed the smallest nosing projection by more than 3/8 inch (9.5 mm) between two stories, including the nosing at the level of floors and landings. Beveling of nosings shall not exceed 1/2 inch (12.7 mm). A nosing is not required where the tread depth is a minimum of 11 inches (279 mm).

**420.7.9.1 Handrails for treads and risers.** Handrails shall be installed on both sides of treads and risers numbering from one riser to multiple risers. Handrails shall comply with Section 1009.15.

**420.7.10) 420.7.8 Shower stalls.** Where provided to meet the requirements for bathing facilities, the minimum size of shower stalls for an adult family home shall be 30 inches deep by 48 inches long.

**420.8 Licensed care cooking facilities.** In Group I-1, Condition 2 assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC, rooms or spaces that contain a cooking facility with domestic cooking appliances shall be permitted to be open to the corridor where all of the following criteria are met:

1. The number of care recipients housed in the smoke compartment is not greater than 30.
2. The number of care recipients served by the cooking facility is not greater than 30.
3. Only one cooking facility area is permitted in a smoke compartment.
4. The types of domestic cooking appliances permitted are limited to ovens, cooktops, ranges, warmers and microwaves.
5. The corridor is a clearly identified space delineated by construction or floor pattern, material or color.
6. The space containing the domestic cooking facility shall be arranged so as not to obstruct access to the required exit.
7. A domestic cooking hood installed and constructed in accordance with Section 505 of the *International Mechanical Code* is provided over the cooktop or range.
8. The domestic cooking hood provided over the cooktop or range shall be equipped with an automatic fire-extinguishing system of a type recognized for protection of domestic cooking equipment. Preengineered automatic extinguishing systems shall be tested in accordance with UL 300A and *listed and labeled* for the intended application. The system shall be installed in accordance with this code, its listing and the manufacturer's instructions.
9. A manual actuation device for the hood suppression system shall be installed in accordance with Sections 904.12.1 and 904.12.2.
10. An interlock device shall be provided such that upon activation of the hood suppression system, the power or fuel supply to the cooktop or range will be turned off.
11. A shut-off for the fuel and electrical power supply to the cooking equipment shall be provided in a location that is accessible only to staff.
12. A timer shall be provided that automatically deactivates the cooking appliances within a period of not more than 120 minutes.
13. A portable fire extinguisher shall be installed in accordance with Section 906 of the *International Fire Code*.

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0422 Section 422—((Reserved)) Ambulatory care facilities.**

**422.3.1 Means of egress.** Where ambulatory care facilities require smoke compartmentation in accordance with Section 422.3, the fire safety evacuation plans provided in accordance with Section 1001.4 shall identify the building components necessary to support a staged evacuation emergency response in accordance with Sections 404 and 408 of the *International Fire Code*.

NEW SECTION

**WAC 51-50-0427 Section 427—Electric vehicle charging infrastructure.**

**427.1 Scope.** The provisions of this section shall apply to the construction of new buildings serving Group B, Group R-1, and Group R-2 occupancies.

**427.2 Required electric vehicle charging infrastructure.** Where parking is provided, parking spaces shall be provided with electric vehicle charging infrastructure in compliance with Sections 425.3, 425.4, and 425.5 based on the schedule in Table 425.1.

- EXCEPTIONS:
1. Group R occupancies served by 10 or fewer on-site parking spaces.
  2. Group B occupancies served by 10 or fewer on-site employee parking spaces.

**Table 427.1**

**Required Electric Vehicle Charging Infrastructure**

	Minimum Number of Parking Spaces Served <sup>1</sup>
Group B	5% of employee parking spaces
Group R-1	5% of parking spaces
Group R-2	10% of parking spaces

<sup>1</sup> When the calculation of percent served results in a fractional parking space, the applicant shall round up to the next whole number.

**427.3 Electrical room(s).** Electrical room(s) shall be designed to accommodate the electrical equipment and distribution required to serve a minimum of 20 percent of the total parking spaces with 208/240 V 40-amp electric vehicle charging infrastructure.

**427.4 Electric vehicle charging infrastructure.** Electric vehicle charging infrastructure shall be installed meeting one of the following requirements:

1. A minimum number of 208/240 V 40-amp, electric vehicle charging stations required to serve the parking spaces specified in Table 425.1. The electric vehicle charging stations shall be located to serve spaces designated for parking and charging electric vehicles, or
2. Additional service capacity, space for future meters, panel capacity or space for additional panels, and conduit for future installation of electric vehicle charging stations. The service capacity and conduit size shall be designed to accommodate the future installation of the number of 208/240 V 40-amp, electric vehicle charging stations specified in Table 425.1. The conduit shall terminate at spaces designated for parking and charging electric vehicles in the future.

**427.5 Electric vehicle charging infrastructure for accessible parking spaces.** When electric vehicle charging infrastructure is required, one accessible parking space shall be served by electric vehicle charging infrastructure. The electric vehicle charging infrastructure may also serve adjacent parking spaces not designated as accessible parking.

NEW SECTION

**WAC 51-50-0503 Section 503—General building height and area limitations.**

**503.1 General.** Unless otherwise specifically modified in Chapter 4 and this chapter, *building height*, number of stories and *building area* shall not exceed the limits specified in Sections 504 and 506 based on the type of construction as determined by Section 602 and the occupancies as determined by Section 302 except as modified hereafter. *Building height*, number of stories and *building area* provisions shall be applied independently. For the purposes of determining area limitations, height limitations and type of construction, each portion of a building separated by one or more fire walls complying with Section 706 shall be considered to be a separate building.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0504 Section 504—Building height and number of stories.**

~~((504.3))~~ **504.4.1 Stair enclosure pressurization increase.** For Group R1 and R2 occupancies in buildings of Type VA construction equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1, the maximum number of stories permitted in Section 504.2 may be increased by one provided the interior exit stairways and ramps are pressurized in accordance with Section 909.~~((20 and Section 909.11-~~

~~504.4 Roof structures. (Same as 2012 IBC except section number revised))~~ Legally required standby power shall be provided for buildings constructed in compliance with this section and be connected to stairway shaft pressurization equipment, elevators and lifts used for accessible means of egress, hoistway pressurization equipment (if provided) and other life safety equipment as determined by the authority having jurisdiction. For the purposes of this section, legally required standby power shall comply with NEC Section 701.12, options (A), (B), (C), (D), (F), or (G).

NEW SECTION

**WAC 51-50-0505 Section 505—Mezzanines and equipment platforms.**

**505.2.1 Area limitation.** The aggregate area of a *mezzanine* or *mezzanines* within a room shall be not greater than one-third of the floor area of that room or space in which they are located. The enclosed portion of a room shall not be included in a determination of the floor area of the room in which the *mezzanine* is located. In determining the allowable *mezzanine* area, the area of the *mezzanine* shall not be included in the floor area of the room.

- EXCEPTIONS:
1. The aggregate area of *mezzanines* in buildings and structures of Type I or II construction for special industrial occupancies in accordance with Section 503.1.1 shall be not greater than two-thirds of the floor area of the room.

2. The aggregate area of *mezzanines* in buildings and structures of Type I or II construction shall be not greater than one-half of the floor area of the room in buildings and structures equipped throughout with an approved automatic sprinkler system in accordance with Section 903.3.1.1 and an approved emergency voice/alarm communication system in accordance with Section 907.5.2.2.

**505.2.1.1 Aggregate area of mezzanines and equipment platforms.** Where a room contains both a *mezzanine* and an *equipment platform*, the aggregate area of the two raised floor levels shall be not greater than two-thirds of the floor area of the room or space in which they are located. The area of the mezzanine shall not exceed the area determined according to Section 505.2.1.

**505.3.1 Area limitation.** The aggregate area of all *equipment platforms* within a room shall be not greater than two-thirds of the area of the room in which they are located. Where an *equipment platform* is located in the same room as a *mezzanine*, the area of the *mezzanine* shall be determined by Section 505.2.1 and the combined aggregate area of the *equipment platforms* and *mezzanines* shall be not greater than two-thirds of the room in which they are located. The area of the mezzanine shall not exceed the area determined according to Section 505.2.1.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0506 ((Building area modifications))  
Reserved.**

~~((506.4 Single occupancy buildings with more than one story. The total allowable building area of a single occupancy building with more than one story above grade plane shall be determined in accordance with this section. The actual aggregate building area at all stories in the building shall not exceed the total allowable building area.~~

EXCEPTION: Basements need not be included in the total allowable building area, provided each basement does not exceed the area permitted for a building with no more than one story above grade plane.

~~**506.5 Mixed occupancy area determination.** The total allowable building area for buildings containing mixed occupancies shall be determined in accordance with the applicable provisions of this section. Basements need not be included in the total allowable building area, provided each such basement does not exceed the area permitted for a building with no more than one story above grade plane.))~~

#### NEW SECTION

##### **WAC 51-50-0510 Section 510—Special provisions.**

**510.2 Horizontal building separation allowance.** A building shall be considered as separate and distinct buildings for the purpose of determining area limitations, continuity of fire walls, limitation of number of stories and type of construction where all of the following conditions are met:

1. The buildings are separated with a *horizontal assembly* having a *fire-resistance rating* of not less than 3 hours.

2. The building below the *horizontal assembly* is of Type IA construction.

3. *Shaft, stairway, ramp* and escalator enclosures through the *horizontal assembly* shall have not less than a 2-hour *fire-resistance rating* with opening protective in accordance with Section 716.5.

EXCEPTION: Where the enclosure walls below the *horizontal assembly* have not less than a 3-hour *fire-resistance rating* with opening protectives in accordance with Section 716.5, the enclosure walls extending above the *horizontal assembly* shall be permitted to have a 1-hour *fire-resistance rating* provided:

1. The building above the *horizontal assembly* is not required to be of Type I construction.
2. The enclosure connects fewer than four *stories*; and
3. The enclosure opening protective above the *horizontal assembly* have a *fire protection rating* of not less than 1 hour.

4. The building or buildings above the *horizontal assembly* shall be permitted to have multiple Group A occupancy uses, each with an *occupant load* of less 300, or Group B, Group I-1, Condition 2 licensed care facilities, M, R, or S occupancies.

5. The building below the *horizontal assembly* shall be protected throughout by an *approved automatic sprinkler system* in accordance with Section 903.3.1.1, and shall be permitted to be any occupancy allowed by this code except Group H.

6. The maximum *building height* in feet (mm) shall not exceed the limits set forth in Section 504.3 for the building having the smaller allowable height as measured from the grade plane. Group I-1, Condition 2 licensed care facilities shall be permitted to use the values for maximum height in feet for Group R-2 occupancies.

#### NEW SECTION

##### **WAC 51-50-0706 Section 706—Fire walls.**

**706.1 General.** Fire walls shall be constructed in accordance with Sections 706.2 through 706.11. The extent and location of such fire walls shall provide a complete separation. Where a fire wall also separates occupancies that are required to be separated by a fire barrier wall, the most restrictive requirements of each separation shall apply.

#### NEW SECTION

##### **WAC 51-50-0716 Section 716—Opening protectives.**

**716.5.9 Door closing.** *Fire doors* shall be latching and self- or automatic-closing in accordance with this section.

EXCEPTIONS:

1. *Fire doors* located in common walls separating *sleeping units* in Group R-1 shall be permitted without automatic- or self-closing devices.
2. The elevator car doors and the associated hoistway enclosure doors at the floor level designated for recall in accordance with Section 3003.2 shall be permitted to remain open during Phase I emergency recall operation.

3. In Group I-1, Condition 2 Assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC, fire doors in dwelling and sleeping units opening to the corridor shall be permitted without automatic or self-closing devices when all of the following conditions exits:

- 3.1 Each floor is constantly attended by staff on a 24-hour basis and stationed on that floor;
- 3.2 The facility is provided with an NFPA 13 sprinkler system throughout;
- 3.3 Doors shall be equipped with positive latching;
- 3.4 Dwelling and sleeping units are not equipped with cooking appliances;
- 3.5 Dwelling and sleeping units shall be equipped with a smoke detection system interconnected with the smoke detection system required by Section 907.2.6.1.

**AMENDATORY SECTION** (Amending WSR 14-24-089, filed 12/1/14, effective 5/1/15)

**WAC 51-50-0903 Section 903—Automatic sprinkler systems.**

**903.2.1.6 Assembly occupancies on roofs.** Where an occupied roof has an assembly occupancy with an occupant load exceeding 100 for Group A-2, and 300 for other Group A occupancies, the building shall be equipped with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

**EXCEPTION:** Open parking garages of Type I or Type II construction.

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

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E (~~Occupancies~~) fire areas.

- EXCEPTIONS:**
1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable school classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
  2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each classroom shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
  3. An automatic sprinkler system is not required in Group E occupancies with an occupant load of 50 or less within the Group E occupancy, calculated in accordance with Table 1004.1.2.
  4. An automatic sprinkler system is not required in Group E day care and preschool facilities with an occupant load of 100 or less, when located at the level of exit discharge, where every room in which care is provided has not fewer than one exterior exit door.

**[F] 903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

- EXCEPTIONS:**
1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
  2. An automatic sprinkler system is not required where Group I-4 day care facilities are at the level of exit discharge and where every room where care is provided has not fewer than one exterior exit door.
  3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge, and all floors below the level of exit discharge other than areas classified as an open parking garage.
  4. Where new construction or additions house less than sixteen persons receiving care, an automatic sprinkler system installed in accordance with Section 903.2.8.3 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.

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

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

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

- EXCEPTION:** Group R-1 if all of the following conditions apply:
1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
  2. The Group R fire area is only one story.
  3. The Group R fire area does not include a basement.
  4. The Group R fire area is no closer than 30 feet from another structure.
  5. Cooking is not allowed within the Group R fire area.
  6. The Group R fire area has an occupant load of no more than 8.
  7. A hand held (portable) fire extinguisher is in every Group R fire area.

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

**AMENDATORY SECTION** (Amending WSR 12-01-099, filed 12/20/11, effective 4/1/12)

**WAC 51-50-0907 Section 907—Fire alarm and detection systems.**

**[F] 907.2.3 Group E.** A manual fire alarm system that initiates the occupant notification signal utilizing an emergency

voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTIONS:

1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.
3. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
  - 3.1 Interior corridors are protected by smoke detectors.
  - 3.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.
  - 3.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.
4. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation.

**[F] 907.2.6 Group I.** A manual fire alarm system that activates the occupant notification system shall be installed in Group I occupancies. An automatic smoke detection system that notifies the occupant notification system shall be provided in accordance with Sections 907.2.6.1, 907.2.6.2, 907.2.6.3.3 and 907.2.6.4.

EXCEPTIONS:

1. Manual fire alarm boxes in resident or patient sleeping areas of Group I-1 and I-2 occupancies shall not be required at exits if located at nurses' control stations or other constantly attended staff locations, provided such stations are visible and continually accessible and that travel distances required in Section 907.4.2 are not exceeded.
2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official.

**[F] 907.2.6.1 Group I-1.** An automatic smoke detection system shall be installed in *corridors, waiting areas open to corridors and habitable spaces other than sleeping units and kitchens*. The system shall be activated in accordance with Section 907.4.

EXCEPTIONS:

1. For Group I-1 Condition 1 occupancies, smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.
2. Smoke detection is not required for exterior balconies.

**[F] 907.2.6.4 Group I-4 (~~child care facilities~~) occupancies.** (~~An automatic smoke detection system that activates~~) A manual fire alarm system that initiates the occupant notification (~~system in accordance with Sections 907.6 through 907.6.2.3.2 shall be provided and installed in accordance~~

~~with NFPA 72.)) signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group I-4 occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.~~

EXCEPTIONS:

1. A manual fire alarm system is not required in Group I-4 occupancies with an occupant load of 50 or less.
2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.2.2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

**907.2.9.1.1 Group R-2 assisted living facilities.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where the building contains an assisted living facility licensed by the state of Washington.

EXCEPTIONS:

1. Manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all care providers' control stations or other constantly attended staff locations, provided such staff locations are visible and continuously accessible and that the distances of travel required in Section 907.4.2.1 are not exceeded.
2. The manual fire alarm system that activates the occupant notification system is not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official and staff evacuation responsibilities are included in the fire safety and evacuation plan required by Section 404.

**907.2.9.4 Group R-2 assisted living facilities.** An automatic smoke detection system that activates the occupant notification system in accordance with Section 907.5 shall be installed in corridors, waiting areas open to corridors and habitable spaces other than sleeping units and kitchens located in Group R-2 assisted living facilities licensed by the state of Washington.

EXCEPTIONS:

1. Smoke detection is not required for exterior balconies.
2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official and staff evacuation responsibilities are included in the fire safety and evacuation plan required by Section 404.

**907.5.2.1.2 Maximum sound pressure.** The maximum sound pressure level for audible alarm notification appliances shall be 110 dBA at the minimum hearing distance from the audible appliance. For systems operating in public mode, the maximum sound pressure level shall not exceed 30 dBA over the average ambient sound level. Where the average ambient noise is greater than 95 dBA, visible alarm notification appli-

ances shall be provided in accordance with NFPA 72 and audible alarm notification appliances shall be required.

**907.10 NICET: National Institute for Certification in Engineering Technologies.**

**907.10.1 Scope.** This section shall apply to new and existing fire alarm systems.

**907.10.2 Design review.** All construction documents shall be reviewed by a NICET III in fire alarms or a licensed professional engineer (PE) in Washington prior to being submitted for permitting. The reviewing professional shall submit a stamped, signed, and dated letter; or a verification method approved by the local authority having jurisdiction indicating the system has been reviewed and meets or exceeds the design requirements of the state of Washington and the local jurisdiction. (Effective July 1, 2017.)

**907.10.3 Installation/maintenance.** All installation, inspection, testing, maintenance and programming not defined as "electrical work" by chapter 19.28 RCW shall be completed by a NICET II in fire alarms. (Effective July 1, 2017.)

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

**AMENDATORY SECTION** (Amending WSR 13-23-087, filed 11/19/13, effective 4/1/14)

**WAC 51-50-0908 Section 908—(~~Emergency alarm systems~~) Reserved.**

~~((**908.7 Carbon monoxide alarms.** Group I or Group R occupancies shall be provided with single station carbon monoxide alarms installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units or sleeping units and on each level of the dwelling. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720-2012 and the manufacturer's instructions.~~

**EXCEPTIONS:**

1. For other than R-2 occupancies, the building does not contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; or
2. Sleeping units or dwelling units in I and R-1 occupancies and R-2 college dormitories, hotel, DOC prisons and work releases and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, or a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that:
  - a. The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
  - b. The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and
  - c. The building is provided with a common area carbon monoxide detection system.

3. An open parking garage, as defined in Chapter 2 of the *International Building Code*, or enclosed parking garage ventilated in accordance with Section 404 of the *International Mechanical Code* shall not be considered an attached garage.

~~**908.7.1 Carbon monoxide detection systems.** Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720-2012 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075-))~~

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-0909 Section 909—Smoke control systems.**

~~**909.21.12 Hoistway venting.** Hoistway venting (~~(required by Section 3004)~~) need not be provided for pressurized elevator shafts.~~

**909.21.13 Machine rooms.** Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with Section 707.

**AMENDATORY SECTION** (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-0911 Section 911—(~~Fire command center~~) Reserved.**

~~((**911.1.2 Separation.** The fire command center shall be separated from the remainder of the building by not less than a 2-hour fire barrier constructed in accordance with Section 707 or horizontal assembly constructed in accordance with Section 712, or both:))~~

**NEW SECTION**

**WAC 51-50-0915 Section 915—Carbon monoxide detection.**

**915.1 General.** Carbon monoxide detection shall be installed in new buildings in accordance with Sections 915.1.1 through 915.6. Carbon monoxide detection shall be installed in existing buildings in accordance with Chapter 11 of the *International Fire Code*.

**915.1.1 Where required.** Carbon monoxide detection shall be provided in Group I and R occupancies and in classrooms in Group E occupancies in the locations specified in Section 915.2 where any of the conditions in Sections 915.1.2 through 915.1.6 exist.

**EXCEPTIONS:**

1. R-2 occupancies, with the exception of R-2 college dormitories, are required to install carbon monoxide detectors without exception.

2. Sleeping units or dwelling units in I and R-1 occupancies and R-2 college dormitories, hotel, DOC prisons and work releases and DSHS licensed boarding home and residential treatment facility occupancies which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that they comply with the exceptions of 915.1.4.

**915.1.2 Fuel-burning appliances and fuel-burning fireplaces.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms that contain a fuel-burning appliance or a fuel-burning fireplace.

**915.1.3 Forced-air furnaces.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms served by a fuel-burning, forced-air furnace.

EXCEPTION: Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in the first room or area served by each main duct leaving the furnace, and the carbon monoxide alarm signals are automatically transmitted to an approved location.

**915.1.4 Fuel-burning appliances outside of dwelling units, sleeping units and classrooms.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms located in buildings that contain fuel-burning appliances or fuel-burning fireplaces.

EXCEPTIONS:

1. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where there are no communicating openings between the fuel-burning appliance or fuel-burning fireplace and the dwelling unit, sleeping unit or classroom.
2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in one of the following locations:
  - 2.1. In an approved location between the fuel-burning appliance or fuel-burning fireplace and the dwelling unit, sleeping unit or classroom.
  - 2.2. On the ceiling of the room containing the fuel-burning appliance or fuel-burning fireplace.

**915.1.5 Private garages.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms in buildings with attached private garages.

EXCEPTIONS:

1. Carbon monoxide detection shall not be required where there are no communicating openings between the private garage and the dwelling unit, sleeping unit or classroom.
2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms located more than one story above or below a private garage.
3. Carbon monoxide detection shall not be required where the private garage connects to the building through an open-ended corridor.
4. Where carbon monoxide detection is provided in an approved location between openings to a private garage and dwelling units, sleeping units or classrooms, carbon monoxide detection shall not be required in the dwelling units, sleeping units or classrooms.

**915.1.6 Exempt garages.** For determining compliance with Section 915.1.5, an open parking garage complying with Section 406.5 of the *International Building Code* or an enclosed

parking garage complying with Section 406.6 of the *International Building Code* shall not be considered a private garage.

**915.2 Locations.** Where required by Section 915.1.1, carbon monoxide detection shall be installed in the locations specified in Sections 915.2.1 through 915.2.3.

**915.2.1 Dwelling units.** Carbon monoxide detection shall be installed in dwelling units outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each level of the dwelling. Where a fuel-burning appliance or fuel-burning fireplace is located within a bedroom or its attached bathroom, carbon monoxide detection shall be installed within the bedroom.

**915.2.2 Sleeping units.** Carbon monoxide detection shall be installed in sleeping units.

EXCEPTION: Carbon monoxide detection shall be allowed to be installed outside of each separate sleeping area in the immediate vicinity of the sleeping unit where the sleeping unit or its attached bathroom does not contain a fuel-burning appliance or fuel-burning fireplace and is not served by a forced air furnace.

**915.2.3 Group E occupancies.** When required by Section 915.1 in new buildings, or by Chapter 11 of the *International Fire Code*, carbon monoxide detection shall be installed in classrooms in Group E occupancies. Carbon monoxide alarm signals shall be automatically transmitted to an on-site location that is staffed by school personnel.

EXCEPTIONS:

1. Carbon monoxide alarm signals shall not be required to be automatically transmitted to an on-site location that is staffed by school personnel in Group E occupancies with an occupant load of 50 or less.
2. Carbon monoxide alarm signals shall not be required to be automatically transmitted to an on-site location that is staffed by school personnel in Group E occupancies where an exception contained in Section 915.1 applies, or in Group E occupancies where signals are transmitted to an off-site service monitored by a third party, such as a service that monitors fire protection systems in the building.

## NEW SECTION

### **WAC 51-50-1004 Section 1004.**

**1004.2 Increased occupant load.** The *occupant load* permitted in any building, or portion thereof, is permitted to be increased from that number established for the occupancies in Table 1004.1.2, provided that all other requirements of the code are also met based on such modified number and the *occupant load* does not exceed one occupant per 7 square feet (0.65 m<sup>2</sup>) of occupiable floor space. Where required by the *building official*, an *approved aisle*, seating or fixed equipment diagram substantiating any increase in *occupant load* shall be submitted. Where required by the *building official*, such diagram shall be posted. See WAC 170-295-0080 (1)(b) for day care licensed by the state of Washington.



NEW SECTION**WAC 51-50-1006 Section 1006—Number of exits and exit access doorways.**

**1006.2.2.6 Electrical equipment rooms.** Rooms containing electrical equipment rated at 1,200 amperes or more where the equipment is over 6 feet (1829 mm) wide and containing overcurrent devices, switching devices or control devices shall be provided with the number of means of egress in accordance with NEC Article 110.26(c) in addition to the requirements of this code.

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-1007 Section 1007—(~~Accessible means of egress~~) Reserved.**

~~(1007.1 Accessible means of egress required.~~ Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress are required by Section 1015.1 or 1021.1 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

- EXCEPTIONS:
1. Accessible means of egress are not required in alterations to existing buildings.
  2. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 1007.3, 1007.4 or 1007.5.
  3. In assembly areas with sloped or stepped aisles, one accessible means of egress is permitted where the common path of travel is accessible and meets the requirements in Section 1028.8.
  4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

~~**1007.8 Two-way communication.** A two-way communication system shall be provided at the elevator landing on each accessible floor that is one or more stories above or below the story of exit discharge complying with Sections 1007.8.1 and 1007.8.2.~~

- EXCEPTIONS:
1. Two-way communication systems are not required at the elevator landing where two-way communication is provided within the areas of refuge in accordance with Section 1007.6.3.
  2. Two-way communication systems are not required on floors provided with exit ramps conforming to provisions of Section 1010.

~~**1007.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not constantly attended, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.)~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1008 Section 1008—(~~Doors, gates and turnstiles~~) Reserved.**

~~(1008.1.9.3 Locks and latches.~~ Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:
  - 2.1. The locking device is readily distinguishable as locked;
  - 2.2. A readily visible and durable sign is posted on the egress side on or adjacent to the door stating: ~~THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED.~~ The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and
  - 2.3. The use of the key-operated locking device is revocable by the building official for due cause.
3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or a tool.

5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

6. Approved, listed locks without delayed egress shall be permitted in Group R-2 boarding homes licensed by Washington state, provided that:

- 6.1. The clinical needs of one or more patients require specialized security measures for their safety.
- 6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
- 6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.
- 6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.

6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

~~**1008.1.9.6 Special locking arrangements in Group I-2.** Approved special egress locks shall be permitted in a Group I-2 Occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic *sprinkler system* in accordance with Section 903.3.1.1 or an *approved* automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors are installed and operate in accordance with Items 1 through 7.~~

~~Approved special egress locks shall be permitted in a Group I-2 Occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic *sprinkler system* in accordance with Section 903.3.1.1 or an *approved* automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors are installed and operate in accordance with Items 1 through 7.~~

~~6.1. The clinical needs of one or more patients require specialized security measures for their safety.~~

~~6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.~~

~~6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.~~

~~6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.~~

~~6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.~~

~~**1008.1.9.6 Special locking arrangements in Group I-2.** Approved special egress locks shall be permitted in a Group I-2 Occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic *sprinkler system* in accordance with Section 903.3.1.1 or an *approved* automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors are installed and operate in accordance with Items 1 through 7.~~

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the *fire command center*, a nursing station or other *approved* location.

4. A building occupant shall not be required to pass through more than one door equipped with a special egress lock before entering an *exit*.

5. The procedures for the operation(s) of the unlocking system shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the International Fire Code.

6. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

7. Emergency lighting shall be provided at the door.

EXCEPTION: Items 1 through 4 and 6 shall not apply to doors to areas where persons, which because of clinical needs, require restraint or containment as part of the function of a psychiatric treatment area provided that all clinical staff shall have the keys, codes or other means necessary to operate the locking devices.))

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1009 Section 1009—((Stairways and handrails)) Accessible means of egress.**

~~((1009.3 Exit access stairways. Floor openings between stories created by exit access stairways shall be enclosed.~~

EXCEPTIONS:

1. In other than Group I-2 and I-3 occupancies, *exit access stairways* that serve, or atmospherically communicate between, only two stories are not required to be enclosed. Such interconnected stories shall not be open to other stories.
2. *Exit access stairways* serving and contained within a single residential *dwelling unit* or *sleeping unit* in Group R-1, R-2 or R-3 occupancies are not required to be enclosed.
3. In Group B or M occupancies, *exit access stairways* that are designed exclusively for circulation are not required to be enclosed provided that the building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1, the area of the floor opening between stories does not exceed twice the horizontal projected area of the *exit access stairway*, and the opening is protected by a draft curtain and closely-spaced sprinklers in accordance with NFPA 13.
4. In other than Group B and M occupancies, *exit access stairways* that are designed exclusively for circulation are not required to be enclosed provided that the building is equipped throughout with an *automatic sprinkler system* in accordance with Section 903.3.1.1, the floor opening does not connect more than four stories, the area of the floor opening between stories does not exceed twice the horizontal projected area of the *exit access stairway*, and the opening is protected by a draft curtain and closely-spaced sprinklers in accordance with NFPA 13.

5. *Exit access stairways* within an *atrium* complying with the provisions of Section 404 are not required to be enclosed.

6. *Exit access stairways* and *ramps* in open parking garages that serve only the parking garage are not required to be enclosed.

7. *Stairways* serving outdoor facilities where all portions of the *means of egress* are essentially open to the outside are not required to be enclosed.

8. *Exit access stairways* serving stages, platforms and *technical production areas* in accordance with Sections 410.6.2 and 410.6.3 are not required to be enclosed.

9. *Stairways* are permitted to be open between the balcony, gallery or press box and the main assembly floor in occupancies such as theaters, *places of religious worship*, auditoriums and sports facilities.

10. In group I-3 occupancies, *exit access stairways* constructed in accordance with Section 408.5 are not required to be enclosed.

**1009.18 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.)) **1009.1 Accessible means of egress required.** Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress is required by Section 1006.2 or 1006.3 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

EXCEPTIONS:

1. Accessible *means of egress* are not required to be provided in existing buildings.
2. One accessible *means of egress* is required from an *accessible mezzanine* level in accordance with Section 1009.3, 1009.4 or 1009.5.
3. In assembly areas with ramped *aisles* or stepped *aisles*, one accessible *means of egress* is permitted where the *common path of egress travel* is *accessible* and meets the requirements in Section 1029.8.
4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

**1009.8 Two-way communication.** A two-way communication system complying with Sections 1009.8.1 and 1009.8.2 shall be provided at the landing serving each elevator or bank of elevators on each accessible floor that is one or more stories above or below the level of exit discharge.

EXCEPTIONS:

1. Two-way communication systems are not required at the landing serving each elevator or bank of elevators where the two-way communication system is provided within *areas of refuge* in accordance with Section 1009.6.5.
2. Two-way communication systems are not required on floors provided with *ramps* that provide a direct path of egress travel to grade or the level of exit discharge conforming to the provisions of Section 1012.
3. Two-way communication systems are not required at the landings serving only service elevators that are not designated as part of the accessible *means of egress* or serve as part of the required *accessible route* into a facility.

4. Two-way communication systems are not required at the landings serving only freight elevators.
5. Two-way communication systems are not required at the landing serving a private residence elevator.

**1009.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not a constantly attended location, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-10100 Section 1010—(~~(Ramps))~~ Doors, gates, and turnstiles.**

**(~~1010.1~~ Scope.** The provisions of this section shall apply to ramps used as a component of a means of egress.

- EXCEPTIONS:
1. Other than ramps that are part of the accessible routes providing access in accordance with Sections 1108.2 through 1108.2.4 and 1108.2.6, ramped aisles within assembly rooms or spaces shall conform with the provisions in Section 1028.11.
  2. Curb ramps shall comply with ICC A117.1.
  3. Vehicle ramps in parking garages for pedestrian exit access shall not be required to comply with Sections 1010.4 through 1010.10 when they are not an accessible route serving accessible parking spaces, other required accessible elements, or part of an accessible means of egress.
  4. In a parking garage where one accessible means of egress serving accessible parking spaces or other accessible elements is provided, a second accessible means of egress serving that area may include a vehicle ramp that does not comply with Sections 1010.5, 1010.6, and 1010.9. A landing complying with Sections 1010.7.1 and 1010.7.4 shall be provided at any change of direction in the accessible means of egress.)

**1010.1.9.3 Locks and latches.** Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side, provided:
  - 2.1. The locking device is readily distinguishable as locked;
  - 2.2. A readily visible and durable sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and

2.3. The use of the key-operated locking device is revocable by the building official for due cause.

3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are operable from the inside without the use of a key or a tool.

5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

6. Approved, listed locks without delayed egress shall be permitted in Group R-2 assisted living facilities licensed by the state of Washington, provided that:

6.1. The clinical needs of one or more patients require specialized security measures for their safety.

6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.

6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.

6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

**1010.1.9.6 Special locking arrangements in Group I-2.** Approved special egress locks shall be permitted in a Group I-2 occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 7.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the fire command center, a nursing station or other approved location.

4. A building occupant shall not be required to pass through more than one door equipped with a special egress lock before entering an exit.

5. The procedures for the operation(s) of the unlocking system shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the International Fire Code.

6. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

7. Emergency lighting shall be provided at the door.

**EXCEPTION:** Items 1, 2, 3, and 6 shall not apply to doors to areas where persons, which because of clinical needs, require restraint or containment as part of the function of a psychiatric treatment area provided that all clinical staff shall have the keys, codes or other means necessary to operate the locking devices.

#### NEW SECTION

##### WAC 51-50-1011 Section 1011—Stairways.

**1011.17 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.

#### NEW SECTION

##### WAC 51-50-1012 Section 1012—Ramps.

**1012.1 Scope.** The provisions of this section shall apply to ramps used as a component of a *means of egress*.

**EXCEPTIONS:**

1. Ramped *aisles* within assembly rooms or spaces shall conform with the provisions in Section 1029.13.
2. Curb ramps shall comply with ICC A117.1.
3. Vehicle ramps in parking garages for pedestrian *exit access* shall not be required to comply with Sections 1012.3 through 1012.10 where they are not an *accessible route* serving *accessible* parking spaces, other required *accessible* elements, or part of an *accessible means of egress*.
4. In a parking garage where one accessible means of egress serving accessible parking spaces or other accessible elements is provided, a second accessible means of egress serving that area may include a vehicle ramp that does not comply with Sections 1012.5, 1012.6, and 1012.9. A landing complying with Sections 1012.6.1 and 1012.6.4 shall be provided at any change of direction in the accessible means of egress.

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

##### WAC 51-50-1018 Section 1018—(~~Corridors~~) **Reserved.**

~~(1018.5 Air movement in corridors. Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.~~

**EXCEPTIONS:**

1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.
4. Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.

5. Where such air is part of an engineered smoke control system:

6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units subject to the following:

6.1 The air supplied to the corridor is one hundred percent outside air; and

6.2 The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and

6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or

6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

~~**1018.6 Corridor continuity.** Fire resistance rated corridors shall be continuous from the point of entry to an exit, and shall not be interrupted by intervening rooms. Where the path of egress travel within a fire resistance rated corridor to the exit includes travel along unenclosed exit access stairways or ramps, the fire resistance rating shall be continuous for the length of the stairway or ramp and for the length of the connecting corridor on the adjacent floor leading to the exit.~~

**EXCEPTIONS:**

1. Foyers, lobbies or reception rooms constructed as required for corridors shall not be construed as intervening rooms.
2. In Group R-2 boarding homes and residential treatment facilities licensed by Washington state, seating areas shall be allowed to be open to the corridor provided:
  - 2.1 The seating area is constructed as required for the corridor;
  - 2.2 The floor is separated into at least two compartments complying with Section 407.5;
  - 2.3 Each individual seating area does not exceed 150 square feet, excluding the corridor width;
  - 2.4 The combined total space of seating areas per compartment does not exceed 300 square feet, excluding the corridor width;
  - 2.5 Combustible furnishings located within the seating area shall be in accordance with the International Fire Code Section 805; and
  - 2.6 Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.)

#### NEW SECTION

##### WAC 51-50-1020 Section 1020—Corridors.

**1020.5 Air movement in corridors.** Corridors shall not serve as supply, return, exhaust, relief, or ventilation air ducts.

**EXCEPTIONS:**

1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.

3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.
4. Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.
5. Where such air is part of an engineered smoke control system.
6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units and sleeping units subject to the following:
  - 6.1 The air supplied to the corridor is one hundred percent outside air; and
  - 6.2 The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and
  - 6.3 For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9,144 mm) on center along the corridor; or
  - 6.4 For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

#### NEW SECTION

##### **WAC 51-50-1028 Section 1028—Exit discharge.**

**1028.4.1 Width or capacity.** The required capacity of egress courts shall be determined as specified in Section 1005.1, but the minimum width shall be not less than 44 inches (1,118 mm), except as specified herein. Egress courts serving Group R-3 and U occupancies shall be not less than 36 inches (914 mm) in width. The required capacity and width of egress courts shall be unobstructed to a height of 7 feet (2,134 mm).

EXCEPTION: Encroachments complying with Section 1005.7.

#### NEW SECTION

##### **WAC 51-50-1030 Emergency escape and rescue.**

**1030.1 General.** In addition to the means of egress required by this chapter, provisions shall be made to emergency escape and rescue openings in Group R-2 occupancies in accordance with Tables 1006.3.2(1) and (2) and Group R-3 occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a public way or to a yard or court that opens to a public way.

EXCEPTIONS:

1. Basements with a ceiling height of less than 80 inches (2,032 mm) shall not be required to have emergency escape and rescue openings.
2. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior balcony that opens to a public way.

3. Basements without habitable spaces and having not more than 200 square feet (18.6 m<sup>2</sup>) in floor area shall not be required to have emergency escape and rescue openings.
4. Within individual dwelling and sleeping units in Group R-2 and R-3, where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following:
  - 4.1. One means of egress and one emergency escape and rescue opening.
  - 4.2. Two means of egress.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

##### **WAC 51-50-1101 Section 1101—General.**

**1101.2 Design.** Buildings and facilities shall be designed and constructed to be accessible in accordance with this code and ICC A117.1, except those portions of ICC A117.1 amended by this section.

**1101.2.2 (ICC A117.1 Section 403.5) Clear width of accessible route.** Clear width of an accessible route shall comply with ICC A117.1 Section 403.5. For exterior routes of travel, the minimum clear width shall be 44 inches (1118 mm).

**1101.2.3 (ICC A117.1 Section 404.2.8) Door-opening force.** Fire doors shall have the minimum opening force allowable by the appropriate administrative authority. The force for pushing or pulling open doors other than fire doors shall be as follows:

1. Interior hinged door: 5.0 pounds (22.2 N) maximum
2. Interior sliding or folding doors: 5.0 pounds (22.2 N) maximum
3. Exterior hinged, sliding or folding door: 10 pounds (44.4 N) maximum.

EXCEPTION: Interior or exterior automatic doors complying with Section 404.3 of ICC ANSI A117.1.

These forces do not apply to the force required to retract latch bolts or disengage other devices that hold the door in a closed position.

**1101.2.4 (ICC A117.1 Section 407.4.6.2.2) Arrangement of elevator car buttons.** ~~((This section is not adopted.))~~ Buttons shall be arranged with numbers in ascending order. When two or more columns of buttons are provided they shall read from left to right.

**1101.2.7 (ICC ANSI A117.1 606.7) Operable parts.** Operable parts on drying equipment, towel or cleansing product dispensers, and disposal fixtures shall comply with Table 603.6.

**1101.2.8 (ICC A117.1 Section 604.6) Flush controls.** Flush controls shall be hand operated or automatic. Hand operated flush controls shall comply with Section 309, except the maximum height above the floor shall be 44 inches. Flush controls shall be located on the open side of the water closet.

EXCEPTION: In ambulatory accessible compartments complying with Section 604.10, flush controls shall be permitted to be located on either side of the water closet.

**1101.2.9 (ICC A117.1 Section 703.6.3.1) International Symbol of Accessibility.** Where the International Symbol of Accessibility is required, it shall be proportioned complying with ICC A117.1 Figure 703.6.3.1. All interior and exterior signs depicting the International Symbol of Accessibility shall be white on a blue background.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1107 Section 1107—Dwelling units and sleeping units.**

**1107.6 Group R.** Accessible units, Type A units and Type B units shall be provided in Group R Occupancies in accordance with Sections 1107.6.1 through 1107.6.4. Accessible and Type A units shall be apportioned among efficiency dwelling units, single bedroom units and multiple bedroom units, in proportion to the numbers of such units in the building.

~~((1107.6.2.1.1))~~ **1107.6.2.2.1 Type A units.** In Group R-2 Occupancies containing more than 10 dwelling units or sleeping units, at least 5 percent, but not less than one, of the units shall be a Type A unit. All units on a site shall be considered to determine the total number of units and the required number of Type A units. Type A units shall be dispersed among the various classes of units, as described in Section 1107.6. Bedrooms in monasteries and convents shall be counted as sleeping units for the purpose of determining the number of units. Where the sleeping units are grouped into suites, only one sleeping unit in each suite shall count towards the number of required Type A units.

EXCEPTIONS: 1. The number of Type A units is permitted to be reduced in accordance with Section 1107.7.  
2. Existing structures on a site shall not contribute to the total number of units on a site.

~~((1107.6.2.2))~~ **1107.6.2.3 Group R-2 other than live/work units, apartment houses, monasteries and convents.** In Group R-2 Occupancies, other than live/work units, apartment houses, monasteries and convents falling within the scope of Sections 1107.6.2.1 and 1107.6.2.2, accessible units and Type B units shall be provided in accordance with Sections ~~((1107.6.2.2.1 and 1107.6.2.2.2))~~ 1107.6.2.3.1 and 1107.6.2.3.2. Bedrooms within congregate living facilities shall be counted as sleeping units for the purpose of determining the number of units. Where the sleeping units are grouped into suites, only one sleeping unit in each suite shall be permitted to count towards the number of required accessible units. Accessible units shall be dispersed among the various classes of units, as described in Section 1107.6.

AMENDATORY SECTION (Amending WSR 14-24-055, filed 11/25/14, effective 5/1/15)

**WAC 51-50-1203 Section 1203—Ventilation.**

**1203.1 General.** Buildings shall be provided with natural ventilation in accordance with Section ~~((1203.4))~~ 1203.5, or mechanical ventilation in accordance with the *International Mechanical Code. Ambulatory care facilities and Group I-2 occupancies shall be ventilated by mechanical means in accordance with Section 407 of the International Mechanical Code.*

**1203.2 Attic spaces.** Enclosed attics and enclosed rafter spaces formed where ceilings are applied directly to the underside of roof framing members shall have cross ventilation for each separate space by ventilation openings protected against the entrance of rain and snow. Blocking and bridging shall be arranged so as not to interfere with the movement of air. An airspace of not less than 1 inch (25 mm) shall be provided between the insulation and the roof sheathing. The net free ventilating area shall not be less than 1/150th of the area of the space ventilated. Ventilators shall be installed in accordance with the manufacturer's installation instructions.

((EXCEPTIONS: 1. The net free cross-ventilation area shall be permitted to be reduced to 1/300 provided not less than 50 percent and not more than 80 percent of the required ventilating area provided by ventilators located in the upper portion of the space to be ventilated at least 3 feet (914 mm) above eave or cornice vents with the balance of the required ventilation provided by eave or cornice vents.  
2. The net free cross-ventilation area shall be permitted to be reduced to 1/300 where a Class I or II vapor retarder is installed on the warm-in-winter side of the ceiling.  
3. Attic ventilation shall not be required when determined not necessary by the building official due to atmospheric or climatic conditions.  
4. Unvented attic assemblies (spaces between the ceiling joists of the top story and the roof rafters) shall be permitted if all the following conditions are met:  
4.1 The unvented attic space is completely contained within the building thermal envelope.  
4.2 No interior vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly.  
4.3 Where wood shingles or shakes are used, a minimum 1/4 inch (6 mm) vented air space separates the shingles or shakes and the roofing underlayment above the structural sheathing.  
4.4 In Climate Zones 5B and 6B, any air-impermeable insulation shall be a Class II vapor retarder, or shall have a Class II vapor retarder coating or covering in direct contact with the underside of the insulation.  
4.5 Either items a, b, or c below shall be met, depending on the air permeability of the insulation directly under the structural roof sheathing:  
a. Air-impermeable insulation only. Insulation shall be applied in direct contact to the underside of the structural roof sheathing.  
b. Air-permeable insulation only. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing as specified in Table 1203.2.1 for condensation control.

- c. Air-impermeable and air-permeable insulation. The air-impermeable insulation shall be applied in direct contact to the underside of the structural roof sheathing as specified in Table 1203.2.1 for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.
  - i. Climate Zone #1 – R-10 minimum rigid board or air-impermeable insulation R-value.
  - ii. Climate Zone #2 – R-25 minimum rigid board or air-impermeable insulation R-value.
- d. Where preformed insulation board is used as the air-impermeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

**Table 1203.2.1**

**Insulation for Condensation Control**

CLIMATE ZONE	MINIMUM RIGID BOARD ON AIR-IMPERMEABLE INSULATION R-VALUE*
4C	R-15
5B	R-20
6B	R-25

\*Contributes to but does not supersede the requirements for insulation in the Washington State Energy Code (chapter 51-11 WAC:);)

**EXCEPTIONS:** The net free cross-ventilation area shall be permitted to be reduced to 1/300 provided both of the following conditions are met:

1. A Class I or II vapor retarder is installed on the warm-in-winter side of the ceiling.
2. At least 40 percent and not more than 50 percent of the required venting area is provided by ventilators located in the upper portion of the attic or rafter space. Upper ventilators shall be located not more than 3 feet (914 mm) below the ridge or highest point of the space, measured vertically, with the balance of the ventilation provided by eave or cornice vents. Where the location of wall or roof framing members conflicts with the installation of upper ventilators, installation more than 3 feet (914 mm) below the ridge or highest point of the space shall be permitted.

**1203.3 Unvented attic and unvented enclosed rafter assemblies.** Unvented attics and unvented enclosed roof framing assemblies created by ceilings applied directly to the underside of the roof framing members/rafters and the structural roof sheathing at the top of the roof framing members shall be permitted where all the following conditions are met:

1. The unvented attic space is completely within the building thermal envelope.
2. No interior-vapor retarders are installed on the ceiling side (attic floor) of the unvented attic assembly or on the ceiling side of the unvented enclosed roof framing assembly.
3. Where wood shingles or shakes are used, a minimum 1/4 inch (6.4 mm) vented airspace separates the shingles or shakes and the roofing underlayment above the structural sheathing.
4. In Climate Zone 5B, any air-impermeable insulation shall be a Class II vapor retarder or shall have a Class II vapor retarder coating or covering in direct contact with the underside of the insulation.

5. Insulation shall be located in accordance with the following:

5.1 Item 5.1.1, 5.1.2, 5.1.3 or 5.1.4 shall be met, depending on the air permeability of the insulation directly under the roof sheathing.

5.1.1 Where only air-impermeable insulation is provided, it shall be applied in direct contact with the underside of the structural roof sheathing.

5.1.2 Where air-permeable insulation is provided inside the building thermal envelope, it shall be installed in accordance with Item 5.1. In addition to the air-permeable insulation installed directly below the structural sheathing, rigid board or sheet insulation shall be installed directly above the structural roof sheathing in accordance with these R-values for condensation control:

- i. Climate Zone #4C- R-10 minimum rigid board or air-impermeable insulation R-value.
- ii. Climate Zone #5B- R-20 minimum rigid board or air-impermeable insulation R-value.

5.1.3 Where both air-impermeable and air-permeable insulation are provided, the air-impermeable insulation shall be applied in direct contact with the underside of the structural roof sheathing in accordance with Item 5.1.1 and shall be in accordance with these R-values for condensation control. The air-permeable insulation shall be installed directly under the air-impermeable insulation.

- i. Climate Zone #4C- R-10 minimum rigid board or air-impermeable insulation R-value.
- ii. Climate Zone #5B- R-20 minimum rigid board or air-impermeable insulation R-value.

5.1.4 Alternatively, sufficient rigid board or sheet insulation shall be installed directly above the structural roof sheathing to maintain the monthly average temperature of the underside of the structural roof sheathing above 45 degrees F. For calculation purposes, an interior air temperature of 68 degrees F is assumed and the exterior air temperature is assumed to be the monthly average outside air temperature of the three coldest months.

5.2 Where preformed insulation board is used as the air-permeable insulation layer, it shall be sealed at the perimeter of each individual sheet interior surface to form a continuous layer.

**EXCEPTIONS:**

1. Section 1203.3 does not apply to special use structures or enclosures such as swimming pool enclosures, data processing centers, hospitals or art galleries.
2. Section 1203.3 does not apply to enclosures in Climate Zone-5B that are humidified beyond 35 percent during the three coldest months.

~~(1203.3)~~ **1203.4 Under-floor ventilation.** The space between the bottom of the floor joists and the earth under any building except spaces occupied by basements or cellars shall be provided with ventilation openings through foundation walls or exterior walls. Such openings shall be placed so as to provide cross ventilation of the under-floor space. A ground cover of six mil (0.006 inch thick) black polyethylene or approved equal shall be laid over the ground within crawl spaces. The ground cover shall be overlapped six inches minimum at the joints and shall extend to the foundation wall.

EXCEPTION: The ground cover may be omitted in crawl spaces if the crawl space has a concrete slab floor with a minimum thickness of two inches.

**(1203.4) 1203.5 Natural ventilation.** For other than Group R Occupancies, natural ventilation of an occupied space shall be through windows, doors, louvers or other openings to the outdoors. The operating mechanism for such openings shall be provided with ready access so that the openings are readily controllable by the building occupants. Group R Occupancies shall comply with the *International Mechanical Code*.

**1203.6 Radon resistive construction standards.** The criteria of this section establishes minimum radon resistive construction requirements for Group R Occupancies.

**1203.6.1 Application.** The requirements of Section 1203.6 shall be adopted and enforced by all jurisdictions of the state according to the following subsections.

**1203.6.1.1** All jurisdictions of the state shall comply with Section 1203.6.2.

**1203.6.1.2** Clark, Ferry, Okanogan, Pend Oreille, Skamania, Spokane, and Stevens counties shall also comply with Section 1203.6.3.

**1203.6.2 State wide radon requirements.**

**1203.6.2.1 Crawlspace.** All crawlspaces shall comply with the requirements of this section.

**1203.6.2.2 Ventilation.** All crawlspaces shall be ventilated as specified in Section 1203.3.

If the installed ventilation in a crawlspace is less than one square foot for each 300 square feet of crawlspace area, or if the crawlspace vents are equipped with operable louvers, a radon vent shall be installed to originate from a point between the ground cover and soil. The radon vent shall be installed in accordance with Sections 1203.6.3.2.6 and 1203.6.3.2.7.

**1203.6.2.3 Crawlspace plenum systems.** In crawlspace plenum systems used for providing supply air for an HVAC system, aggregate, a permanently sealed soil gas retarder membrane and a radon vent pipe shall be installed in accordance with Section 1203.6.3.2. Crawlspace shall not be used for return air plenums.

In addition, an operable radon vent fan shall be installed and activated. The fan shall be located as specified in Section 1203.6.3.2.7. The fan shall be capable of providing at least 100 cfm at 1-inch water column static pressure. The fan shall be controlled by a readily accessible manual switch. The switch shall be labeled "RADON VENT FAN."

**1203.6.3 Radon prescriptive requirements.**

**1203.6.3.1 Scope.** This section applies to those counties specified in Section 1203.6.1.2. This section establishes prescriptive construction requirements for reducing the potential for radon entry into all Group R Occupancies, and for preparing the building for future mitigation if desired.

In all crawlspaces, except crawlspace plenums used for providing supply air for an HVAC system, a continuous air barrier shall be installed between the crawlspace area and the

occupied area to limit air transport between the areas. If a wood sheet subfloor or other material is utilized as an air barrier, in addition to the requirements of Section 502.1.6.2 of the Washington State Energy Code, all joints between sheets shall be sealed.

**1203.6.3.2 Floors in contact with the earth.**

**1203.6.3.2.1 General.** Concrete slabs that are in direct contact with the building envelope shall comply with the requirements of this section.

EXCEPTION: Concrete slabs located under garages or other than Group R Occupancies need not comply with this chapter.

**1203.6.3.2.2 Aggregate.** A layer of aggregate of 4-inch minimum thickness shall be placed beneath concrete slabs. The aggregate shall be continuous to the extent practical.

**1203.6.3.2.3 Gradation.** Aggregate shall:

1. Comply with ASTM Standard C-33 Standard Specification for Concrete Aggregate and shall be size No. 8 or larger size aggregate as listed in Table 2, Grading Requirements for Course Aggregate; or

2. Meet the 1988 Washington State Department of Transportation Specification 9-03.1 (3) "Coarse Aggregate for Portland Cement Concrete," or any equivalent successor standards. Aggregate size shall be of Grade 8 or larger as listed in Section 9-03.1 (3) C, "Grading"; or

3. Be screened, washed pea gravel free of deleterious substances in a manner consistent with ASTM Standard C-33 with 100 percent passing a 1/2-inch sieve and less than 5 percent passing a No. 16 sieve. Sieve characteristics shall conform to those acceptable under ASTM Standard C-33.

EXCEPTION: Aggregate shall not be required if a substitute material or system, with sufficient load bearing characteristics, and having approved capability to provide equal or superior air flow, is installed.

**1203.6.3.2.4 Soil-gas retarder membrane.** A soil-gas retarder membrane, consisting of at least one layer of virgin polyethylene with a thickness of at least 6 mil, or equivalent flexible sheet material, shall be either placed directly under all concrete slabs so that the slab is in direct contact with the membrane, or on top of the aggregate with 2 inches minimum of fine sand or pea gravel installed between the concrete slab and membrane. The flexible sheet shall extend to the foundation wall or to the outside edge of the monolithic slab. Seams shall overlap at least 12 inches. The membrane shall also be fitted tightly to all pipes, wires, and other penetrations of the membrane and sealed with an approved sealant or tape. All punctures or tears shall be repaired with the same or approved material and similarly lapped and sealed.

**1203.6.3.2.5 Sealing of penetrations and joints.** All penetrations and joints in concrete slabs or other floor systems and walls below grade shall be sealed by an approved sealant to create an air barrier to limit the movement of soil-gas into the indoor air.

Sealants shall be approved by the manufacturer for the intended purpose. Sealant joints shall conform to manufacturer's specifications. The sealant shall be placed and tooled in accordance with manufacturer's specifications. There shall be no gaps or voids after the sealant has cured.



**1203.6.3.2.6 Radon vent.** One continuous sealed pipe shall run from a point within the aggregate under each concrete slab to a point outside the building. Joints and connections shall be permanently gas tight. The continuous sealed pipe shall interface with the aggregate in the following manner, or by other approved equal method. The pipe shall be permanently connected to a "T" within the aggregate area so that the two end openings of the "T" lie within the aggregate area. A minimum of 5 feet of perforated drain pipe of 3 inches minimum diameter shall join to and extend from the "T." The perforated pipe shall remain in the aggregate area and shall not be capped at the ends. The "T" and its perforated pipe extensions shall be located at least 5 feet horizontally from the exterior perimeter of the aggregate area.

The continuous sealed pipe shall terminate no less than 12 inches above the eave, and more than 10 horizontal feet from a woodstove or fireplace chimney, or operable window. The continuous sealed pipe shall be labeled "radon vent." The label shall be placed so as to remain visible to an occupant.

The minimum pipe diameter shall be 3 inches unless otherwise approved. Acceptable sealed plastic pipe shall be smooth walled, and may include either PVC schedule 40 or ABS schedule of equivalent wall thickness.

The entire sealed pipe system shall be sloped to drain to the subslab aggregate.

The sealed pipe system may pass through an unconditioned attic before exiting the building; but to the extent practicable, the sealed pipe shall be located inside the thermal envelope of the building in order to enhance passive stack venting.

EXCEPTION: A fan for subslab depressurization system includes the following:

1. Soil-gas retarder membrane as specified in Section 1203.6.3.2.4;
2. Sealing of penetrations and joints as specified in Section 1203.6.3.2.5;
3. A 3-inch continuous sealed radon pipe shall run from a point within the aggregate under each concrete slab to a point outside the building;
4. Joints and connections shall be gas tight, and may be of either PVC schedule 40 or ABS schedule of equivalent in wall thickness;
5. A label of "radon vent" shall be placed on the pipe so as to remain visible to an occupant;
6. Fan circuit and wiring as specified in Section 1203.6.3.2.7 and a fan.

If the subslab depressurization system is exhausted through the concrete foundation wall or rim joist, the exhaust terminus shall be a minimum of 6 feet from operable windows or outdoor air intake vents and shall be directed away from operable windows and outdoor air intake vents to prevent radon reentrainment.

**1203.6.3.2.7 Fan circuit and wiring and location.** An area for location of an in-line fan shall be provided. The location shall be as close as practicable to the radon vent pipe's point of exit from the building, or shall be outside the building shell; and shall be located so that the fan and all downstream piping is isolated from the indoor air.

Provisions shall be made to allow future activation of an in-line fan on the radon vent pipe without the need to place

new wiring. A 110 volt power supply shall be provided at a junction box near the fan location.

**1203.6.3.2.8 Separate aggregate areas.** If the 4-inch aggregate area underneath the concrete slab is not continuous, but is separated into distinct isolated aggregate areas by a footing or other barrier, a minimum of one radon vent pipe shall be installed into each separate aggregate area.

EXCEPTION: Separate aggregate areas may be considered a single area if a minimum 3-inch diameter connection joining the separate areas is provided for every 30 feet of barrier separating those areas.

**1203.6.3.2.9 Concrete block walls.** Concrete block walls connected to below grade areas shall be considered unsealed surfaces. All openings in concrete block walls that will not remain accessible upon completion of the building shall be sealed at both vertical and horizontal surfaces, in order to create a continuous air barrier to limit the transport of soil-gas into the indoor air.

**1203.7 Other ventilation and exhaust systems.** Ventilation and exhaust systems for occupancies and operations involving flammable or combustible hazards or other contaminant sources as covered in the *International Mechanical Code* or the *International Fire Code* shall be provided as required by both codes.

**AMENDATORY SECTION** (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1204 Section 1204—Temperature control.**

**1204.1 Equipment and systems.** Interior spaces intended for human occupancy shall be provided with active or passive space-heating systems capable of maintaining ~~((a minimum))~~ an indoor temperature of not less than 68°F (20°C) at a point 3 feet (914 mm) above the floor on the design heating day.

EXCEPTION: 1. Interior spaces where the primary purpose of the space is not associated with human comfort.  
2. Group F, H, S, or U occupancies.  
3. Group R-1 Occupancies not more than 500 square feet.

**1204.2.1 Definitions.** For the purposes of this section only, the following definitions apply.

**DESIGNATED AREAS** are those areas designated by a county to be an urban growth area in chapter 36.70A RCW and those areas designated by the U.S. Environmental Protection Agency as being in nonattainment for particulate matter.

**SUBSTANTIALLY REMODELED** means any alteration or restoration of a building exceeding 60 percent of the appraised value of such building within a 12-month period. For the purpose of this section, the appraised value is the estimated cost to replace the building and structure in-kind, based on current replacement costs.

**1204.2.2 Primary heating source.** Primary heating sources in all new and substantially remodeled buildings in designated areas shall not be dependent upon wood stoves.

**1204.2.3 Solid fuel burning devices.** No new or used solid fuel burning device shall be installed in new or existing buildings unless such device is United States Environmental Protection Agency certified or exempt from certification by the United States Environmental Protection Agency and conforms with RCW 70.94.011, 70.94.450, 70.94.453 and 70.94.457.

EXCEPTION: 1. Wood cook stoves.  
2. Antique wood heaters manufactured prior to 1940.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1208 Section 1208—Interior space dimensions.**

~~((1208.2 Minimum ceiling heights. Occupiable spaces and habitable spaces shall have a ceiling height of not less than 7 feet 6 inches (2286 mm). Bathrooms, toilet rooms, kitchen, storage rooms and laundry rooms shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).~~

EXCEPTIONS: 1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center shall be permitted to project not more than 6 inches (152 mm) below the required ceiling height.  
2. If any room in a building has a sloped ceiling, the prescribed ceiling height for the room is required in one-half the area thereof. Any portion of the room measuring less than 5 feet (1524 mm) from the finished floor to the ceiling shall not be included in any computation of the minimum area thereof.  
3. The height of mezzanines and spaces below mezzanines shall be in accordance with Section 505.1.))

**1208.3 Room area.** Every dwelling unit shall have no fewer than one room that shall have not less than 120 square feet (13.9 m<sup>2</sup>) of net floor area. Other habitable rooms shall have a net floor area of not less than 70 square feet (6.5 m<sup>2</sup>).

EXCEPTION: Kitchens are not required to be of a minimum floor area.

Portions of a room with a sloped ceiling measuring less than 5 feet (1524 mm) or a flat ceiling measuring less than 7 feet (2134 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum habitable area for that room.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1210 Section 1210—~~((Toilet and bathroom requirements))~~ Reserved.**

~~((1210.4 Toilet rooms. This section is not adopted. (The requirements of this section have been moved to Section 2902.3.1.1)))~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1403 Section 1403—Performance requirements.**

**1403.2 Weather protection.** Exterior walls shall provide the building with a weather-resistant exterior wall envelope. The

exterior wall envelope shall include flashing as described in Section 1405.4. The exterior wall envelope shall be designed and constructed in such a manner as to prevent the accumulation of water within the wall assembly by providing a water-resistant barrier behind the exterior veneer, as described in Section 1404.2, and a means for draining water that enters the assembly to the exterior. An air space cavity is not required under the exterior cladding for an exterior wall clad with lapped or panel siding made of plywood, engineered wood, hardboard, or fiber cement. Protection against condensation in the exterior wall assembly shall be provided in accordance with Section 1405.3.

EXCEPTIONS: 1. A weather-resistant exterior wall envelope shall not be required over concrete or masonry walls designed in accordance with Chapters 19 and 21, respectively.  
2. Compliance with the requirements for a means of drainage, and the requirements of Sections 1404.2 and 1405.4, shall not be required for an exterior wall envelope that has been demonstrated through testing to resist wind-driven rain, including joints, penetrations and intersections with dissimilar materials, in accordance with ASTM E 331 under the following conditions:  
2.1 Exterior wall envelope test assemblies shall include at least one opening, one control joint, one wall/eave interface and one wall sill. All tested openings and penetrations shall be representative of the intended end-use configuration.  
2.2 Exterior wall envelope test assemblies shall be at least 4 feet by 8 feet (1219 mm by 2438 mm) in size.  
2.3 Exterior wall envelope assemblies shall be tested at a minimum differential pressure of 6.24 pounds per square foot (psf) (0.297 kN/m<sup>2</sup>).  
2.4 Exterior wall envelope assemblies shall be subjected to a minimum test exposure duration of 2 hours.  
The exterior wall envelope design shall be considered to resist wind-driven rain where the results of testing indicate that water did not penetrate control joints in the exterior wall envelope, joints at the perimeter of openings or intersections of terminations with dissimilar materials.  
3. Exterior insulation and finish systems (EIFS) complying with Section 1408.4.1.

~~((1403.5 Vertical and lateral flame propagation. Exterior walls on buildings of Type I, II, III, or IV construction that are greater than 40 feet (12,192 mm) in height above grade plane and contain a combustible water resistive barrier shall be tested in accordance with and comply with the acceptance criteria of NFPA 285.~~

EXCEPTION: Walls that contain less than 500 gm/m<sup>2</sup> combustible material and where the water resistive barrier has a flame spread index of 25 or less and a smoke developed index of 450 or less as determined in accordance with ASTM E 84 or UL 723.))

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-1607 ~~((Reserved))~~ Section 1607—Live loads.**

**Table 1607.1**  
**Minimum Uniformly Distributed Live Loads,  $L_0$ , And**  
**Minimum Concentrated Live Loads<sup>a</sup>**

<b>OCCUPANCY OR USE</b>	<b>UNIFORM (psf)</b>	<b>CONCENTRATED (pounds)</b>
5. Balconies and decks <sup>b</sup>	1.5 times the live load for the area served. Not required to exceed 100 psf.	—

(All other items in table and footnotes to remain unchanged)

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1702 Section 1702—Definitions.**

**1702.1 Definitions.** The following terms are defined in Chapter 2: ~~((add terms from 2012 IBC pg 379))~~

Approved agency  
Approved fabricator

Certificate of compliance  
Designated seismic system  
Fabricated item  
Intumescent fire-resistant coatings  
Main wind-force resisting system  
Mastic fire-resistant coatings  
**SMALL BUSINESS.**  
Special inspection  
     1. Continuous special inspection  
     2. Periodic special inspection  
Special inspector  
Sprayed fire-resistant materials  
Structural observation

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1705 ((Required verification and inspection.)) Reserved.**

~~((Modify Table 1705.3. Remainder of Table 1705.3 remains as published in the 2012 IBC.~~

**Table 1705.3**  
**Required Verification and Inspection of Concrete Construction**

Verification and Inspection	Continuous	Periodic	Referenced Standard <sup>a</sup>	IBC Reference
<del>3. Inspection of anchors cast in concrete.</del>	—————	✕	ACI 318: D.9.2	
<del>4. Inspection of anchors post-installed in hardened concrete members<sup>b</sup>.</del>				
<del>a. Adhesive anchors installed in horizontally or upwardly inclined orientations to resist sustained tension loads.</del>	✕	—————	ACI 318: D.9.2.4	
<del>b. Mechanical anchors and adhesive anchors not defined in 4a.</del>	—————	✕	ACI 318: D.9.2	

- a. Where applicable, see also Section 1705.11, Special inspections for seismic resistance.
- b. Specific requirements for special inspection shall be included in the research report for the anchor issued by an approved source in accordance with D.9.2 in ACI 318, or other qualification procedures. Where specific requirements are not provided, special inspection requirements shall be specified by the registered design professional and shall be approved by the building official prior to the commencement of the work.)

NEW SECTION

**WAC 51-50-1708 Preconstruction load tests.**

**1708.5 Exterior window and door assemblies.** The design pressure rating of exterior windows and doors in buildings shall be determined in accordance with Section 1709.5.1 or 1709.5.2. For the purposes of this section, the required design pressure shall be determined using the allowable stress design load combinations of Section 1605.3.

EXCEPTIONS: 1. Structural wind load design pressures for window units smaller than the size tested in accordance with Section 1709.5.1 or 1709.5.2 shall be permitted to be higher than the design value of the tested unit provided such higher pressures are determined by accepted engineering analysis. All components of the small unit shall be the same as the tested unit. Where such calculated design pressures are used, they shall be validated by an additional test of the window unit having the highest allowable design pressure.

2. Custom exterior windows and doors manufactured by a small business shall be exempt from all testing requirements in Section 1709 of the International Building Code provided they meet the applicable provisions of Chapter 24 of the International Building Code.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1710 Section 1710—((Preconstruction load tests)) Reserved.**

~~((1710.5 Exterior window and door assemblies. The design pressure rating of exterior windows and doors in buildings shall be determined in accordance with Section 1710.5.1 or 1710.5.2.~~

EXCEPTIONS:

1. Structural wind load design pressures for window units smaller than the size tested in accordance with Section 1710.5.1 or 1710.5.2 shall be permitted to be higher than the design value of the tested unit provided such higher pressures are determined by accepted engineering analysis. All components of the small unit shall be the same as the tested unit. Where such calculated design pressures are used, they shall be validated by an additional test of the window unit having the highest allowable design pressure.
2. Custom exterior windows and doors manufactured by a small business shall be exempt from all testing requirements in Section 1710 of the *International Building Code* provided they meet the applicable provisions of Chapter 24 of the *International Building Code*.)

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1901 Section 1901—((General)) Reserved.**

~~((1901.2.1 Anchoring to concrete. Anchoring to concrete shall be in accordance with ACI 318 as amended in Section 1905, and applies to cast-in (headed bolts, headed studs, and hooked J- or L-bolts) anchors and post-installed expansion (torque-controlled and displacement-controlled), undercut, and adhesive anchors.))~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1903 Section 1903—((Specifications for tests and materials)) Reserved.**

~~((1903.1 General. Materials used to produce concrete, concrete itself and testing thereof shall comply with the applicable standards listed in ACI 318 where required, special inspections and tests shall be in accordance with Chapter 17.~~

EXCEPTION: The following standards as referenced in Chapter 35 shall be permitted to be used:

1. ASTM C 150
2. ASTM C 595
3. ASTM C 1157)

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1904 Section 1904—((Durability requirements)) Reserved.**

~~((1904.1 Structural concrete. Structural concrete shall conform to the durability requirements of ACI 318.~~

EXCEPTION: For Group R-2 and R-3 occupancies not more than three stories above grade plane, the specified compressive strength,  $f'_c$ , for concrete in basement walls, foundation walls, exterior walls and other vertical surfaces exposed to the weather shall be not less than 3000 psi.

**1904.2 Nonstructural concrete.** The registered design professional shall assign nonstructural concrete a freeze-thaw exposure class, as defined in ACI 318, based on the anticipated exposure of nonstructural concrete. Nonstructural concrete shall have a minimum specified compressive strength,

$f'_c$ , of 2500 psi for Class F0; 3000 psi for Class F1; and 3500 psi for Classes F2 and F3. Nonstructural concrete shall be air entrained in accordance with ACI 318.)

AMENDATORY SECTION (Amending WSR 13-20-119, filed 10/1/13, effective 11/1/13)

**WAC 51-50-1905 Section 1905—((Modifications to ACI 318)) Reserved.**

~~((1905.1 General. The text of ACI 318 shall be modified as indicated in Sections 1905.1.1 through 1905.1.10.~~

~~**WALL PIER.** This definition is not adopted.~~

~~(Other definition remains unchanged)~~

~~**1905.1.3 ACI 318, Section 21.4.** Modify ACI 318, Section 21.4, by adding new Section 21.4.3 and renumbering existing Section 21.4.3 to become 21.4.4.~~

~~21.4.3—Connections that are designed to yield shall be capable of maintaining 80 percent of their design strength at the deformation induced by the design displacement or shall use Type 2 mechanical splices.~~

~~21.4.4—Elements of the connection that are not designed to yield shall develop at least 1.5  $S_y$ .~~

~~**1905.1.4 ACI 318, Section 21.9.** This section is not adopted.~~

~~**1905.1.9 ACI 318, Section D.3.3.**~~

~~**Modify ACI 318 Sections D.3.3.4.2, D.3.3.4.3(d) and D.3.3.5.2 to read as follows:**~~

~~D.3.3.4.2—Where the tensile component of the strength-level earthquake force applied to anchors exceeds 20 percent of the total factored anchor tensile force associated with the same load combination, anchors and their attachments shall be designed in accordance with D.3.3.4.3. The anchor design tensile strength shall be determined in accordance with D.3.3.4.4.~~

EXCEPTION: Anchors designed to resist wall out-of-plane forces with design strengths equal to or greater than the force determined in accordance with ASCE 7 Equation 12.11.1 or 12.14.10 shall be deemed to satisfy Section D.3.3.4.3(d).

~~D.3.3.4.3(d)—The anchor or group of anchors shall be designed for the maximum tension obtained from design load combinations that include  $E$ , with  $E$  increased by  $\Omega_0$ . The anchor design tensile strength shall be calculated from D.3.3.4.4.~~

~~D.3.3.5.2—Where the shear component of the strength-level earthquake force applied to anchors exceeds 20 percent of the total factored anchor shear force associated with the same load combination, anchors and their attachments shall be designed in accordance with D.3.3.5.3. The anchor design shear strength for resisting earthquake forces shall be determined in accordance with D.6.~~

- EXCEPTIONS:
1. For the calculation of the in-plane shear strength of anchor bolts attaching wood sill plates of bearing or non-bearing walls of light-frame wood structures to foundations or foundation stem walls, the in-plane shear strength in accordance with D.6.2 and D.6.3 need not be computed and D.3.3.5.3 shall be deemed to be satisfied provided all of the following are met:
    - 1.1. The allowable in-plane shear strength of the anchor is determined in accordance with AF&PANDS Table 11E for lateral design values parallel to grain.
    - 1.2. The maximum anchor nominal diameter is 5/8 inches (16 mm).
    - 1.3. Anchor bolts are embedded into concrete a minimum of 7 inches (178 mm).
    - 1.4. Anchor bolts are located a minimum of 1 3/4 inches (45 mm) from the edge of the concrete parallel to the length of the wood sill plate.
    - 1.5. Anchor bolts are located a minimum of 15 anchor diameters from the edge of the concrete perpendicular to the length of the wood sill plate.
    - 1.6. The sill plate is 2-inch or 3-inch nominal thickness.
  2. For the calculation of the in-plane shear strength of anchor bolts attaching cold-formed steel track of bearing or nonbearing walls of light-frame construction to foundations or foundation stem walls, the in-plane shear strength in accordance with D.6.2 and D.6.3 need not be computed and D.3.3.5.3 shall be deemed to be satisfied provided all of the following are met:
    - 2.1. The maximum anchor nominal diameter is 5/8 inches (16 mm).
    - 2.2. Anchors are embedded into concrete a minimum of 7 inches (178 mm).
    - 2.3. Anchors are located a minimum of 1 3/4 inches (45 mm) from the edge of the concrete parallel to the length of the track.
    - 2.4. Anchors are located a minimum of 15 anchor diameters from the edge of the concrete perpendicular to the length of the track.
    - 2.5. The track is 33 to 68 mil designation thickness. Allowable in-plane shear strength of exempt anchors, parallel to the edge of concrete shall be permitted to be determined in accordance with AISI S100 Section E3.3.1.
  3. In light-frame construction, bearing or nonbearing walls, shear strength of concrete anchors less than or equal to 1 inch (25 mm) in diameter connecting sill plate or track to foundation or foundation stem wall need not satisfy D.3.3.5.3 (a) through (e) when the design strength of the anchors is determined in accordance with D.6.2.1(e).

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1908 Section 1908—((Anchorage to concrete—Allowable stress design)) Reserved.** ((This section is not adopted.))

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-1909 Section 1909—((Anchorage to concrete—Strength design)) Reserved.** ((This section is not adopted.))

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-2107 Section 2107—Allowable stress design.**

**2107.1 General.** The design of masonry structures using *allowable stress design* shall comply with Sections 2106((5 2107.2)) and the requirements of Chapters 1 ((and 2)) through 8 of TMS 402/ACI 530/ASCE 5 except as modified by Sections 2107.2 through 2107.5.

~~((2107.2 TMS 402/ACI 530/ASCE 5, Section 2.1.8.7.1.1, lap splices. In lieu of Section 2.1.8.7.1.1, it shall be permitted to design lap splices in accordance with Section 2107.2.1.~~

**2107.2.1 Lap splices.** The minimum length of lap splices for reinforcing bars in tension or compression,  $l_d$ , shall be  $l_d = 0.002d_b f_s$  (**Equation 21-1**)

$$\text{For SI: } l_d = 0.29d_b f_s$$

but not less than 12 inches (305 mm). In no case shall the length of the lapped splice be less than 40 bar diameters.

where:

$d_b$  = Diameter of reinforcement, inches (mm).

$f_s$  = Computed stress in reinforcement due to design loads, psi (MPa).

In regions of moment where the design tensile stresses in the reinforcement are greater than 80 percent of the allowable steel tension stress,  $F_s$ , the lap length of splices shall be increased not less than 50 percent of the minimum required length, but need not be greater than  $72d_b$ . Other equivalent means of stress transfer to accomplish the same 50 percent increase shall be permitted. Where epoxy coated bars are used, lap length shall be increased by 50 percent.)

**2107.5 TMS 402/ACI 530/ASCE 5.** Modify Section ((2.3.4)) 8.3.4 Axial compression and flexure, as follows:

~~((2.3.4.2.1)) **8.3.4.2.1** The compressive force in reinforced masonry due to axial load only shall be permitted to not exceed that given by Equation ((2-24)) 2107.5-1 or Equation ((2-22)) 2107.5-2.~~

(a) For members having an  $h/r$  ratio not greater than 99:

$$[P_a = (0.33 f' m A_n + 0.65 A_{st} F_s) [1 - (h/140r)^2] \quad \text{(Equation ((2-24)) 2107.5-1)]$$

(b) For members having an  $h/r$  ratio not greater than 99:

$$[P_a = (0.33 f' m A_n + 0.65 F_s A_{st}) (70r/h)^2 \quad \text{(Equation ((2-22)) 2107.5-2)]$$

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

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-2111 Section 2111—Masonry fireplaces.**

~~(2111.7)~~ **2111.8 Fireplaces.** Fireplaces shall be provided with each of the following:

1. Tightly fitting flue dampers, operated by a readily accessible manual or approved automatic control.

EXCEPTION: Fireplaces with gas logs shall be installed in accordance with the International Mechanical Code Section 901, except that the standards for liquefied petroleum gas installations shall be NFPA 58 (Liquefied Petroleum Gas Code) and NFPA 54 (National Fuel Gas Code).

2. An outside source for combustion air ducted into the firebox. The duct shall be at least 6 square inches, and shall be provided with an operable outside air duct damper.

EXCEPTION: Washington certified fireplaces shall be installed with the combustion air systems necessary for their safe and efficient combustion and specified by the manufacturer in accordance with IBC Section 2114 (WAC 51-50-2114).

3. Site built fireplaces shall have tight fitting glass or metal doors, or a flue draft induction fan or as approved for minimizing back-drafting. Factory built fireplaces shall use doors listed for the installed appliance.

~~(2111.7.1)~~ **2111.8.1 Lintel and throat.** Masonry over a fireplace opening shall be supported by a lintel of noncombustible material. The minimum required bearing length on each end of the fireplace opening shall be 4 inches (102 mm). The fireplace throat or damper shall be located a minimum of 8 inches (203 mm) above the top of the fireplace opening.

NEW SECTION

**WAC 51-50-2407 Section 2407—Glass in handrails and guards.**

**2407.1.1 Loads.** The panels and their support system shall be designed to withstand the loads specified in Section 1607.8, using a factor of safety of four.

**2407.1.2 Structural glass baluster panels.** Guards with structural glass baluster panels shall be installed with an attached top rail or handrail. The top rail or handrail shall be supported by a minimum of three glass baluster panels, or shall be otherwise supported to remain in place should one glass baluster panel fail.

EXCEPTION: An attached top rail or handrail is not required where the glass baluster panels are laminated glass with two or more glass plies of equal thickness and of the same glass type.

NEW SECTION

**WAC 51-50-2603 Section 2603—Foam plastic insulation.**

**2603.10 Wind resistance.** Foam plastic insulation complying with ASTM C 578 or ASTM C 1289 and used as exterior wall sheathing on framed wall assemblies shall comply with ANSI/FS 100 for wind pressure resistance.

AMENDATORY SECTION (Amending WSR 14-24-087, filed 12/1/14, effective 5/1/15)

**WAC 51-50-2900 Chapter 29—Plumbing systems.**

**SECTION 2901—GENERAL.**

**2901.1 Scope.** The provisions of this chapter and the state plumbing code shall govern the erection, installation, *alteration*, repairs, relocation, replacement, *addition* to, use or maintenance of plumbing equipment and systems. Toilet and bathing rooms shall be constructed in accordance with Section 1210. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the state plumbing code.

**2901.2 Health codes.** In food preparation, serving and related storage areas, additional fixture requirements may be dictated by health codes.

**SECTION 2902—MINIMUM PLUMBING FACILITIES.**

**2902.1 Minimum number of fixtures.** Plumbing fixtures shall be provided (~~for the type of occupancy and~~) in the minimum number shown in Table 2902.1. (~~Types of occupancies~~) Uses not shown in Table 2902.1 shall be determined individually by the *building official* based on the occupancy which most nearly resembles the proposed occupancy. The number of occupants shall be determined by this code. (~~Occupancy classification shall be determined in accordance with Chapter 3.~~) Plumbing fixtures need not be provided for unoccupied buildings or facilities.

**2902.1.1 Fixture calculations.** To determine the *occupant load* of each sex, the total *occupant load* shall be divided in half. To determine the required number of fixtures, the fixture ratio or ratios for each fixture type shall be applied to the *occupant load* of each sex in accordance with Table 2902.1. Fractional numbers resulting from applying the fixture ratios of Table 2902.1 shall be rounded up to the next whole number. For calculations involving multiple occupancies, such fractional numbers for each occupancy shall first be summed and then rounded up to the next whole number.

EXCEPTION: The total *occupant load* shall not be required to be divided in half where *approved* statistical data indicate a distribution of the sexes of other than 50 percent of each sex.

**2902.1.1.1 Private offices.** Fixtures only accessible to private offices shall not be counted to determine compliance with this section.

**2902.1.1.2 Urinals.** Where urinals are provided, one water closet less than the number specified may be provided for each urinal installed, except the number of water closets in such cases shall not be reduced to less than one quarter (25%) of the minimum specified. For men's facilities serving 26 or more persons, not less than one urinal shall be provided.

**2902.1.2 Family or assisted-use toilet and bath fixtures.** Fixtures located within family or assisted-use toilet and bathing rooms required by Section 1109.2.1 are permitted to be included in the number of required fixtures for either the male or female occupants in assembly and mercantile occupancies.

**2902.2 Separate facilities.** Where plumbing fixtures are required, separate facilities shall be provided for each sex.

- EXCEPTIONS:
1. Separate facilities shall not be required for *dwelling units* and *sleeping units*.
  2. Separate facilities shall not be required in structures or tenant spaces with a total *occupant load*, including both employees and customers, of 15 or less.
  3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.
  4. Separate facilities shall not be required in spaces primarily used for drinking or dining with a total occupant load, including both employees and customers, of 30 or fewer.

**2902.2.1 Family or assisted-use toilet facilities serving as separate facilities.** Where a building or tenant space requires a separate toilet facility for each sex and each toilet facility is required to have only one water closet, two family(~~(+)~~) or assisted-use toilet facilities shall be permitted to serve as the required separate facilities. Family or assisted-use toilet facilities shall not be required to be identified for exclusive use by either sex as required by Section 2902.4.

**2902.3 Employee and public toilet facilities.** Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public utilization. The number of plumbing fixtures located within the required toilet facilities shall be provided in accordance with Section 2902.1 for all users. Employees shall be provided with toilet facilities in all occupancies. Employee toilet facilities shall either be separate or combined employee and public toilet facilities.

- EXCEPTION:
1. Public toilet facilities shall not be required in:
    1. ~~Open or enclosed parking garages~~(~~-Toilet facilities shall not be required in parking garages~~)) where there are no parking attendants.
    2. Structures and tenant spaces intended for quick transactions, including takeout, pickup and drop-off, having a public access area less than or equal to 300 square feet (28 m<sup>2</sup>).

**2902.3.1 Access.** The route to the public toilet facilities required by Section 2902.3 shall not pass through kitchens, food preparation areas, unpackaged food storage areas, storage rooms or closets. Access to the required facilities shall be from within the building or from the exterior of the building. Access to toilets serving multiple tenants shall be through a common use area and not through an area controlled by a tenant. All routes shall comply with the accessibility requirements of this code. The public shall have access to the required toilet facilities at all times that the building is occupied. For other requirements for plumbing facilities, see Chapter 11.

~~((2902.3.1.1 Food preparation areas. Toilet rooms shall not open directly into a room used for the preparation of food for service to the public or residents of Group R-2 boarding homes and residential treatment facilities licensed by Washington state.))~~

**2902.3.2 Location of toilet facilities in occupancies other than malls.** In occupancies other than covered and open mall buildings, the required *public* and employee toilet facilities

shall be located in each building not more than one story above or below the space required to be provided with toilet facilities, or conveniently in a building adjacent thereto on the same property, and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m).

- EXCEPTION:
- The location and maximum (~~(travel)~~) distances of travel to required employee facilities in factory and industrial occupancies are permitted to exceed that required by this section, provided that the location and maximum (~~(travel)~~) distance of travel are *approved*.

**2902.3.3 Location of toilet facilities in malls.** In covered and open mall buildings, the required *public* and employee toilet facilities shall be located not more than one story above or below the space required to be provided with toilet facilities, and the path of travel to such facilities shall not exceed a distance of 300 feet (91,440 mm). In mall buildings, the required facilities shall be based on total square footage (m<sup>2</sup>) within a covered mall building or within the perimeter line of an open mall building, and facilities shall be installed in each individual store or in a central toilet area located in accordance with this section. The maximum (~~(travel)~~) distance of travel to central toilet facilities in mall buildings shall be measured from the main entrance of any store or tenant space. In mall buildings, where employees' toilet facilities are not provided in the individual store, the maximum (~~(travel)~~) distance of travel shall be measured from the employees' work area of the store or tenant space.

**2902.3.4 Pay facilities.** Where pay facilities are installed, such facilities shall be in excess of the required minimum facilities. Required facilities shall be free of charge.

**2902.3.5 Door locking.** Where a toilet room is provided for the use of multiple occupants, the egress door for the room shall not be lockable from the inside of the room. This section does not apply to family or assisted-use toilet rooms.

**2902.3.6 Prohibited toilet room location.** Toilet rooms shall not open directly into a room used for the preparation of food for service to the public.

**2902.4 Signage.** Required public facilities shall be (~~(designated by a legible sign for each sex)~~) provided with signs that designate the sex as required by Section 2902.2. Signs shall be readily visible and located near the entrance to each toilet facility. Signs for accessible toilet facilities shall comply with Section (~~(1111)~~) 1111.

**2902.4.1 Directional signage.** Directional signage indicating the route to the public toilet facilities shall be posted in (~~(accordance with Section 3107. Such signage shall be located in a corridor or aisle, at the entrance to the facilities for customers and visitors)~~) a lobby, corridor, aisle or similar space, such that the sign can be readily seen from the main entrance to the building or tenant space.

**2902.5 Drinking fountain location.** Drinking fountains shall not be required to be located in individual tenant spaces provided that public drinking fountains are located within a (~~(travel)~~) distance of travel of 500 feet of the most remote location in the tenant space and not more than one story above or below the tenant space. Where the tenant space is in a covered or open mall, such distance shall not exceed 300

feet. Drinking fountains shall be located on an accessible route. Drinking fountains shall not be located in toilet rooms.

**2902.5.1 Drinking fountain number.** Occupant loads over 30 shall have one drinking fountain for the first 150 occupants, then one per each additional 500 occupants.

- EXCEPTIONS:
1. Sporting facilities with concessions serving drinks shall have one drinking fountain for each 1000 occupants.
  2. A drinking fountain need not be provided in a drinking or dining establishment.

**2902.5.2 Multistory buildings.** Drinking fountains shall be provided on each floor having more than 30 occupants in schools, dormitories, auditoriums, theaters, offices and public buildings.

**2902.5.3 Penal institutions.** Penal institutions shall have one drinking fountain on each cell block floor and one on each exercise floor.

**2902.5.4 Bottle filling stations.** In Group E occupancies with occupant load over 30, a minimum of one bottle filling station shall be provided on each floor. This bottle filling station

may be integral to a drinking fountain. In all occupancies that require two drinking fountains, bottle filling stations shall be permitted to be substituted for drinking fountains up to 50 percent of the requirements for drinking fountains. At least one of the required bottle filling stations must be located in accordance with Section 309 ANSI A117.1.

**2902.6 Dwelling units.** Dwelling units shall be provided with a kitchen sink.

**2902.7 Water closet space requirements.** The water closet stool in all occupancies shall be located in a clear space not less than 30 inches (762 mm) in width, with a clear space in front of the stool of not less than 24 inches (610 mm).

**2902.8 Water.** Each required sink, lavatory, bathtub and shower stall shall be equipped with hot and cold running water necessary for its normal operation.

**2902.9 Small occupancies.** Drinking fountains shall not be required for an occupant load of 15 or fewer.

SECTION 2903—RESERVED.

SECTION 2904—RESERVED.

**Table 2902.1  
Minimum Number of Required Plumbing Fixtures<sup>a</sup>  
(See Sections 2902.2 and 2902.3)**

No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs /Showers
				Male	Female	Male	Female	
1	Assembly	A-1 <sup>d</sup>	Theaters and other buildings for the performing arts and motion pictures	1 per 125	1 per 65	1 per 200		—
		A-2 <sup>d</sup>	Nightclubs, bars, taverns, dance halls and buildings for similar purposes	1 per 40	1 per 40	1 per 75		—
			Restaurants, banquet halls and food courts	1 per 75	1 per 75	1 per 200		—
		A-3 <sup>d</sup>	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	1 per 125	1 per 65	1 per 200		—
			Passenger terminals and transportation facilities	1 per 500	1 per 500	1 per 750		—
			Places of worship and other religious services	1 per 150	1 per 75	1 per 200		—
		A-4	Coliseums, arenas, skating rinks, pools, and tennis courts for indoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150	—
A-5	Stadiums amusement parks, bleachers and grandstands for outdoor sporting events and activities	1 per 75 for first 1,500 and 1 per 120 for remainder exceeding 1,500	1 per 40 for first 1,520 and 1 per 60 for remainder exceeding 1,520	1 per 200	1 per 150	—		



No.	Classification	Occupancy	Description	Water Closets		Lavatories		Bathtubs /Showers
				Male	Female	Male	Female	
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for first 50 and 1 per 50 for the remainder exceeding 50		1 per 40 for first 80 and 1 per 80 for remainder exceeding 80		—
3	Educational	E	Educational facilities	1 per 35	1 per 25	1 per 85	1 per 50	—
4	Factory and industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly or processing of products or materials	1 per 100		1 per 100		Check State (UPC)
5	Institutional	I-1	Residential care	1 per 10		1 per 10		1 per 8
		I-2	Hospitals, ambulatory nursing home care recipient <sup>b</sup>	1 per room <sup>c</sup>		1 per room <sup>c</sup>		1 per 15
			Employees, other than residential care <sup>b</sup>	1 per 25		1 per 35		—
			Visitors other than residential care	1 per 75		1 per 100		—
		I-3	Prisons <sup>b</sup>	1 per cell		1 per cell		1 per 15
			Reformatories, detention centers and correctional centers <sup>b</sup>	1 per 15		1 per 15		1 per 15
			Employees <sup>b</sup>	1 per 25		1 per 35		—
I-4	Adult day care and child day care	1 per 15		1 per 15		1		
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500		1 per 750		—
7	Residential	R-1	Hotels, motels, boarding houses (transient)	1 per sleeping unit		1 per sleeping unit		1 per sleeping unit
		R-2	Dormitories, fraternities, sororities and boarding houses (not transient)	1 per 10		1 per 10		1 per 8
			Apartment house	1 per dwelling unit		1 per dwelling unit		1 per dwelling unit
		R-3	One- and two-family dwellings	1 per dwelling unit		1 per 10		1 per dwelling unit
			Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8
R-4	Congregate living facilities with 16 or fewer persons	1 per 10		1 per 10		1 per 8		
8	Storage	S-1 S-2	Structures for the storage of goods, warehouses, storehouses and freight depots, low and moderate hazard	1 per 100		1 per 100		Check State (UPC)

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by this code, except with respect to Group E occupancies the provisions of note "e" shall apply.
- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. For Group E occupancies: The number of occupants shall be determined by using a calculation of 100 square feet gross building area per student for the minimum number of plumbing fixtures.

NEW SECTION**WAC 51-50-30020 Section 30020—Hoistway enclosures.**

**30020.4 Elevator car to accommodate ambulance stretcher.** Where elevators are provided in buildings four or more stories above, or four or more stories below, grade plane, or in any Group R-1, R-2 or I occupancy building provided with an elevator regardless of the number of stories, not fewer than one elevator shall be provided for fire department emergency access to all floors. The elevator car shall be of such a size and arrangement to accommodate an ambulance stretcher 24-inch by 84-inch (610 mm by 2,134 mm) with not less than 5-inch (127 mm) radius corners, in the horizontal, open position and shall be identified by the international symbol for emergency medical services (star of life). The symbol shall not be less than 3 inches (76 mm) in height and shall be placed inside on both sides of the hoistway door frame.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

**WAC 51-50-3004 Section 3004—(~~Hoistway venting~~) Reserved.**

~~((3004.3 Area of vents. Except as provided for in Section 3004.3.1, the area of the vents shall not be less than 3 1/2 percent of the area of the hoistway nor less than 3 square feet (0.28 m<sup>2</sup>) for each elevator car, and not less than 3 1/2 percent nor less than 0.5 square feet (0.047 m<sup>2</sup>) for each dumbwaiter~~

~~CFM = BTU output of elevator machine room equipment/[1.08 x (acceptable machine room temp - make up air temp)]~~

EXCEPTION: For buildings four stories or less, natural or mechanical means may be used in lieu of an independent ventilation or air-conditioning system to keep the equipment space ambient air temperature and humidity in the range specified by the elevator equipment manufacturer.

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

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

**WAC 51-50-3006 Section 3006—(~~Machine rooms~~) Reserved.**

~~((3006.2 Venting. Machinery spaces, machine rooms, control spaces, and control rooms that contain solid state equipment for elevator operation shall be provided with an independent ventilation or air-conditioning system to protect~~

~~CFM = BTU output of elevator machine room equipment/[1.08 x (acceptable machine room temp - make up air temp)]~~

EXCEPTION: For buildings four stories or less, natural or mechanical means may be used in lieu of an independent ventilation or air-conditioning system to keep the equipment space ambient air temperature and humidity in the range specified by the elevator equipment manufacturer.)

ear in the hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.))

NEW SECTION**WAC 51-50-30050 Section 30050—Machine rooms.**

**30050.2 Venting.** Elevator machine rooms, machinery spaces that contain the driving machine, and control rooms or spaces that contain the operation or motion controller for elevator operation shall be provided with an independent ventilation or air-conditioning system to protect against the overheating of the electrical equipment. Ventilation systems shall use outdoor make up air. The system shall service the equipment space only, and shall be capable of maintaining the temperature and humidity within the range established by the manufacturer's specifications. Where no manufacturer specifications are available, the equipment space temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than ninety degrees Fahrenheit.

The cooling load for the equipment shall include the BTU output of the elevator operation equipment as specified by the manufacturer based on one hour of continuous operation. The outdoor design temperature for ventilation shall be from the 0.5% column for summer from the Puget Sound Chapter of ASHRAE publication "*Recommended Outdoor Design Temperatures, Washington State*." The following formula shall be used to calculate flow rate for ventilation:

~~against the overheating of the electrical equipment. Ventilation systems shall use outdoor make up air. The system shall service the equipment space only, and shall be capable of maintaining the temperature and humidity within the range established by the manufacturer's specifications. Where no manufacturer specifications are available, the equipment space temperature shall be maintained at no less than fifty-five degrees Fahrenheit and no more than ninety degrees Fahrenheit.~~

The cooling load for the equipment shall include the BTU output of the elevator operation equipment as specified by the manufacturer based on one hour of continuous operation. The outdoor design temperature for ventilation shall be from the 0.5% column for summer from the Puget Sound Chapter of ASHRAE publication "*Recommended Outdoor Design Temperatures, Washington State*." The following formula shall be used to calculate flow rate for ventilation:

NEW SECTION**WAC 51-50-3009 Section 3009—Hoistway venting.**

**3009.1 Vents required.** Hoistways of elevators and dumbwaiters penetrating more than three stories shall be provided with a means for venting smoke and hot gases to the outer air in case of fire.

EXCEPTION: Venting is not required for the following elevators and hoistways:

1. In occupancies other than Groups R-1, R-2, I-1, I-2 and similar occupancies with overnight sleeping units, where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2.
2. Sidewalk elevator hoistways.
3. Elevators contained within and serving open parking garages only.
4. Elevators within individual residential dwelling units.

**3009.2 Location of vents.** Vents shall be located at the top of the hoistway and shall open either directly to the outer air or through noncombustible ducts to the outer air. Noncombustible ducts shall be permitted to pass through the elevator machine room, provided that portions of the ducts located outside the hoistway or machine room are enclosed by construction having not less than the fire-resistance rating required for the hoistway. Holes in the machine room floors for the passage of ropes, cables or other moving elevator equipment shall be limited as not to provide greater than 2 inches of clearance on all sides.

**3009.3 Area of vents.** Except as provided for in Section 3009.3.1, the area of the vents shall not be less than 3 1/2 percent of the area of the hoistway nor less than 3 square feet (0.28 m<sup>2</sup>) for each elevator car, and not less than 3 1/2 percent nor less than 0.5 square feet (0.047 m<sup>2</sup>) for each dumbwaiter car in the hoistway, whichever is greater. The total required vent area shall be equipped with dampers that remain powered closed until activated open by the fire alarm system panel. The dampers shall open upon loss of power.

**3009.3.1 Reduced vent area.** Where mechanical ventilation conforming to the *International Mechanical Code* is provided, a reduction in the required vent area is allowed provided that all of the following conditions are met:

1. The occupancy is not in Group R-1, R-2, I-1 or I-2 or of a similar occupancy with overnight sleeping units.
2. The vents required by Section 3009.2 do not have outside exposure.
3. The hoistway does not extend to the top of the building.
4. The hoistway and machine room exhaust fan is automatically reactivated by thermostatic means.
5. Equivalent venting of the hoistway is accomplished.

AMENDATORY SECTION (Amending WSR 07-01-091, filed 12/19/06, effective 7/1/07)

**WAC 51-50-3109 Section 3109—Swimming (~~pool enclosures and safety devices~~) pools, spas and hot tubs.**

~~((3109.3 Public swimming pools. This section is not adopted.))~~ **3109.1 General.** The design and construction of swimming pools, spas and hot tubs shall comply with the *International Swimming Pool and Spa Code*. Public swimming pool barriers are regulated by WAC 246-260-031(4).

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-3401 Section 3401—(~~General~~) Reserved.**

~~((3401.5 Alternative compliance. Work performed in accordance with the 2012 International Existing Building Code as amended in WAC 51-50-480000 shall be deemed to comply with the provisions of this chapter.~~

~~**3401.6 Dangerous conditions.** The *building official* shall have the authority to require the elimination of conditions deemed *dangerous*.)~~

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-3404 Section 3404—(~~Alterations~~) Reserved.**

~~((3404.1 General. Except as provided by Section 3401.4 or this section, alterations to any building or structure shall comply with the requirements of the Code for new construction. Alterations shall be such that the existing building or structure is no less conforming with the provisions of this Code than the existing building or structure was prior to the alteration.~~

EXCEPTIONS:

1. An existing stairway shall not be required to comply with the requirements of Section 1009 where the existing space and construction does not allow a reduction in pitch or slope.
2. Handrails otherwise required to comply with Section 1009.12 shall not be required to comply with the requirements of Section 1012.6 regarding full extension of the handrails where such extensions would be hazardous due to plan configuration.
3. In buildings considered existing structures on July 1, 2010, dwelling units shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).)

AMENDATORY SECTION (Amending WSR 10-03-097, filed 1/20/10, effective 7/1/10)

**WAC 51-50-3410 Section 3410—(~~Moved structures~~) Reserved.**

~~((3410.1 Conformance. Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code, the International Residential Code (chapter 51-51 WAC), the International Mechanical Code (chapter 51-52 WAC), the International Fire Code (chapter 51-54 WAC), the Uniform Plumbing Code and Standards (chapters 51-56 and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.~~

EXCEPTION:

Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated.

For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.)

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-3411 Section 3411—((Accessibility for existing buildings)) Reserved.**

~~((3411.7 Alterations affecting an area containing a primary function. Where an alteration affects the accessibility to, or contains an area of *primary function*, the route to the *primary function* area shall be accessible. The accessible route to the *primary function* area shall include toilet facilities, telephones or drinking fountains serving the area of *primary function*.~~

- EXCEPTIONS:
1. The costs of providing the *accessible route* are not required to exceed 20 percent of the costs of the *alteration* affecting the area of *primary function*.
  2. This provision does not apply to *alterations* limited solely to windows, hardware, operating controls, electrical outlets and signs.
  3. This provision does not apply to *alterations* limited solely to mechanical systems, electrical systems, installation or *alteration* of fire protection systems and abatement of hazardous materials.
  4. This provision does not apply to *alterations* undertaken for the primary purpose of increasing the accessibility of a *facility*.
  5. This provision does not apply to altered areas limited to *Type B dwellings* and *sleeping units*.

~~**3411.8.11 Toilet rooms.** Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible family or assisted use toilet or bathing room constructed in accordance with Section 1109.2.1 is permitted. The family or assisted use toilet or bathing room shall be located on the same floor and in the same area as the existing toilet or bathing rooms. The number of toilet or bathing rooms and water closets required by the State Building Code is permitted to be reduced by one, in order to provide accessible features.)~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-3500 Chapter 35—((Reference standards)) Reserved.**

~~((Add new standards to Chapter 35:~~

**ASTM**

- C150-12 Specification for Portland Cement.
- C595-12 Specification for Blended Hydraulic Cement.
- C1157-11 Standard Performance Specification for Hydraulic Cement.

**NFPA**

- 720-12 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units . . . . .908.7.1))

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480000 ((2012)) 2015 International Existing Building Code.**

**INTERNATIONAL EXISTING BUILDING CODE**

**((2012)) 2015 EDITION**

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480101 Section 101—General.**

~~((101.4 Applicability. When requested by the permit applicant, this code shall apply to the repair, alteration, change of occupancy and relocation of buildings existing on the date of adoption of this code, regardless of occupancy, subject to the criteria of Sections 101.4.1 and 101.4.2. When compliance with this code has not been requested, compliance with the State Building Code as adopted in Title 51 WAC shall be demonstrated.~~

~~**101.4.1 Buildings not previously occupied.** A building or portion of a building that has not been previously occupied or used for its intended purpose in accordance with the laws in existence at the time of its completion shall comply with the provisions of the State Building Code adopted in Title 51 WAC, for new construction or with any current permit for such occupancy.)~~

~~**101.4.2 Buildings previously occupied.** The legal occupancy of any building existing on the date of adoption of this code shall be permitted to continue without change, except as is specifically covered in this code, the International Fire Code, or as deemed necessary by the code official to mitigate an unsafe building. For the purpose of this section, "unsafe building" is not to be construed as mere lack of compliance with the current code.~~

~~**101.6 Appendices.** The code official is authorized to require rehabilitation and retrofit of buildings, structures, or individual structural members in accordance with the appendices of this code if such appendices have been individually adopted. Appendix A, Guidelines for the Seismic Retrofit of Existing Buildings, is hereby adopted as part of this code without any specific adoption by the local jurisdiction.~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480102 Section 102—((Applicability)) Reserved.**

~~((102.4.1.1 Fire prevention. The provisions of the International Fire Code shall apply to matters affecting or relating to structures, processes and premises regarding: The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and the construction, extension, repair, alteration or removal of fire suppression and alarm systems or fire haz-~~

ards in the structure or on the premises from occupancy or operation except as specifically provided for in this Code.)

#### NEW SECTION

##### **WAC 51-50-480403 Alterations.**

**403.1 General.** Except as provided by Section 401.2 or this section, alterations to any building or structure shall comply with the requirements of the *International Building Code* for new construction. Alterations shall be such that the existing building or structure is no less conforming with the provisions of this code than the existing building or structure was prior to the alteration.

EXCEPTIONS:

1. An existing stairway shall not be required to comply with the requirements of Section 1011 of the *International Building Code* where the existing space and construction does not allow a reduction in pitch or slope.
2. Handrails otherwise required to comply with Section 1011.11 of the *International Building Code* shall not be required to comply with the requirements of Section 1014.6 regarding full extension of the handrails where such extensions would be hazardous due to plan configuration.
3. In buildings considered existing structures on July 1, 2010, dwelling units shall be permitted to have a ceiling height of not less than 7 feet (2134 mm).

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

##### **WAC 51-50-480407 Change of occupancy.**

**407.1 Conformance.** No change shall be made in the use or occupancy of any building (~~that would place the building in a different division of the same group of occupancy or in a different group of occupancies;~~) unless such building is made to comply with the requirements of the *International Building Code* for (~~such division or group of~~) the use or occupancy. Changes in use or occupancy in a building or portion thereof shall be such that the existing building is no less complying with the provisions of this code than the existing building or structure was prior to the change. Subject to the approval of the building official, the use or occupancy of existing buildings shall be permitted to be changed and the building is allowed to be occupied for purposes in other groups without conforming to all the requirements of the *International Building Code* for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use. The hazard tables of Chapter 10 may be used to demonstrate the relative fire and life risk of the existing and the new proposed uses.

#### NEW SECTION

##### **WAC 51-50-480409 Moved structures.**

**409.1 Conformance.** Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code, the *International Residential Code* (chapter 51-51 WAC), the *International Mechanical Code* (chapter 51-52 WAC), the *International Fire Code* (chapter 51-54A WAC), the *Uniform Plumbing Code and Standards* (chapters 51-56

and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.

EXCEPTION: Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated.

For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.

#### NEW SECTION

##### **WAC 51-50-480410 Accessibility for existing buildings.**

**410.6 Alterations.** A facility that is altered shall comply with the applicable provisions in Chapter 11 of the *International Building Code*, unless technically infeasible. Where compliance with this section is technically infeasible, the alteration shall provide access to the maximum extent technically feasible.

EXCEPTIONS:

1. The altered element or space is not required to be on an accessible route, unless required by Section 410.7.
2. Accessible means of egress required by Chapter 10 of the *International Building Code* are not required to be provided in existing facilities.
3. The alteration to Type A individually owned dwelling units within a Group R-2 occupancy shall be permitted to meet the provision for a Type B dwelling unit.
4. Type B dwelling or sleeping units required by Section 1107 of the *International Building Code* are not required to be provided in existing buildings and facilities undergoing alterations where the work area is 50 percent or less of the aggregate area of the building.

**410.8.10 Toilet rooms.** Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible family or assisted-use toilet or bathing room constructed in accordance with Section 1109.2.1 of the *International Building Code* is permitted. The family or assisted-use toilet or bathing room shall be located on the same floor and in the same area as the existing toilet or bathing rooms. At the inaccessible toilet and bathing rooms, directional signs indicating the location of the nearest family or assisted-use toilet or bathing room shall be provided. These directional signs shall include the International Symbol of Accessibility and sign characters shall meet the visual character requirements in accordance with ICC A117.1. The number of toilet or bathing rooms and water closets required by the Washington State Building Code is permitted to be reduced by one, in order to provide accessible features.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480505 (~~(Alteration—Level 3.)~~)  
Reserved.**

~~((505.1 Scope. Level 3 alterations apply where the work area exceeds 50% of the floor area of the building.))~~

NEW SECTION

**WAC 51-50-480705 Accessibility.**

**705.1.5 Dining areas.** This section is not adopted.

**705.1.9 Toilet rooms.** Where it is technically infeasible to alter existing toilet and bathing rooms to be accessible, an accessible family or assisted use toilet or bathing room constructed in accordance with Section 1109.2.1 of the *International Building Code* is permitted. The family or assisted-use toilet or bathing room shall be located on the same floor and in the same area as the existing toilet or bathing rooms. At the inaccessible toilet and bathing rooms, directional signs indicating the location of the nearest family or assisted-use toilet room or bathing room shall be provided. These directional signs shall include the International Symbol of Accessibility and sign characters shall meet the visual character requirements in accordance with ICC A117.1. The number of toilet or bathing rooms and water closets required by the Washington State Building Code is permitted to be reduced by one, in order to provide accessible features.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480707 (~~(Energy conservation.)~~)  
Reserved.**

~~((707.1 Minimum requirements. Level 1 alterations to existing buildings or structures shall comply with the Washington State Energy Code (chapter 51-11 WAC.))~~

NEW SECTION

**WAC 51-50-480708 Energy conservation.**

**708.1 Minimum requirements.** Level 1 alterations to existing buildings or structures shall comply with the Washington State Energy Code (chapter 51-11 WAC).

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480804 (~~(Fire protection.)~~) Reserved.**

~~((804.1 Scope. The requirements of this section shall be limited to work areas in which Level 2 alterations are being performed, and where specified they shall apply throughout the floor on which the work areas are located or otherwise beyond the work area.~~

**EXCEPTION:** For Level 2 alteration projects in which the fire protection requirements constitute an excessive burden, the fire protection requirements may be modified or waived by the fire code official.)

NEW SECTION

**WAC 51-50-480906 Section 906—Accessibility.**

**906.1 General.** A building, facility or element that is altered shall comply with this section and Sections 705 and 806.

**906.2 Type B dwelling or sleeping units.** Where four or more Group I-1, I-2, R-1, R-2 or R-3 dwelling or sleeping units are being altered, the requirements of Section 1107 of the *International Building Code* for Type B units and Chapter 9 of the *International Building Code* for visible alarms apply only to the quantity of the spaces being altered.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-480907 Structural.**

**907.4.1 Evaluation and analysis.** An engineering evaluation and analysis that establishes the structural adequacy of the altered structure shall be prepared by a registered design professional and submitted to the code official. For structures assigned to Seismic Design Category D, the registered design professional shall submit to the code official a seismic evaluation report of the existing building based on one of the procedures specified in Section 301.1.4.2. This seismic evaluation report shall not be required for buildings in compliance with the benchmark building provisions of ((ASCE 31, Section 3.2)) ASCE/SEI.

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-481012 (~~(Change of occupancy classification.)~~) Reserved.**

~~((1012.1.1 Compliance with Chapter 9. The requirements of Chapter 9 shall be applicable throughout the building for the new occupancy classification based on the separation conditions set forth in Sections 1012.1.1.1 and 1012.1.1.2. All existing buildings with a change of occupancy classification shall comply with the seismic provisions of Section 1007.3.))~~

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-481201 Section 1201—Historic buildings—General.**

**1201.1 Scope.** It is the intent of this chapter to provide means for the preservation of historic buildings ((as defined in Chapter 2)). It is the purpose of this chapter to encourage cost-effective preservation of original or restored architectural elements and features and to provide a historic building that will result in a reasonable degree of safety, based on accepted life and fire safety practices, compared to the existing building. Historical buildings shall comply with the provisions of this chapter relating to their repair, alteration, relocation and change of occupancy.

**SECTION 1202—Reserved.**

AMENDATORY SECTION (Amending WSR 13-04-067, filed 2/1/13, effective 7/1/13)

**WAC 51-50-481301 Relocated or moved buildings—General.**

**1301.1 Scope.** This chapter provides requirements for relocated or moved structures, including relocatable buildings as defined in Chapter 2.

**1301.2 Conformance.** Buildings or structures moved into or within the jurisdiction shall comply with the provisions of this code, the *International Residential Code* (chapter 51-51 WAC), the *International Mechanical Code* (chapter 51-52 WAC), the *International Fire Code* (chapter 51-54 WAC), the *Uniform Plumbing Code and Standards* (chapters 51-56 and 51-57 WAC), the Washington State Energy Code (chapter 51-11 WAC) and the Washington State Ventilation and Indoor Air Quality Code (chapter 51-13 WAC) for new buildings or structures.

EXCEPTION: Group R-3 buildings or structures are not required to comply if:

1. The original occupancy classification is not changed; and
2. The original building is not substantially remodeled or rehabilitated.

For the purposes of this section, a building shall be considered to be substantially remodeled when the costs of remodeling exceed 60 percent of the value of the building exclusive of the costs relating to preparation, construction, demolition or renovation of foundations.

NEW SECTION

**WAC 51-50-490000 Appendix N—Solar readiness.**

The provisions contained in this appendix are not mandatory unless specifically referenced in the local adopting ordinance.

**490101.1 General.** A *solar zone* shall be provided on nonresidential buildings of any size that are 5 stories or less in height above grade plane, and shall be located on the roof of the building or on another structure elsewhere on the site. The *solar zone* shall be in accordance with Sections 490101.3 through 490101.9 and the *International Fire Code*.

EXCEPTION: A *solar zone* is not required where the solar exposure of the building's roof area is less than 75 percent of that of an unshaded area, as measured by one of the following:

- a. Incident solar radiation expressed in kWh/ft<sup>2</sup> per year using typical meteorological year (TMY) data;
- b. Annual sunlight exposure expressed in cumulative hours per year using TMY data;
- c. Shadow studies indicating that the roof area is more than 25 percent in shadow, on September 21 at 10:00 a.m., 11:00 a.m., 12:00 p.m., 1:00 p.m., and 2:00 p.m. solar time.

**490101.2 Definitions.** The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of the *International Building Code* for general definitions.

**SOLAR ZONE.** A clear area or areas reserved solely for current and future installation of photovoltaic or solarwater heating systems.

**490101.3 Minimum area.** The minimum area of the *solar zone* shall be determined by one of the following methods, whichever results in the smaller area:

1. 40 percent of roof area. The roof area shall be calculated as the horizontally-projected gross roof area, less the area covered by skylights, occupied roof decks and planted areas.

2. 20 percent of electrical service size. The electrical service size shall be the rated capacity of the total of all electrical services to the building. The required *solar zone* size shall be based upon 10 peak watts of PV per square foot.

EXCEPTION: Subject to the approval of the *building official*, buildings with extensive rooftop equipment that would make full compliance with this section impractical shall be permitted to reduce the size of the *solar zone* required by Section N101.3 to the maximum practicable area.

**490101.4 Contiguous area.** The *solar zone* is permitted to be comprised of smaller separated subzones. Each subzone shall be at least 5 feet wide in the narrowest dimension.

**490101.5 Obstructions.** The *solar zone* shall be free of pipes, vents, ducts, HVAC equipment, skylights and other obstructions, except those serving photovoltaics or solar water heating systems within the *solar zone*. Photovoltaics or solar water heating systems are permitted to be installed within the *solar zone*. The *solar zone* is permitted to be located above any such obstructions, provided that the racking for support of the future system is installed at the time of construction, the elevated *solar zone* does not shade other portions of the *solar zone*, and its height is permitted by the *International Building Code* and other applicable codes.

**490101.6 Shading.** The *solar zone* shall be set back from any existing or new object on the building or site that is located south, east, or west of the *solar zone* a distance at least two times the object's height above the nearest point on the roof surface. Such objects include, but are not limited to, taller portions of the building itself, parapets, chimneys, antennas, signage, rooftop equipment, trees and roof plantings. No portion of the *solar zone* shall be located on a roof slope greater than 2:12 that faces within 45 degrees of true north.

**490101.7 Access.** Areas contiguous to the *solar zone* shall provide access pathways and provisions for emergency smoke ventilation as required by the *International Fire Code*.

**490101.8 Structural integrity.** The as-designed dead load and live load for the *solar zone* shall be clearly marked on the record drawings, and shall accommodate future photovoltaic or solar water heating arrays at an assumed dead load of 4 pounds per square foot in addition to other required live and dead loads. For photovoltaic systems, a location for future inverters shall be designated either within or adjacent to the *solar zone*, with a minimum area of 2 square feet for each 1,000 square feet of *solar zone* area, and shall accommodate an assumed dead load of 175 pounds per square foot. Where photovoltaic or solar water heating systems are installed in

the *solar zone*, structural analysis shall be based upon calculated loads, not upon these assumed loads.

**490101.9 Photovoltaic or solar water heating interconnection provisions.** Buildings shall provide for the future interconnection of either a photovoltaic system in accordance with Section 490101.9.1 or a solar water heating system in accordance with Section 490101.9.2.

**490101.9.1 Photovoltaic interconnection.** A capped roof penetration sleeve shall be provided in the vicinity of the future inverter, sized to accommodate the future photovoltaic system conduit. Interconnection of the future photovoltaic system shall be provided for at the main service panel, either ahead of the service disconnecting means or at the end of the bus opposite the service disconnecting means, in one of the following forms:

a. A space for the mounting of a future overcurrent device, sized to accommodate the largest standard rated overcurrent device that is less than 20 percent of the bus rating;

b. Lugs sized to accommodate conductors with an ampacity of at least 20 percent of the bus rating, to enable the mounting of an external overcurrent device for interconnection.

The electrical construction documents shall indicate the following:

a. *Solar zone* boundaries and access pathways;

b. Location for future inverters and metering equipment; and

c. Route for future wiring between the photovoltaic panels and the inverter, and between the inverter and the main service panel.

**N101.9.2 Solar water heating interconnection.** Two capped pipe tees shall be provided upstream of the domestic water heating equipment to provide plumbing interconnections between a future solar water heating system and the domestic water heating system. Two roof penetration sleeves shall be provided in the vicinity of the *solar zone*, capable of accommodating supply and return piping for a future solar

water heating system. The plumbing construction documents shall indicate the following:

a. *Solar zone* boundaries and access pathways;

b. Location for future hot water storage tanks; and

c. Route for future piping between the *solar zone* and the plumbing interconnection point, following the shortest feasible pathway.

**WSR 15-16-109  
PROPOSED RULES  
BUILDING CODE COUNCIL**

[Filed August 4, 2015, 1:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-077.

Title of Rule and Other Identifying Information: Adoption and amendment of the 2015 International Fire Code (IFC), chapter 51-54A WAC.

Hearing Location(s): Fire Department Training Center, 1618 South Rebecca Street, Spokane, WA, on September 11, 2015, at 10:00 a.m.; and at the DES Presentation Room, 1500 Jefferson S.E., Olympia, WA 98504, on October 16, 2015, at 10:00 a.m.

Date of Intended Adoption: November 13, 2015.

Submit Written Comments to: Dave Kokot, Chair, State Building Code Council (SBCC), P.O. Box 41449, Olympia, WA 98504-1449, e-mail sbcc@ga.wa.gov, fax (360) 586-9088, by October 23, 2015.

Assistance for Persons with Disabilities: Contact Peggy Bryden by August 24, 2015, (360) 407-9280.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules adopt the 2015 edition of the International Code Council (ICC) Fire Code, with state amendments to incorporate proposed changes as adopted by the Washington SBCC. The rules will provide increased clarity and life safety measures.

WAC	Section	Changes in 2015	Discussion
51-54A-0105			
	105.6.4	CO2 systems.	New section.
	105.6.4.9	Marijuana extraction systems - operational permits.	New; currently adopted as emergency rule.
	105.7.19	Marijuana extraction systems - construction permits.	New; currently adopted as emergency rule.
	105.7.20	Underground supply piping - automatic sprinkler system.	New section.
51-54A-0202		General definitions.	
		Assisted living facility. Emergency drill.	New definition. Deleted definition. Deleted reference to R-2 Assisted living facility.
51-54A-0308		Open flames.	
	308.1.10	Decorative open flame tables.	New section.



WAC	Section	Changes in 2015	Discussion
51-54A-0402		Definitions.	
		Emergency drill.	Delete reference.
51-54A-0403		Emergency preparedness requirements.	New section.
	403.3.1 403.5.4 403.10.2 403.10.2.4 403.10.3 403.12.3	Fire evacuation plan. Assembly points and fire operations. Group R-2 occupancies. Group R-2 assisted living and residential care facilities. Group R-4 occupancies. This section is not adopted. Crowd managers for gatherings exceeding 1,000 people.	
51-54A-0404		Fire safety and evacuation plans.	Section name changed.
	404.1	General.	Deleted.
	404.2	Fire safety and emergency plans.	Deleted.
	404.2.1	Where required.	Deleted.
	404.2.2	Contents.	Deleted.
	404.2.2.1	Fire evacuation plans.	Deleted.
	404.2.2.2	Fire safety plans.	Deleted.
	404.2.3	Lockdown plans.	This section is not adopted.
	404.3	Shelter-in-place plans.	Deleted.
	404.3.1	Where required.	Deleted.
	404.3.2	Shelter-in-place plan controls.	Deleted.
	404.4	Maintenance.	Deleted.
	404.5	Availability.	Deleted.
51-54A-0405		Emergency evacuation drills.	Modified to add "evacuation."
	405.1	General.	Corrects reference.
	405.2	Table 405.2 Fire and Evacuation Drill/Frequency and Participation.	Adds new occupancy groups and modifies requirements for drills.
	405.6	Notification.	Adds evacuation.
	405.7	Initiation.	Corrects reference.
	405.7.1	Fire evacuation drills.	Reference to "assisted living facilities" added.
	405.7.2	Shelter-in-place drills.	Corrects reference.
51-54A-0406		Employee training and response procedures.	
	406.1	General.	Corrects reference.
	406.3.1	Fire prevention training.	New section.
	406.3.2	Evacuation training.	New section.
	406.3.3	Fire safety training.	New section.
	406.3.4	Emergency shelter-in-place training.	Section renumbered.
	406.4	Emergency lockdown training.	This section is not adopted.
51-54A-0408		Use and occupancy related requirements.	Section deleted; WAC number reserved.
51-54A-0507		Fire protection water supplies.	
	507.3	Fire flow.	Additional exception allowed.
51-54A-0605		Electrical equipment, wiring and hazards.	

WAC	Section	Changes in 2015	Discussion
	605.11	Solar photovoltaic power systems.	Modifies references; deletes exception.
	605.11.1	Access and pathways.	
	605.11.1.1	Roof access points.	
	605.11.1.2	Solar photovoltaic systems for Group R-3 buildings.	(Note: remove duplicate section.)
	605.11.1.2.1	Size of solar photovoltaic array.	
	605.11.1.2.2	Hip roof layouts.	
	605.11.1.2.3	Single ridge roofs.	
	605.11.1.2.4	Roofs with hips and valleys.	
	605.11.1.2.5	Allowance for smoke ventilation operations.	
	605.11.1.3	Other than Group R-3 buildings.	
	605.11.1.3.1	Access.	
	605.11.1.3.2	Pathways.	
	605.11.1.3.3	Smoke ventilation.	
	605.11.2	Locations of DC conductors.	Deleted.
	605.11.3	Access and pathways.	Deleted.
	605.11.3.2	Residential systems for one- and two-family dwellings.	Deleted.
	605.11.3.2.3	Residential buildings with roof hips and valleys.	Deleted.
	605.11.3.2.4	Residential building smoke ventilation.	Deleted.
	605.11.2	Ground-mounted photovoltaic arrays.	Renumbered.
51-54A-0609		Commercial kitchen hoods.	
	Table 609.2.1	Reference to "assisted living facilities" added.	
51-54A-0901		General.	New section.
	901.4.2	Nonrequired fire protection systems.	
	901.8.2	Removal of existing occupant-use hose lines.	
51-54A-0903		Automatic sprinkler systems.	
	903.2.1.6	Nightclub.	Renumbered/moved to 903.2.1.8.
	903.2.1.6	Assembly occupancies on roofs.	New.
	903.2.1.8	Nightclub.	Renumbered/moved from 903.2.1.6.
	903.2.3	Group E.	Modified.
	903.2.6	Group I.	New.
	903.2.11.7	Relocatable buildings within buildings.	New.
	903.3.5.3	Underground portions of fire protection system water supply piping.	New.
51-54A-0904		Alternative automatic fire-extinguishing systems.	New section.
	904.12	Commercial cooking systems.	
51-54A-0907		Fire alarm and detection systems.	
	907.2.6.1	Group I-1.	
	907.2.6.4	Group I-4 occupancies.	

WAC	Section	Changes in 2015	Discussion
	907.2.9.1.1	Group R-2 assisted living facilities.	Modified name and exceptions.
	907.2.9.4	Group R-2 assisted living facilities.	
	907.5.2.1.2	Maximum sound pressure.	New.
	907.10	NICET: National Institute for Certification in Engineering Technologies.	New.
	907.10.1	Scope.	
	907.10.2	Design review.	
	907.10.3	Installation/maintenance.	
51-54A-0908		Emergency alarm systems.	Section deleted; WAC number reserved.
51-54A-0909		Smoke control systems.	Section deleted; WAC number reserved.
51-54A-0915		Alerting systems.	Deleted; moved to WAC 51-54A-0916.
51-54A-0915		Carbon monoxide detection.	New.
	915.1	General.	Modified.
	915.1.1	Where required.	
	915.1.2	Fuel-burning appliances and fuel-burning fireplaces.	
	915.1.3	Forced-air furnaces.	
	915.1.4	Fuel-burning appliances outside of dwelling units, sleeping units and classrooms.	
	915.1.5	Private garages.	
	915.1.6	Exempt garages.	
	915.2	Locations.	Modified.
	915.2.1	Dwelling units.	Modified.
	915.2.2	Sleeping units.	Modified.
	915.2.3	Group E occupancies.	New.
	915.3	Duration of operation.	Deleted - moved to WAC 51-54A-0916.
	915.4	Combination system.	Deleted - moved to WAC 51-54A-0916.
	915.4.1	System priority.	Deleted - moved to WAC 51-54A-0916.
	915.4.2	Fire alarm system.	Deleted - moved to WAC 51-54A-0916.
	915.4.2.1	Signal priority.	Deleted - moved to WAC 51-54A-0916.
	915.4.2.2	Temporary deactivation.	Deleted - moved to WAC 51-54A-0916.
	915.4.2.3	Supervisory signal.	Deleted - moved to WAC 51-54A-0916.
	915.5	Audibility.	Deleted - moved to WAC 51-54A-0916.
	915.6	Visibility.	Deleted - moved to WAC 51-54A-0916.
51-54A-0916		Alerting systems.	New section - previously WAC 51-54A-0915.
	916.1	General.	
	916.2	Power source.	
	916.3	Duration of operation.	
	916.4	Combination system.	
	916.4.1	System priority.	
	916.4.2	Fire alarm system.	
	916.4.2.1	Signal priority.	
	916.4.2.2	Temporary deactivation.	

WAC	Section	Changes in 2015	Discussion
	916.4.2.3	Supervisory signal.	
	916.5	Audibility.	
	916.6	Visibility.	
51-54A-1007		Accessible means of egress.	Section deleted; WAC number reserved; chapter renumbered to WAC 51-54A-1009.
51-54A-1008		Doors, gates and turnstiles.	Section deleted; WAC number reserved; chapter renumbered to WAC 51-54A-1010.
51-54A-1009		Stairways and handrails. Accessible means of egress.	Moved to WAC 51-54A-1011. Moved from WAC 51-54A-1009.
51-54A-1010		Ramps. Doors, gates and turnstiles.	Moved to WAC 51-54A-1012. Moved from WAC 51-54A-1008.
51-54A-1011		Stairways.	New section - moved from WAC 51-54A-1009.
51-54A-1012		Ramps.	Moved from WAC 51-54A-1010.
51-54A-1018		Corridors.	Section chapter renumbered to WAC 51-54-1020.
	1018.6	Corridor continuity.	Deleted.
51-54A-1020		Corridors.	New section to replace 1018.
	1020.5	Air movement in corridors.	Renumbered.
51-54A-1021		Number of exits and exit configurations.	Section reserved.
51-54A-1028		Exit discharge.	New section.
	1028.4.1	Width or capacity.	New section.
51-54A-1030		Emergency escape and rescue.	New section.
	1030.1	General.	New section.
51-54A-1103		Fire safety requirements for existing buildings.	
	1103.4.2	Three to five stories.	New section.
	1103.4.3	More than five stories.	Modified.
	1103.5.5	Nightclub.	Renumbered from 1103.4.3.
	1103.9	Carbon monoxide alarms.	Modifies references and exceptions.
51-54A-1105		Construction requirements for existing Group I-2.	New section.
	1105.1	General.	Provides compliance with federal programs.
51-54A-3103		Temporary tents and membrane structures.	New section.
	3103.5	Use period.	
51-54A-3800		Marijuana processing or extraction facilities.	New chapter.
	3801	Administration.	New section.
	3802	Definitions.	New section.
	3803	Processing or extraction of marijuana.	New section (drafting error assigned 3802 here).
51-54A-5307		Carbon dioxide (CO <sub>2</sub> systems).	New section.
51-54A-8000		Referenced standards.	NFPA 720-15.

Note: Those not listed on the table above remain as adopted in 2012.

Reasons Supporting Proposal: RCW 19.27.031 and 19.27.074.

Statutory Authority for Adoption: RCW 19.27.031 and 19.27.074.

Statute Being Implemented: Chapters 19.27 and 34.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: SBCC is seeking comments on the issues proposed in the rules shown below.

Name of Proponent: SBCC, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Joanne T. McCaughan, 1500 Jefferson Street, Olympia, (360) 407-9279.

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

#### Small Business Economic Impact Statement

**Description:** SBCC is filing a proposed rule to adopt the updated 2015 edition of the IFC (chapter 51-54A WAC). Since 1985 SBCC has been responsible to update new editions of the fire code per RCW 19.27.074.

The administrative compliance requirements are under the authority of the local government. RCW 19.27.050. Compliance activities including permit issuance, plan review and approval, and inspections occur at the local level. Requirements for construction document submittal and other reporting requirements are determined by the local jurisdiction and are consistent with previously established policies. The proposed amendments to chapter 51-54A WAC include specific technical requirements for life safety to be consistent with national standards.

The IFC is updated every three years by the ICC. The code development process conducted by the model code organization is open to all interest groups within the design and construction industry and from governmental organizations. See [www.iccsafe.org](http://www.iccsafe.org) for more information about the model code development process.

**Professional Services:** Washington state has had a state-wide fire code in effect since 1974. The local enforcement authority having jurisdiction administers the codes through the building and/or fire departments. Administrative procedures for state building code compliance are established and will not be changed by the adoption of the update to the current building codes. Small businesses will employ the same types of professional services for the design and construction of buildings and systems to comply with the state building code.

The proposed rule updates the state fire code and does not require additional equipment, supplies, labor or other services. Services needed to comply with the fire code exist within the construction industry as required by the local authority having jurisdiction.

**Costs of Compliance for Businesses:** The cost of compliance incurred by Washington businesses includes training and educational materials. A complete set of the 2015 model codes on CD rom costs \$985 for ICC members. The ICC for passive smoke control systems. Construction cost

chapters offer training for continuing education credits to architects, engineers and building inspectors for \$285.

The 2015 edition of the IFC contains five amendments with a negative cost impact; an additional ten amendments will have a possible minor cost impact. These items were identified through the model code development process, and reviewed by the SBCC fire code technical advisory group (TAG) and the economic workgroup.

1. Section 403.2 Public safety plan. This provision will remove an exception for Group A and E occupancies from crowd management plans. This change will increase the cost of indoor/outdoor gatherings in Group A and E occupancies, where required by the fire code official to have a fire safety plan.

2. Section 903.2.1 will require fire sprinkler protection where there is more than one level of exit discharge for Group A occupancies. This change will increase the cost of construction for buildings with more than one level of exit discharge for Group A occupants.

3. Sections 903.2.1.1, 903.2.1.2, 903.2.1.3 and 903.2.1.4 re: Group A occupancy. Will require sprinkler systems to be added when more than three hundred occupants share an exit for separated assembly occupancies. The change will increase the cost of construction for certain buildings where exiting is shared for separated assembly occupancies.

4. Section 903.2.11.3 Buildings fifty-five feet or more in height, will require certain airport control towers to install automatic sprinkler systems, where there is any occupiable floor thirty-five feet or more above the lowest level of exit discharge. This change will increase the cost of construction for certain control towers.

5. Section 907.2.22, 907.2.22.1, and 907.2.22.2 Airport control towers, will clarify required locations of smoke detection equipment in airport traffic control towers. Will require sprinklers where an occupied floor is thirty-five feet or more above the lowest level of exit discharge. This change will increase the cost of construction for certain control towers.

6. Section 202 Definitions, will add new items to the list of decorative materials. This change will increase the cost of construction where such materials are used.

7. Section 315.6 Storage plenums in Group I occupancies will require cleanout of excess material in plenums and forbid plenums to be used for storage. Minimal construction cost increase for areas where plenums are installed.

8. Section 318.1 Laundry carts with a capacity of one cubic yard or more, adds Group E and M to occupancies required to comply with fire safety for laundry carts; day care is exempted. Minimal cost increase in Group E and M occupancies.

9. Section 806.2, 907.1, 807.1.2, 807.4.2.2 Artificial vegetation, will require certain test methods per NFPA 701 to be applied to artificial vegetation. Cost increase for projects where artificial vegetation is used.

10. Section 908.7 Carbon monoxide detection, will require CO detection in Group E. Minimal cost as a percentage of building valuation in Group E occupancies.

11. Section 909.5 Smoke barrier construction, clarifies requirements for passive smoke control systems, i.e., for leakage area calculation and testing; clarifies requirements increase where these systems are installed.

12. 909.7 Airflow design method. References NFPA 92 Standard for Smoke Control systems; uses airflow method. Small cost impact for smoke control systems.

13. 3206.9.3 Dead ends, removes reference to Chapter 10; provides 50 foot limit for dead end aisles; allows certain exceptions. Will increase cost of construction for certain aisles.

14. 3304.2.1 Rubbish containers, adds certain safety requirements for rubbish containers exceeding 5.33 cu. ft. Will have a minimal cost impact on certain projects.

15. Table 5003.1.1(1) Maximum allowable quantity per control area of hazardous materials posing a physical hazard, limits NFPA standard amount of fireworks to one hundred twenty-five pounds net. Removes the allowance for an increase when sprinklers are provided. This may increase the cost of construction.

The fire code TAG and the SBCC economic workgroup determined there is a cost for compliance on businesses for the following proposed state amendments:

**1. Proposal 14-003: IFC 507.3 Fireflow requirements:** This amendment will allow local fire officials to use NFPA 1142 or the WUI code for fire flow requirements where necessary. There will be a small cost impact for fire flow testing in jurisdictions which choose to use these provisions.

**2. Proposal 15-006 Group E daycare sprinklers:** This amendment will specify that sprinkler systems are installed in Group E fire areas rather than Group E occupancies; exceptions for daycare/preschool when located at level of exit discharge. Construction costs may increase in some jurisdictions.

**3. Proposal 15-013 Group R-2 assisted living:** This amendment will specify smoke detection requirements in R-2. There will be a minor cost for alarm installations.

**4. Proposal 15-021 Marijuana extraction systems:** This proposal will require permits for marijuana extraction systems. A construction permit will be required to install a marijuana/cannabis extraction system, and an operational permit will be required to use a marijuana/cannabis extraction system regulated by WAC 314-55-104. The cost is estimated at up to \$200 per permit.

**5. Proposal 15-024 Vertical openings:** This amendment will require fire resistant/smoke-rated construction or fire sprinklers in three- to five-story buildings; when more than five stories, smoke-rated construction is required. Where required the cost would be from \$1000 to \$5000 per floor/per elevator.

**Proposal 15-051 Relocatable buildings within buildings:** This amendment will require sprinkler systems be installed where job shacks or portable buildings are within buildings under construction. Where required, the estimated cost of construction is \$250; an additional cost of \$250 is estimated for enforcement.

**6. Proposal 15-088 Commercial cooking systems:** This amendment will amend section 904.12 to require signage that identifies appliances in commercial kitchens. The estimated cost impact is \$10 per sign.

**7. Proposal 15-090 Required fire protection:** This amendment will amend section 901.4.1 to require signage for labeling required fire protection systems. The estimated cost impact is \$10 per sign.

**8. Proposal 15-091 Cannabis processing and extraction facilities:** This amendment will create a new Chapter 38 in chapter 51-54A WAC to regulate cannabis processing and extraction facilities. The purpose is to provide additions or exceptions to applicable requirements of the fire code. The requirements of the chapter are retroactive for existing processing and extraction facilities effective July 1, 2016.

The cost impact of this proposal is indeterminate, as this is a new industry in Washington state. According to the July 29, 2015, Weekly Marijuana Report published by the Washington state liquor and cannabis board (LCB), there are currently a total of six hundred seventy-eight processor (forty-eight) and producer/processor (six hundred thirty) licenses issued.

These entities are already obligated to follow the requirements of WAC 314-55-104 Marijuana processor license extraction requirements, as adopted by LCB. Those rules already require specific health and safety measures, establish standards to be followed, require the services of a professional licensed engineer, and adherence to the requirements of the building and fire codes. The proposed rules in chapter 51-54A WAC will provide further direction on what actions are needed to comply with the fire code for extraction and processing of marijuana.

**Loss of Sales or Revenue:** The proposed rules make the state code for fire safety consistent with national standards. Businesses with new products or updated test or design standards are recognized in the updated fire code.

The update will result in some cost outlay for some small businesses for specific building projects, for a transition period. Other small businesses would see an increase in revenue. The amendments to the building codes affect over 25,000 small businesses in the state, where construction activity occurs. The primary intent of the amendments is to improve the safety features in buildings and provide consistency and fairness across the state, for a predictable business environment. The amendments should result in enhanced safety and value in buildings.

**Cost of Compliance for Small Businesses:** The majority of businesses affected by the updates to the building codes are small businesses; over ninety-five percent of those listed in the construction and related industries have under fifty employees. The costs per employee are comparable between the largest businesses and the majority of small businesses. The cost to comply with the updated codes is not a disproportionate impact on small business. Where SBCC found the cost of compliance for small businesses to be disproportionate, the proposed rule mitigates the cost. The proposed rules include a definition of small business and provide exceptions for compliance with the updated rule.

**Reducing the Costs of the Rule on Small Businesses:** The revision history for the 2015 model code amendments shows several hundred amendments proposed by industry and local governments which add flexibility and clarity to the code and coordinate rules, and represent a savings for small business building owners and operators. SBCC conducted a detailed review process, including participation at the national code development hearings, to document significant economic impacts of the proposed code amendments. These

amendments are proposed to reduce the cost of compliance on small businesses.

**Small Businesses Involved in the Development of the Rule:** SBCC conducted fourteen open public meetings of the fire code TAG, available via telephone conference bridge and over the internet, and allowed comment on every item on

every agenda. SBCC appointed over one hundred representatives of all segments of the business, construction, and fire safety community to serve on SBCC's seven TAGs.

**List of Industries:** Below is a list of industries required to comply with the fire code:

NAICS #	Type of Business	Businesses with 50 employees or less	Businesses with more than 50 employees
236115	New single-family housing construction	2523	18
236116	New multifamily housing construction	69	4
236118	Residential remodelers	4298	3
236210	Industrial building construction	88	8
236220	Commercial and institutional building construction	1151	40
238110	Poured concrete foundation and structure contractors	987	14
238120	Structural steel and precast concrete contractors	154	10
238130	Framing contractors	1866	17
238140	Masonry contractors	517	1
238150	Glass and glazing contractors	208	6
238160	Roofing contractors	925	11
238170	Siding contractors	558	1
238190	Other foundation, structure, and building exterior contractors	145	1
238220	Plumbing, heating, and air-conditioning contractors	2245	66
238290	Other building equipment contractors	315	6
238310	Drywall and insulation contractors	898	18
238990	All other specialty trade contractors	1141	15
321213	Engineered wood member (except truss) manufacturing	10	4
321214	Truss manufacturing	14	4
321911	Wood window and door manufacturing	31	1
327310	Cement manufacturing	3	1
327320	Ready-mix concrete manufacturing	41	7
327331	Concrete block and brick manufacturing	13	1
332311	Prefabricated metal building and component manufacturing	16	4
332312	Fabricated structural metal manufacturing	67	8
332321	Metal window and door manufacturing	10	1
332322	Sheet metal work manufacturing	69	8
333415	Air-conditioning and warm air heating equipment	13	2
335110	Electric lamp bulb and part manufacturing	3	
335121	Residential electric lighting fixture manufacturing	14	
335122	Commercial, industrial, and institutional electric light	2	1
335129	Other lighting equipment manufacturing	3	1
423310	Lumber, plywood, millwork, and wood panel merchant wholesale	196	12
423320	Brick, stone, and related construction material merchant	68	1
423330	Roofing, siding, and insulation material merchant wholesale	33	4
423390	Other construction material merchant wholesalers	78	
423720	Plumbing and heating equipment and supplies (hydronics)	99	6

NAICS #	Type of Business	Businesses with 50 employees or less	Businesses with more than 50 employees
423730	Warm air heating and air-conditioning equipment and supplies	48	1
531110	Lessors of residential buildings and dwellings	1525	152
531120	Lessors of nonresidential buildings (except miniwarehouse)	2046	7
541310	Architectural services	579	19
541330	Engineering services	2351	82
541340	Drafting services	69	
541350	Building inspection services	168	1
922160	Fire protection	246	31
	<b>Total</b>	25,903	598

**Estimate of the Number of Jobs That Will Be Created or Lost:** The adoption of the latest code edition is not expected to significantly impact the number of jobs in the construction industry. These rules are likely to be job neutral overall, i.e., they will not result in any job gains or losses. The scheduled effective date of the new edition is July 1, 2016. Building permits issued prior to that date will be vested under the 2012 building code. Permits issued for projects under the 2015 code edition will start with the 2017 construction season.

The construction industry has experienced growth over the period June 2014 to June 2015.

Data from current employment statistics (CES):

Wage and salary workers	2015	2014
Residential building construction	25,600	22,400
Nonresidential building construction	18,700	16,500
Specialty trade contractors	<u>114,200</u>	<u>101,400</u>
Total	158,500	140,300

A copy of the statement may be obtained by contacting Tim Nogler, P.O. Box 41449, Olympia, WA 98504-1449, phone (360) 407-9277, fax (360) 407-9088, e-mail sbcc@ga.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. SBCC is not one of the agencies identified as required to prepare an analysis. However, SBCC intends to prepare an analysis prior to the final adoption of these rules and a copy can be requested using the same information as provided for the small business economic impact statement.

August 4, 2015  
David F. Kokot  
Chair

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-008 Implementation.** The *International Fire Code* adopted by chapter 51-54A WAC shall become

effective in all counties and cities of this state on July 1, (~~2013~~) 2016.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0105 Permits.**

**SECTION 105 SCOPE AND GENERAL REQUIREMENTS**

**105.1.1 Permits required.** Any property owner or authorized agent who intends to conduct an operation or business, or install or modify systems and equipment, which is regulated by this code, or to cause any such work to be done shall first make application to the fire *code official* and obtain the required permit.

**105.6.4 Carbon dioxide systems.** An operational permit is required for carbon dioxide systems having more than 100 pounds of carbon dioxide.

**105.6.4.9 Marijuana extraction systems.** An operational permit is required to use a marijuana/cannabis extraction system regulated under WAC 314-55-104.

**105.7.19 Marijuana extraction systems.** A construction permit is required to install a marijuana/cannabis extraction system regulated under WAC 244-55-104.

**105.7.20 Underground supply piping for automatic sprinkler system.** A construction permit is required for the installation of the portion of the underground water supply piping, public or private, supplying a water-based fire protection system. The permit shall apply to all underground piping and appurtenances downstream of the first control valve on the lateral piping or service line from the distribution main to one foot above finished floor of the facility with the fire protection system. Maintenance performed in accordance with this code is not considered to be a modification and does not require a permit.

- EXCEPTIONS:
1. When the underground piping is installed by the aboveground piping contractor.
  2. Underground piping serves a fire protection system installed in accordance with NFPA 13D.



AMENDATORY SECTION (Amending WSR 14-24-090, filed 12/1/14, effective 5/1/15)

**WAC 51-54A-0202 General definitions.**

**SECTION 202 GENERAL DEFINITIONS**

**ADULT FAMILY HOME.** A dwelling, licensed by Washington state, in which a person or persons provide personal care, special care, room and board to more than one but not more than six adults who are not related by blood or marriage to the person or persons providing the services.

**ALERT SIGNAL.** A distinctive signal indicating the need for trained personnel and occupants to initiate a specific action, such as shelter-in-place.

**ALERT SYSTEM.** Approved devices, equipment and systems or combinations of systems used to transmit or broadcast an alert signal.

**ASSISTED LIVING FACILITY.** A home or other institution, licensed by the state of Washington, providing housing, basic services and assuming general responsibility for the safety and well-being of residents under chapters 18.20 RCW and 388-78A WAC. These facilities may provide care to residents with symptoms consistent with dementia requiring additional security measures.

**CHILD CARE.** For the purposes of these regulations, child care is the care of children during any period of a 24-hour day.

**CHILD CARE, FAMILY HOME.** A child care facility, licensed by Washington state, located in the dwelling of the person or persons under whose direct care and supervision the child is placed, for the care of twelve or fewer children, including children who reside at the home.

**CLUSTER.** Clusters are multiple *portable school classrooms* separated by less than the requirements of the building code for separate buildings.

**COVERED BOAT MOORAGE.** A pier or system of floating or fixed access ways to which vessels on water may be secured and any portion of which are covered by a roof.

**ELECTRICAL CODE.** The National Electrical Code, promulgated by the National Fire Protection Association, as adopted by rule or local ordinance under the authority of chapter 19.28 RCW.

~~((**EMERGENCY DRILL.** An exercise performed to train staff and occupants and to evaluate their efficiency and effectiveness in carrying out emergency procedures.))~~

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

**GRAVITY-OPERATED DROP OUT VENTS.** Automatic smoke and heat vents containing heat-sensitive glazing designed to shrink and drop out of the vent openings when exposed to fire.

**HOSPICE CARE CENTER.** A building or portion thereof used on a 24-hour basis for the provision of hospice services to terminally ill inpatients.

**MOTOR VEHICLE.** Includes, but not limited to, a vehicle, machine, tractor, trailer or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for use upon the highways in the transportation of passengers or property. It does not include a vehicle, locomotive or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service. The term "motor vehicle" also includes freight containers or cargo tanks used, or intended for use, in connection with motor vehicles.

**NIGHTCLUB.** An A-2 Occupancy use under the 2006 International Building Code in which the aggregate area of concentrated use of unfixed chairs and standing space that is specifically designated and primarily used for dancing or viewing performers exceeds three hundred fifty square feet, excluding adjacent lobby areas. "Nightclub" does not include theaters with fixed seating, banquet halls, or lodge halls.

**OCCUPANCY CLASSIFICATION.** For the purposes of this code, certain occupancies are defined as follows:

**Group I-2.** This occupancy shall include buildings and structures used for medical care on a 24-hour basis for more than five persons who are incapable of self-preservation. This group shall include, but not be limited to, the following:

- Foster care facilities
- Detoxification facilities
- Hospice care centers
- Hospitals
- Nursing homes
- Psychiatric hospitals

**Five or fewer persons receiving care.** A facility such as the above with five or fewer persons receiving such care shall be classified as Group R-3 or shall comply with the *International Residential Code* provided an *automatic sprinkler system* is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

**Licensed care facility.** A facility such as the above providing licensed care to clients in one of the categories listed in Section 310.1 of the *International Building Code* licensed by Washington state shall be classified as Group R-2.

**Family home child care.** Family home child care licensed by Washington state for the care of twelve or fewer children shall be classified as Group R-3 or shall comply with the *International Residential Code*.

**Adult care facility.** A facility that provides accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services shall be classified as Group I-4.

**EXCEPTION:** Where the occupants are capable of responding to an emergency situation without physical assistance from the staff, the facility shall be classified as Group R-3.

**Child care facility.** Child care facilities that provide supervision and personal care on a less than 24-hour basis for more than five children 2 1/2 years of age or less shall be classified as Group I-4.

- EXCEPTIONS:
1. A child day care facility that provides care for more than five but no more than 100 children 2 1/2 years or less of age, where the rooms in which the children are cared for are located on a level of exit discharge serving such rooms and each of these child care rooms has an exit door directly to the exterior, shall be classified as Group E.
  2. Family child care homes licensed by Washington state for the care of 12 or fewer children shall be classified as Group R-3.

**Residential Group R.** Residential Group R includes, among others, the use of a building or structure, or a portion thereof, for sleeping purposes when not classified as an Institutional Group I or when not regulated by the *International Residential Code*. This group shall include:

**R-1** Residential occupancies containing sleeping units where the occupants are primarily transient in nature, including:

- Boarding houses (transient) with more than 10 occupants
- Congregate living facilities (transient) with more than 10 occupants
- Hotels (transient)
- Motels (transient)

**R-2** Residential occupancies containing sleeping units or more than two dwelling units where the occupants are primarily permanent in nature, including:

- Apartment houses
- ~~((Assisted living facilities as licensed by Washington state under chapter 388-78A WAC))~~
- Boarding houses (nontransient) with more than 16 occupants
- Congregate living facilities (nontransient) with more than 16 occupants
- Convents
- Dormitories
- Fraternities and sororities
- Hotels (nontransient)
- Live/work units
- Monasteries
- Motels (nontransient)
- Residential treatment facilities as licensed by Washington state under chapter 246-337 WAC
- Vacation timeshare properties

**R-3** Residential occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, or I, including:

- Buildings that do not contain more than two dwelling units.
- Boarding houses (nontransient) with 16 or fewer occupants.
- Boarding houses (transient) with 10 or fewer occupants.
- Care facilities that provide accommodations for five or fewer persons receiving care.
- Congregate living facilities (nontransient) with 16 or fewer occupants.
- Congregate living facilities (transient) with 10 or fewer occupants.

**Care facilities within a dwelling.** Care facilities for five or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the *International Residential Code* provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or with Section P2904 of the *International Residential Code*.

**Adult family homes, family home child care.** Adult family homes and family home child care facilities that are within a single-family home are permitted to comply with the *International Residential Code*.

**Foster family care homes.** Foster family care homes licensed by Washington state are permitted to comply with the *International Residential Code*, as an accessory use to a dwelling, for six or fewer children including those of the resident family.

**R-4** Classification is not adopted. Any reference in this code to R-4 does not apply.

**PORTABLE SCHOOL CLASSROOM.** A prefabricated structure consisting of one or more rooms with direct exterior egress from the classroom(s). The structure is transportable in one or more sections, and is designed to be used as an educational space with or without a permanent foundation. The structure shall be capable of being demounted and relocated to other locations as needs arise.

**RECALL SIGNAL.** An electrically or mechanically operated signal used to recall occupants after an emergency drill or to terminate a shelter-in-place event that shall be distinct from any alarm or alert signal used to initiate an emergency plan, or other signals.

**SHELTER-IN-PLACE.** An emergency response used to minimize exposure of facility occupants to chemical or environmental hazards by taking refuge in predetermined interior rooms or areas where actions are taken to isolate the interior environment from the exterior hazard.

**AMENDATORY SECTION** (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0308 Open flames.**

**308.1.4 Open-flame cooking devices.** This section is not adopted.

**308.1.7 Religious ceremonies.** Participants in religious ceremonies shall not be precluded from carrying hand-held candles. See RCW 19.27.031(3).

**308.1.9 Aisles and exits.** Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

EXCEPTION: Candles used in religious ceremonies.

**308.1.10 Decorative open flame tables.** Gas-fired portable or fixed open flame fire tables and fireplaces are required to be provided with fire code official approved design or protection devices to prevent occupants from using flame, and from flame being exposed to combustible material. A fire extinguisher shall be located within 75 feet of travel distance or a distance as approved by the fire code official. Where located indoors, the supply gas valve will be interlocked with building fire alarm and/or fire sprinklers, where provided.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0402 Definitions.** The following terms are defined in Chapter 2:

ALARM SIGNAL

ALERT SIGNAL

ALERT SYSTEM

((~~EMERGENCY DRILL~~))

SHELTER-IN-PLACE

RECALL SIGNAL

NEW SECTION

**WAC 51-54A-0403 Emergency preparedness requirements.**

**403.3.1 Fire evacuation plan.** The fire safety and evacuation plan required by Section 404 shall include a description of special staff actions. This shall include a description for stabilizing patients in a staged evacuation or full evacuation in conjunction with the entire building, if part of a multitenant facility.

**403.5.4 Assembly points and fire operations.** Assembly points shall not be in areas likely to be utilized for fire service operations.

**403.10.2 Group R-2 occupancies.** Group R-2 occupancies shall comply with Sections 403.10.2.1 through 403.10.2.4.

**403.10.2.4 Group R-2 assisted living and residential care facilities.** Assisted living and residential care facilities licensed by the state of Washington shall comply with Section 403.8.1 as required for Group I-1 Condition 2 occupancies.

**403.10.3 Group R-4 occupancies.** This section not adopted.

**403.12.3 Crowd managers for gatherings exceeding 1,000 people.** Where facilities or events involve a gathering of more than 1,000 people, or as required by the fire *code official*, crowd managers shall be provided in accordance with Sections 403.12.3.1 through 403.12.3.3.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0404 Fire safety and ((~~emergency~~)) evacuation plans.**

((~~404.1 General.~~ Fire safety, evacuation, shelter-in-place plans and associated drills shall comply with the requirements of Sections 404.2 through 404.5.1.)

~~404.2 Fire safety and evacuation plans.~~ Fire safety and evacuation plans shall comply with the requirements of Sections 404.2.1 through 404.2.2.2.

~~404.2.1 Where required.~~ An approved fire safety and evacuation plan shall be prepared and maintained for the following occupancies and buildings:

- ~~1. Group A having an occupant load of 100 or more.~~
- ~~2. Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.~~
- ~~3. Group E.~~
- ~~4. Group F buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.~~
- ~~5. Group H.~~
- ~~6. Group I.~~
- ~~7. Group R-1.~~
- ~~8. Group R-2 college and university buildings. Boarding homes, group homes, and residential treatment facilities licensed by the state of Washington.~~
- ~~9. High-rise buildings.~~
- ~~10. Group M buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.~~
- ~~11. Covered malls exceeding 50,000 square feet (4645 m<sup>2</sup>) in aggregate floor area.~~
- ~~12. Open mall buildings exceeding 50,000 square feet (4645 m<sup>2</sup>) in aggregate area within perimeter line.~~
- ~~13. Underground buildings.~~
- ~~14. Buildings with an atrium and having an occupancy in Group A, E or M.~~

~~404.2.2 Contents.~~ Fire evacuation and safety plan contents shall be in accordance with Sections 404.2.2.1 and 404.2.2.2.

~~404.2.2.1 Fire evacuation plans.~~ Fire evacuation plans shall include the following:

- ~~1. Emergency egress or escape routes and whether evacuation of the building is to be complete or, where approved, by selected floors or areas only.~~
- ~~2. Procedures for employees who must remain to operate critical equipment before evacuating.~~
- ~~3. Procedures for assisted rescue for persons unable to use the general means of egress unassisted.~~
- ~~4. Procedures for accounting for employees and occupants after evacuation has been completed.~~
- ~~5. Identification and assignment of personnel responsible for rescue or emergency medical aid.~~
- ~~6. The preferred and any alternative means of notifying occupants of a fire.~~
- ~~7. The preferred and any alternative means of reporting fires and other emergencies to the fire department or designated emergency response organization.~~
- ~~8. Identification and assignment of personnel who can be contacted for further information or explanation of duties under the plan.~~
- ~~9. A description of the emergency voice/alarm communication system alert tone and preprogrammed voice messages, where provided.~~

~~404.2.2.2 Fire safety plans.~~ Fire safety plans shall include the following:

- ~~1. The procedure for reporting a fire or other emergency.~~
- ~~2. The life safety strategy and procedures for notifying, relocating or evacuating occupants, including occupants who need assistance.~~
- ~~3. Site plans indicating the following:~~
  - ~~3.1. The occupancy assembly point.~~

- 3.2. The locations of fire hydrants.
- 3.3. The normal routes of fire department vehicle access.
- 4. Floor plans identifying the locations of the following:
  - 4.1. Exits.
  - 4.2. Primary evacuation routes.
  - 4.3. Secondary evacuation routes.
  - 4.4. Accessible egress routes.
  - 4.5. Areas of refuge.
  - 4.6. Exterior areas for assisted rescue.
  - 4.7. Manual fire alarm boxes.
  - 4.8. Portable fire extinguishers.
  - 4.9. Occupant use hose stations.
  - 4.10. Fire alarm annunciators and controls.

5. A list of major fire hazards associated with the normal use and occupancy of the premises, including maintenance and housekeeping procedures.

6. Identification and assignment of personnel responsible for maintenance of systems and equipment installed to prevent or control fires.

7. Identification and assignment of personnel responsible for maintenance, housekeeping and controlling fuel hazard sources.

~~404.3 Shelter in place plans.~~ Shelter in place plans shall comply with the requirements of Sections ~~404.3.1 through 404.3.2.~~

~~404.3.1 Where required.~~ A shelter in place plan shall be prepared and maintained for all Group E occupancies.

EXCEPTION: Day cares not collocated on a Group E campus.

~~404.3.2 Shelter in place plan contents.~~ Shelter in place plans shall include the following:

- 1. Identification of the procedures of initiating the shelter in place plan throughout the facility or campus.
- 2. Identification of prearranged alert and recall signals to notify all occupants.
- 3. Identification of procedures for reporting the facility is sheltering in place to the local emergency dispatch center.
- 4. A means of two-way communication between a central location and each secure area, and consideration for maintaining means of communication in absence of primary power.
- 5. Identification of protective security measures.
- 6. Location of emergency supplies.
- 7. Accountability procedures for staff to report the presence or absence of occupants.
- 8. Identification of crisis response team members in accordance with the National Incident Management System.
- 9. Actions to be taken in the event of a fire or medical emergency while sheltering in place.

~~404.4 Maintenance.~~ Emergency plans shall be reviewed or updated annually or as necessitated by changes in staff assignments, occupancy or the physical arrangement of the building.

~~404.5 Availability.~~ Emergency plans shall be available in the workplace for reference and review by employees, and copies shall be furnished to the fire code official for review upon request.) **404.2.3 Lockdown plans.** This section is not adopted.

AMENDATORY SECTION (Amending WSR 13-20-118, filed 10/1/13, effective 11/1/13)

**WAC 51-54A-0405 Emergency evacuation drills.**

**405.1 General.** Emergency drills complying with the provisions of this section shall be conducted at least annually in the occupancies listed in Section ~~((404.2.1))~~ **405.2.1** or when required by the fire code official. Drills shall be designed in cooperation with the local authorities.

**405.2 Frequency.** Required emergency drills shall be held at the intervals specified in Table 405.2 or more frequently where necessary to familiarize all occupants with the drill procedure.

**405.2.1 Group E occupancies.** The occupancy shall conduct at a minimum the following drills during the year:

- 1. One drill using the school mapping information system.

EXCEPTION: Day cares not collocated on a school campus.

- 2. Three fire evacuation drills.
- 3. One shelter-in-place drill.

4. Additional drills shall be as required by RCW 28A.320.125.

**Table 405.2**

**~~((Emergency))~~ Fire and Evacuation Drill Frequency and Participation**

<b>Group or Occupancy</b>	<b>Frequency</b>	<b>Participation</b>
Group A	Quarterly	Employees
<u>Group B<sup>b</sup></u>	<u>Annually</u>	<u>All Occupants</u>
Group B <sup>b,c</sup> <u>(Ambulatory Care Facilities)</u>	Annually	Employees
<u>Group B<sup>b</sup> (Clinic, outpatient)</u>	<u>Annually</u>	<u>Employees</u>
Group E	Monthly <sup>a,e</sup>	All Occupants
Group F	Annually	Employees
Group I-1	<del>((Quarterly))</del> <u>Semi-annually</u> on each shift	<del>((Employees<sup>b</sup>))</del> <u>All Occupants</u>
<u>Group I-2</u>	<u>Quarterly on each shift<sup>a</sup></u>	<u>Employees</u>
<u>Group I-3</u>	<u>Quarterly on each shift<sup>a</sup></u>	<u>Employees</u>
<u>Group I-4</u>	<u>Quarterly on each shift<sup>a</sup></u>	<u>All Occupants</u>
Group R-1	Quarterly on each shift	Employees
Group R-2 <sup>f</sup>	Quarterly on each shift	Employees

Group or Occupancy	Frequency	Participation
Group R-2 <sup>d</sup>	Four Annually	All Occupants
High-rise buildings	Annually	Employees

- ~~(<sup>a</sup>The frequency shall be allowed to be modified in accordance with Section 408.3.2.~~
- ~~b Fire and evacuation drills in residential care assisted living facilities shall include complete evacuation of the premises in accordance with Section 408.10.5. Where occupants receive habilitation or rehabilitation training, fire prevention and fire safety practices shall be included as part of the training program.~~
- ~~e Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the lowest level of exit discharge.)~~
- ~~a In severe climates, the fire code official shall have the authority to modify the emergency evacuation drill frequency.~~
- ~~b Emergency evacuation drills are required in Group B buildings having an occupant load of 500 or more persons or more than 100 persons above or below the level of exit discharge.~~
- ~~c Emergency evacuation drills are required in ambulatory care facilities in accordance with Section 403.3.~~
- ~~d ((Applicable to)) Emergency evacuation drills in Group R-2 college and university buildings shall be in accordance with Section ((408.3)) 403.10.2.1. Other Group R-2 occupancies shall be in accordance with Section 403.10.2.2.~~
- ~~e Day cares collocated on a Group E campus shall participate in emergency drills occurring on the campus.~~
- ~~f Applicable to ((boarding homes;)) group homes((; and residential treatment facilities)) licensed by the state of Washington. Emergency evacuation drills for assisted living facilities and residential treatment facilities licensed by the state of Washington are required to meet the requirements of Group I-1.~~

**405.4 Time.** Drills shall be held at unexpected times and under varying conditions to simulate the unusual conditions that occur in case of an emergency.

**405.5 Recordkeeping.** Records shall be maintained of required emergency evacuation drills and include the following information:

1. Identity of the person conducting the drill.
2. Date and time of the drill.
3. Notification method used.
4. Staff members on duty and participating.
5. Number of occupants participating.
6. Special conditions simulated.
7. Problems encountered and corrective actions taken.
8. Weather conditions when occupants were evacuated.
9. Time required to accomplish complete evacuation, or shelter-in-place.

**405.6 Notification.** Where required by the fire code official, prior notification of emergency evacuation drills shall be given to the fire code official.

**405.7 Initiation.** Emergency drills shall be initiated in accordance with Sections 405.7.1 through ~~((405.7.2))~~ 405.7.3.

**405.7.1 Fire evacuation drills.** Where a fire alarm system is provided, emergency evacuation drills shall be initiated by activating the fire alarm system. The fire alarm monitoring company shall be notified prior to the activation of the fire alarm system for drills proposed and again at the conclusion

of the transmission and restoration of the fire alarm system to normal mode.

EXCEPTION: Drills conducted between the hours of 9:00 p.m. and 6:00 a.m., in ~~((Group R-2 boarding homes))~~ assisted living facilities, group homes, and residential treatment facilities licensed by the state of Washington.

**405.7.2 Shelter-in-place drills.** Shelter-in-place drills shall be initiated by the shelter-in-place alert signal, generated by ~~((the))~~ an alerting system in accordance with Section ~~((915))~~ 907.5.2.

**405.8 Accountability.** As building occupants arrive at the assembly point, efforts shall be made to determine if all occupants have been successfully evacuated and/or have been accounted for in the shelter-in-place.

**405.9 Recall and reentry.** The recall signal initiation shall be manually operated and under the control of the person in charge of the premises or the official in charge of the incident. No one shall reenter the premises until authorized to do so by the official in charge.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0406 Employee training and response procedures.**

**406.1 General.** Employees in the occupancies listed in Section ~~((404.2.1))~~ 403 shall be trained in the emergency procedures described in their emergency plans. Training shall be based on these plans and as described in Section 404.2 and 404.3.

**406.2 Frequency.** Employees shall receive training in the contents of the emergency plans and their duties as part of new employee orientation and at least annually thereafter. Records shall be kept and made available to the fire code official upon request.

**406.3 Employee training program.** Employees shall be trained in fire prevention, evacuation, sheltering-in-place, and fire safety in accordance with Sections 406.3.1 through 406.3.3.

~~((406.3.3))~~ **406.3.1 Fire prevention training.** Employees shall be apprised of the fire hazards of the materials and processes to which they are exposed. Each employee shall be instructed in the proper procedures for preventing fires in the conduct of their assigned duties.

**406.3.2 Evacuation training.** Employees shall be familiarized with the fire alarm and evacuation signals, their assigned duties in the event of an alarm or emergency, evacuation routes, areas of refuge, exterior assembly areas and procedures for evacuation.

**406.3.3 Fire safety training.** Employees assigned firefighting duties shall be trained to know the locations and proper use of portable fire extinguishers or other manual firefighting equipment and the protective clothing or equipment required for its safe and proper use.

**406.3.4 Emergency shelter-in-place training.** Where a facility has a shelter-in-place plan, employees shall be trained on the alert and recall signals, communication system, location of emergency supplies, the use of the incident notification and alarm system, and their assigned duties and procedures in the event of an alarm or emergency.

**406.4 Emergency lockdown training.** This section is not adopted.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0408 ((Use and occupancy related requirements:)) Reserved.**

**((408.10 Group R-4 occupancies. This section is not adopted.))**

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0507 Fire protection water supplies.**

**507.3 Fire flow.** Fire flow requirements for buildings or portions of buildings and facilities shall be determined by an approved method.

**EXCEPTIONS:**

1. Fire flow is not required for structures under 500 square feet with a B, U or R-1 occupancy where structures are at least 30 feet from any other structure and are used only for recreation.
2. In rural and suburban areas in which adequate and reliable water supply systems do not exist, the fire code official is authorized to utilize NFPA 1142 or the *International Wildland-Urban Interface Code*.

AMENDATORY SECTION (Amending WSR 13-24-076, filed 12/2/13, effective 4/1/14)

**WAC 51-54A-0605 Electrical equipment, wiring and hazards.**

**605.11 Solar photovoltaic power systems.** Installation, modification, or alteration of solar photovoltaic power systems shall comply with this section. Due to the emerging technologies in the solar photovoltaic industry, it is understood fire code officials may need to amend prescriptive requirements of this section to meet the requirements for firefighter access and product installations. Section 104.9 Alternative materials and methods of this code shall be considered when approving the installation of solar photovoltaic power systems. Solar photovoltaic power systems shall be installed in accordance with Sections 605.11.1 through ((605.11.4)) 605.11.2, the *International Building Code* and ((NFPA-70)) chapter 19.28 RCW.

**(EXCEPTION:** Detached, nonhabitable Group U structures shall not be subject to the requirements of Sections 605.11.2 through 605.11.3.3.3.

~~605.11.1.2 Marking content. The marking shall contain the words "PHOTOVOLTAIC POWER SOURCE."~~

~~605.11.2 Locations of DC conductors. Conduit, wiring systems, and raceways for photovoltaic circuits shall be located~~

~~as close as possible to the ridge or hip or valley and from the hip or valley as directly as possible to an outside wall to reduce trip hazards and maximize ventilation opportunities. Conduit runs between sub arrays and to DC combiner boxes shall be installed in a manner that minimizes the total amount of conduit on the roof by taking the shortest path from the array to the DC combiner box. The DC combiner boxes shall be located such that conduit runs are minimized in the pathways between arrays. DC wiring shall be installed in metallic conduit or raceways when located within enclosed spaces in a building.~~

~~605.11.3 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 605.11.3.1 through 605.11.3.3.3.~~

**EXCEPTIONS:**

1. Residential structures shall be designed so that each photovoltaic array is no greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in either axis.
2. Panels/modules shall be located up to the roof ridge where an alternative ventilation method approved by the fire code official has determined vertical ventilation techniques will not be employed.

~~605.11.3.2 Residential systems for one and two family dwellings. Access to residential systems for one and two family dwellings shall be provided in accordance with Sections 605.11.3.2.1 through 605.11.3.2.4.~~

**EXCEPTIONS:**

1. Residential dwellings with an approved automatic fire sprinkler system installed.
2. Residential dwellings with approved mechanical or passive ventilation systems.
3. Where the fire code official determines that the slope of the roof is too steep for emergency access.
4. Where the fire code official determines that vertical ventilation tactics will not be utilized.
5. These requirements shall not apply to roofs where the total combined area of the solar array does not exceed thirty-three percent as measured in plan view of the total roof area of the structure, where the solar array will measure 1,000 sq. ft. or less in area, and where a minimum eighteen inches unobstructed pathway shall be maintained along each side of any horizontal ridge.

~~605.11.3.2.3 Residential buildings with roof hips and valleys. Panels/modules installed on residential buildings with roof hips and valleys shall be located no closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley, the panels shall be permitted to be placed directly adjacent to the hip or valley.~~

**EXCEPTION:** These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

~~605.11.3.2.4 Residential building smoke ventilation. Panels/modules installed on residential buildings shall be located no higher than 18 inches (457 mm) below the ridge in order to allow for fire department rooftop operations.~~

~~605.11.4)) 605.11.1 Access and pathways. Roof access, pathways, and spacing requirements shall be provided in accordance with Sections 605.11.1.1 through 605.11.1.3.3.~~

**EXCEPTIONS:**

1. Detached, nonhabitable Group U structures including, but not limited to, parking shade structures, carports, solar trellises and similar structures.

2. Roof access, pathways and spacing requirements need not be provided where the fire chief has determined that rooftop operations will not be employed.

**605.11.1.1 Roof access points.** Roof access points shall be located in areas that do not require the placement of ground ladders over openings such as windows or doors, and located at strong points of building construction in locations where the access point does not conflict with overhead obstructions such as tree limbs, wires or signs.

**605.11.1.2 Solar photovoltaic systems for Group R-3 buildings.** Solar photovoltaic systems for Group R-3 buildings shall comply with Sections 605.11.1.2.1 through 605.11.1.2.5.

EXCEPTION: These requirements shall not apply to structures designed and constructed in accordance with the *International Residential Code*. 1.1.1 Roof access points.

**605.11.1.2.1 Size of solar photovoltaic array.**

1. Each photovoltaic array shall be limited to 150 feet (45,720 mm) by 150 feet (45,720 mm). Multiple arrays shall be separated by a 3-foot wide (914 mm) clear access pathway.

2. Panels/modules shall be located up to the roof ridge where an alternative ventilation method approved by the fire code official has determined vertical ventilation techniques will not be employed.

**605.11.1.2.2 Hip roof layouts.** Panels and modules installed on Group R-3 buildings with hip roof layouts shall be located in a manner that provides a 3-foot wide (914 mm) clear access pathway from the eave to the ridge on each roof slope where panels and modules are located. The access pathway shall be at a location on the building capable of supporting the firefighters accessing the roof.

EXCEPTION: These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

**605.11.1.2.3 Single-ridge roofs.** Panels and modules installed on Group R-3 buildings with a single ridge shall be located in a manner that provides two, 3-foot wide (914 mm) access pathways from the eave to the ridge on each roof slope where panels and modules are located.

EXCEPTION: This requirement shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

**605.11.1.2.4 Roofs with hips and valleys.** Panels and modules installed on Group R-3 buildings with roof hips and valleys shall not be located closer than 18 inches (457 mm) to a hip or a valley where panels/modules are to be placed on both sides of a hip or valley. Where panels are to be located on only one side of a hip or valley that is of equal length, the panels shall be permitted to be placed directly adjacent to the hip or valley.

EXCEPTION: These requirements shall not apply to roofs with slopes of two units vertical in 12 units horizontal (2:12) or less.

**605.11.1.2.5 Allowance for smoke ventilation operations.** Panels and modules installed on Group R-3 buildings shall be located not less than 18 inches (457 mm) from the ridge in order to allow for fire department smoke ventilation operations.

EXCEPTION: Panels and modules shall be permitted to be located up to the roof ridge where an alternative ventilation method approved by the fire chief has been provided or where the fire chief has determined vertical ventilation techniques will not be employed.

**605.11.1.3 Other than Group R-3 buildings.** Access to systems for buildings, other than those containing Group R-3 occupancies, shall be provided in accordance with Sections 605.11.1.3.1 through 605.11.1.3.3.

EXCEPTION: Where it is determined by the fire code official that the roof configuration is similar to that of a Group R-3 occupancy, the residential access and ventilation requirements in Sections 605.11.1.2.1 through 605.11.1.2.5 shall be permitted to be used.

**605.11.1.3.1 Access.** There shall be a minimum 6-foot wide (1829 mm) clear perimeter around the edges of the roof.

EXCEPTION: Where either axis of the building is 250 feet (76,200 mm) or less, the clear perimeter around the edges of the roof shall be permitted to be reduced to a minimum 4-foot wide (1290 mm).

**605.11.1.3.2 Pathways.** The solar installation shall be designed to provide designated pathways. The pathways shall meet the following requirements:

1. The pathway shall be over areas capable of supporting firefighters accessing the roof.

2. The centerline axis pathways shall be provided in both axes of the roof. Centerline axis pathways shall run where the roof structure is capable of supporting firefighters accessing the roof.

3. Pathways shall be a straight line not less than 4 feet (1290 mm) clear to roof standpipes or ventilation hatches.

4. Pathways shall provide not less than 4 feet (1290 mm) clear around roof access hatch with not less than one singular pathway not less than 4 feet (1290 mm) clear to a parapet or roof edge.

**605.11.1.3.3 Smoke ventilation.** The solar installation shall be designed to meet the following requirements:

1. Arrays shall be not greater than 150 feet (45,720 mm) by 150 feet (45,720 mm) in distance in either axis in order to create opportunities for fire department smoke ventilation operations.

2. Smoke ventilation options between array sections shall be one of the following:

2.1. A pathway 8 feet (2438 mm) or greater in width.

2.2. A 4-foot (1290 mm) or greater in width pathway and bordering roof skylights or gravity-operated dropout smoke and heat vents on not less than one side.

2.3. A 4-foot (1290 mm) or greater in width pathway and bordering all sides of nongravity-operated dropout smoke and heat vents.

2.4. A 4-foot (1290 mm) or greater in width pathway and bordering 4-foot by 8-foot (1290 mm by 2438 mm) "venting cutouts" every 20 feet (6096 mm) on alternating sides of the pathway.

**605.11.2 Ground-mounted photovoltaic arrays.** Ground-mounted photovoltaic arrays shall comply with Section(s) 605.11 (~~through 605.11.2~~) and this section. Setback requirements shall not apply to ground-mounted, free-standing photovoltaic arrays.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0609 Commercial kitchen hoods.**

**[M] 609.2 Where required.** A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease laden vapors.

- EXCEPTIONS:
1. A Type I hood shall not be required for an electric cooking appliance where an approved testing agency provides documentation that the appliance effluent contains 5 mg/m<sup>3</sup> or less of grease when tested at an exhaust flow rate of 500 cfm (0.236 m<sup>3</sup>/s) in accordance with Section 17 of UL 710B.
  2. A Type I hood shall not be required to be installed in an R-2 occupancy with not more than 16 residents.

**609.2.1 Domestic cooking appliances used for commercial purposes.** Domestic cooking appliances utilized for commercial purposes shall be provided with Type I, Type II or residential hoods as required for the type of appliances and processes in accordance with Table 609.2.1 and Sections 507.2, 507.2.1 and 507.2.2 of the *International Mechanical Code*.

**Table 609.2.1**

**Type of Hood Required for Domestic Cooking Appliances in the Following Spaces<sup>a,b</sup>**

Type of Space	Type of Cooking	Type of Hood
Church	1. Boiling, steaming and warming precooked food	Type II hood
	2. Roasting, pan frying and deep frying	Type I hood
Community or party room in apartment and condominium	1. Boiling, steaming and warming precooked food	Residential hood <sup>c</sup> or Type II hood <sup>d</sup>
	2. Roasting, pan frying and deep frying	Type I hood
Day care	1. Boiling, steaming and warming precooked food	Residential hood <sup>c</sup> or Type II hood <sup>d</sup>
	2. Roasting, pan frying and deep frying	Type I hood
Dormitory, ((boarding home)) assisted living facility, nursing home	1. Boiling, steaming and warming precooked food	Type II hood
	2. Roasting, pan frying and deep frying	Type I hood

Type of Space	Type of Cooking	Type of Hood
Office lunch room	1. Boiling, steaming and warming precooked food	Residential hood <sup>c</sup> or Type II hood <sup>d</sup>
	2. Roasting, pan frying and deep frying	Type I hood

<sup>a</sup> Commercial cooking appliances shall comply with Section 507.2 of the *International Mechanical Code*.

<sup>b</sup> Requirements in this table apply to electric or gas fuel appliances only. Solid fuel appliances or charbroilers require Type I hoods.

<sup>c</sup> Residential hood shall ventilate to the outside.

<sup>d</sup> Type II hood required when more than one appliance is used.

**609.3 Operations, inspection and maintenance.** Commercial cooking systems shall be operated, inspected and maintained in accordance with Sections 609.3.1 through 609.3.4 and Chapter 11 of NFPA 96.

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

NEW SECTION

**WAC 51-54A-0901 General.**

**901.4.2 Nonrequired fire protection systems.** A fire protection system or portion thereof not required by this code or the *International Building Code* shall be allowed to be furnished for partial or complete protection provided such installed system meets the applicable requirements of this code and the *International Building Code*. Such systems or portion of system shall be provided with signage stating "NON-REQUIRED SYSTEM." Signage shall be durable and permanent in nature, with contrasting color and background, and with lettering of not less than 1 inch in height. Location of such signage shall be approved.

**901.8.2 Removal of existing occupant-use hose lines.** The fire code official is authorized to permit the removal of existing occupant-use hose lines where all of the following conditions exist:

1. Installation is not required by this code, the *International Building Code*, or a previously approved alternative method.
2. The hose line would not be utilized by trained personnel or the fire department.
3. The remaining outlets are compatible with local fire department fittings.

AMENDATORY SECTION (Amending WSR 14-24-090, filed 12/1/14, effective 5/1/15)

**WAC 51-54A-0903 Automatic sprinkler systems.**

**903.2.1.6 ((Nightclub. An automatic sprinkler system shall be provided throughout Group A-2 nightclubs as defined in this code.)) Assembly occupancies on roofs.** Where an occupied roof has an assembly occupancy with an occupant



load exceeding 100 for Group A-2, and 300 for other Group A occupancies, the building shall be equipped with an automatic sprinkler system in accordance with Section 903.3.1.1 or 903.3.1.2.

EXCEPTION: Open parking garages of Type I or Type II construction.

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

**903.2.3 Group E.** An automatic sprinkler system shall be provided for Group E (~~occupancies~~) fire areas.

EXCEPTIONS:

1. Portable school classrooms with an occupant load of 50 or less calculated in accordance with Table 1004.1.2, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
2. Portable school classrooms with an occupant load from 51 through 98, calculated in accordance with Table 1004.1.2, and provided with two means of direct independent exterior egress from each classroom in accordance with Chapter 10, and one exit from each class room shall be accessible, provided that the aggregate area of any cluster of portable classrooms does not exceed 6,000 square feet (557 m<sup>2</sup>); and clusters of portable school classrooms shall be separated as required by the building code; or
3. An automatic sprinkler system is not required in Group E occupancies with an occupant load of 50 or less within the Group E occupancy, calculated in accordance with Table 1004.1.2.
4. An automatic sprinkler system is not required in Group E day care and preschool facilities with an occupant load of 100 or less, when located at the level of exit discharge, where every room in which care is provided has not fewer than one exterior exit door.

**903.2.6 Group I.** An automatic sprinkler system shall be provided throughout buildings with a Group I fire area.

EXCEPTIONS:

1. An automatic sprinkler system installed in accordance with Section 903.3.1.2 shall be permitted in Group I-1 Condition 1 facilities.
2. An automatic sprinkler system is not required in Group I-4 day care facilities with an occupant load of 100 or less, when located at the level of exit discharge, where every room in which care is provided has not fewer than one exterior exit door.
3. In buildings where Group I-4 day care is provided on levels other than the level of exit discharge, an automatic sprinkler system in accordance with Section 903.3.1.1 shall be installed on the entire floor where care is provided, all floors between the level of care and the level of exit discharge, and all floors below the level of exit discharge other than areas classified as an open parking garage.
4. Where new construction or additions house less than sixteen persons receiving care, an automatic sprinkler system installed in accordance with Section 903.2.8.3 shall be permitted for Group I-1, Condition 2, assisted living facilities licensed under chapter 388-78A WAC and residential treatment facilities licensed under chapter 246-337 WAC.

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

EXCEPTION: Group R-1 if all of the following conditions apply:

1. The Group R fire area is no more than 500 square feet and is used for recreational use only.
2. The Group R fire area is on only one story.
3. The Group R fire area does not include a basement.
4. The Group R fire area is no closer than 30 feet from another structure.
5. Cooking is not allowed within the Group R fire area.
6. The Group R fire area has an occupant load of no more than 8.
7. A hand-held (portable) fire extinguisher is in every Group R fire area.

**903.2.11.1.3 Basements.** Where any portion of a basement is located more than 75 feet (22,860 mm) from openings required by Section 903.2.11.1, or where new walls, partitions or other similar obstructions are installed that increase the exit access travel distance to more than 75 feet, the basement shall be equipped throughout with an approved automatic sprinkler system.

**903.2.11.7 Relocatable buildings within buildings.** Relocatable buildings or structures located within a building with an approved fire sprinkler system shall be provided with fire sprinkler protection within the occupiable space of the building and the space underneath the relocatable building.

EXCEPTIONS:

1. Sprinkler protection is not required underneath the building when the space is separated from the adjacent space by construction resisting the passage of smoke and heat and combustible storage will not be located there.
2. If the building or structure does not have a roof or ceiling obstructing the overhead sprinklers.

**903.3.5.3 Underground portions of fire protection system water supply piping.** The installation or modification of an underground water main, public or private, supplying a water-based fire protection system shall be in accordance with NFPA 24 and chapter 18.160 RCW. Piping and appurtenances downstream of the first control valve on the lateral or service line from the distribution main to one-foot above finished floor shall be approved by the fire code official. Such underground piping shall be installed by a fire sprinkler system contractor licensed in accordance with chapter 18.160 RCW and holding either a Level U or a Level 3 license. For underground piping supplying systems installed in accordance with Section 903.3.1.2, a Level 2, 3, or U licensed contractor is acceptable.

EXCEPTION: Portions of underground piping supplying automatic sprinkler systems installed in accordance with NFPA 13D.

#### NEW SECTION

**WAC 51-54A-0904 Alternative automatic fire-extinguishing systems.**

**904.12 Commercial cooking systems.** The automatic fire-extinguishing system for commercial cooking systems shall be of a type recognized for protection of commercial cooking equipment and exhaust systems of the type and arrangement

protected. Preengineered automatic dry and wet chemical extinguishing systems shall be tested in accordance with UL 300 and listed and labeled for the intended application. Other types of automatic fire-extinguishing systems shall be listed and labeled for specific use as protection for commercial cooking operations. The system shall be installed in accordance with this code, its listing and the manufacturer's installation instructions. Signage shall be provided on the exhaust hood or system cabinet, indicating the type and arrangement of cooking appliances protected by the automatic fire-extinguishing system. Signage shall indicate appliances from left to right, be durable, and the size, color, and lettering shall be approved. Automatic fire-extinguishing systems of the following types shall be installed in accordance with the referenced standard indicated, as follows:

1. Carbon dioxide extinguishing systems, NFPA 12;
2. *Automatic sprinkler systems*, NFPA 13;
3. Foam-water sprinkler systems or foam-water spray systems, NFPA 16;
4. Dry-chemical extinguishing systems, NFPA 17;
5. Wet-chemical extinguishing systems, NFPA 17A.

EXCEPTION: Factory-built commercial cooking recirculating systems that are tested in accordance with UL 710B and *listed, labeled* and installed in accordance with Section 304.1 of the *International Mechanical Code*.

**AMENDATORY SECTION** (Amending WSR 14-24-091, filed 12/1/14, effective 5/1/15)

**WAC 51-54A-0907 Fire alarm and detection systems.**

**907.2.3 Group E.** A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group E occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTIONS:

1. A manual fire alarm system is not required in Group E occupancies with an occupant load of 50 or less.
2. Emergency voice/alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group E occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.
3. Manual fire alarm boxes are not required in Group E occupancies where all of the following apply:
  - 3.1 Interior corridors are protected by smoke detectors.
  - 3.2 Auditoriums, cafeterias, gymnasiums and similar areas are protected by heat detectors or other approved detection devices.
  - 3.3 Shops and laboratories involving dusts or vapors are protected by heat detectors or other approved detection devices.

4. Manual fire alarm boxes shall not be required in Group E occupancies where the building is equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1, the emergency voice/alarm communication system will activate on sprinkler water flow and manual activation.

**907.2.6.1 Group I-1.** An automatic smoke detection system shall be installed in corridors, waiting areas open to corridors and habitable spaces other than sleeping units and kitchens. The system shall be activated in accordance with Section 907.4.

EXCEPTIONS:

1. For Group I-1 Condition 1 occupancies, smoke detection in *habitable spaces* is not required where the facility is equipped throughout with an *automatic sprinkler system* installed in accordance with Section 903.3.1.1.
2. Smoke detection is not required for exterior balconies.

**907.2.6.4 Group I-4 occupancies.** A manual fire alarm system that initiates the occupant notification signal utilizing an emergency voice/alarm communication system meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall be installed in Group I-4 occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system.

EXCEPTIONS:

1. A manual fire alarm system is not required in Group I-4 occupancies with an occupant load of 50 or less.
2. Emergency voice alarm communication systems meeting the requirements of Section 907.5.2.2 and installed in accordance with Section 907.6 shall not be required in Group I-4 occupancies with occupant loads of 100 or less, provided that activation of the manual fire alarm system initiates an approved occupant notification signal in accordance with Section 907.5.

**907.2.9.1.1 Group R-2 ((~~boarding homes~~)) assisted living facilities.** A manual fire alarm system that activates the occupant notification system in accordance with Section 907.5 shall be installed in Group R-2 occupancies where the building contains ((~~a boarding home~~)) an assisted living facility licensed by the state of Washington.

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

EXCEPTIONS:

1. Manual fire alarm boxes in resident sleeping areas shall not be required at exits if located at all care providers' control stations or other constantly attended staff locations, provided such staff locations are visible and continuously accessible and that the distances of travel required in Section 907.4.2.1 are not exceeded.
2. The manual fire alarm system that activates the occupant notification system is not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official and staff evacuation responsibilities are included in the fire safety and evacuation plan required by Section 404.

**907.2.9.4 Group R-2 assisted living facilities.** An automatic smoke detection system that activates the occupant notification

tion system in accordance with Section 907.5 shall be installed in corridors, waiting areas open to corridors and habitable spaces other than sleeping units and kitchens located in Group R-2 assisted living facilities licensed by the state of Washington.

EXCEPTIONS: 1. Smoke detection is not required for exterior balconies.  
2. Occupant notification systems are not required to be activated where private mode signaling installed in accordance with NFPA 72 is approved by the fire code official and staff evacuation responsibilities are included in the fire safety and evacuation plan required by Section 404.

**907.5.2.1.2 Maximum sound pressure.** The maximum sound pressure level for audible alarm notification appliances shall be 110 dBA at the minimum hearing distance from the audible appliance. For systems operating in public mode, the maximum sound pressure level shall not exceed 30 dBA over the average ambient sound level. Where the average ambient noise is greater than 95 dBA, visible alarm notification appliances shall be provided in accordance with NFPA 72 and audible alarm notification appliances shall be required.

**907.10 NICET: National Institute for Certification in Engineering Technologies.**

**907.10.1 Scope.** This section shall apply to new and existing fire alarm systems.

**907.10.2 Design review:** All construction documents shall be reviewed by a NICET III in fire alarms or a licensed professional engineer (PE) in Washington prior to being submitted for permitting. The reviewing professional shall submit a stamped, signed, and dated letter; or a verification method approved by the local authority having jurisdiction indicating the system has been reviewed and meets or exceeds the design requirements of the state of Washington and the local jurisdiction (effective July 1, 2017).

**907.10.3 Installation/maintenance:** All installation, inspection, testing, maintenance and programming not defined as "Electrical Work" by chapter 19.28 RCW shall be completed by a NICET II in fire alarms (effective July 1, 2017).

**AMENDATORY SECTION** (Amending WSR 13-24-017, filed 11/21/13, effective 4/1/14)

**WAC 51-54A-0908 ((Emergency alarm systems.)) Reserved.**

~~((908.7 Carbon monoxide alarms. Group I or Group R occupancies shall be provided with single station carbon monoxide alarms installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units or sleeping units and on each level of the dwelling. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720-2012 and the manufacturer's instructions.~~

EXCEPTIONS: 1. For other than R-2 occupancies, the building does not contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; or

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

- The sleeping unit or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
- The sleeping unit or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and
- The building is provided with a common area carbon monoxide detection system.

3. An open parking garage, as defined in Chapter 2 of the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be considered an attached garage.

~~**908.7.1 Carbon monoxide detection systems.** Carbon monoxide detection systems, that include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720-2012 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075-))~~

**AMENDATORY SECTION** (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0909 ((Smoke control systems.)) Reserved.**

~~((909.21 Elevator hoistway pressurization alternative. Where elevator hoistway pressurization is provided in lieu of required enclosed elevator lobbies, the pressurization system shall comply with Sections 909.21.1 through 909.21.13.~~

~~**909.21.1 Pressurization requirements.** Elevator hoistways shall be pressurized to maintain a minimum positive pressure of 0.10 inches of water (25 Pa) and a maximum positive pressure of 0.25 inches of water (67 Pa) with respect to adjacent occupied space on all floors. This pressure shall be measured at the midpoint of each hoistway door, with all elevator cars at the floor of recall and all hoistway doors on the floor of recall open and all other hoistway doors closed. The opening and closing of hoistway doors at each level must be demonstrated during this test. The supply air intake shall be from an outside uncontaminated source located a minimum distance of 20 feet (6096 mm) from any air exhaust system or outlet.~~

~~**909.21.2 Rational analysis.** A rational analysis complying with Section 909.4 shall be submitted with the construction documents.~~

~~**909.21.3 Ducts for system.** Any duct system that is part of the pressurization system shall be protected with the same fire resistance rating as required for the elevator shaft enclosure.~~

~~909.21.4 Fan system.~~ The fan system provided for the pressurization system shall be as required by Sections 909.21.4.1 through 909.21.4.4.

~~909.21.4.1 Fire resistance.~~ When located within the building, the fan system that provides the pressurization shall be protected with the same fire resistance rating required for the elevator shaft enclosure.

~~909.21.4.2 Smoke detection.~~ The fan system shall be equipped with a smoke detector that will automatically shut down the fan system when smoke is detected within the system.

~~909.21.4.3 Separate systems.~~ A separate fan system shall be used for each elevator hoistway.

~~909.21.4.4 Fan capacity.~~ The supply fan shall either be adjustable with a capacity of at least 1,000 cfm (0.4719 m<sup>3</sup>/s) per door, or that specified by a registered design professional to meet the requirements of a designed pressurization system.

~~909.21.5 Standby power.~~ The pressurization system shall be provided with standby power from the same source as other required emergency systems for the building.

~~909.21.6 Activation of pressurization system.~~ The elevator pressurization system shall be activated upon activation of the building fire alarm system or upon activation of the elevator lobby smoke detectors. Where both a building fire alarm system and elevator lobby smoke detectors are present, each shall be independently capable of activating the pressurization system.

~~909.21.7 Special inspection.~~ Special inspection for performance shall be required in accordance with Section 909.18.8. System acceptance shall be in accordance with Section 909.19.

~~909.21.8 Marking and identification.~~ Detection and control systems shall be marked in accordance with Section 909.14.

~~909.21.9 Control diagrams.~~ Control diagrams shall be provided in accordance with Section 909.15.

~~909.21.10 Control panel.~~ A control panel complying with Section 909.16 shall be provided.

~~909.21.11 System response time.~~ Hoistway pressurization systems shall comply with the requirements for smoke control system response time in Section 909.17.

~~909.21.12 Hoistway venting.~~ Hoistway venting required by Section 3004 of the International Building Code need not be provided for pressurized elevator shafts.

~~909.21.13 Machine rooms.~~ Elevator machine rooms shall be pressurized in accordance with this section unless separated from the hoistway shaft by construction in accordance with Section 707 of the International Building Code.))

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-0915 ((Alerting systems-)) Carbon monoxide detection.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

915.1 General. Carbon monoxide detection shall be installed in new buildings in accordance with Sections 915.1.1 through 915.6. Carbon monoxide detection shall be installed in existing buildings in accordance with Chapter 11 of the *International Fire Code*.

915.1.1 Where required. Carbon monoxide detection shall be provided in Group I and R occupancies and in classrooms in Group E occupancies in the locations specified in Section

915.2 where any of the conditions in Sections 915.1.2 through 915.1.6 exist.

**EXCEPTIONS:**

1. R-2 occupancies, with the exception of R-2 college dormitories, are required to install carbon monoxide detectors without exception.
2. Sleeping units or dwelling units in I and R-1 occupancies and R-2 college dormitories, hotel, DOC prisons and work releases and assisted living facilities and residential treatment facilities licensed by the state of Washington, which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that they comply with the exceptions of Section 915.1.4.

**915.1.2 Fuel-burning appliances and fuel-burning fireplaces.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms that contain a fuel-burning appliance or a fuel-burning fireplace.

**915.1.3 Forced-air furnaces.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms served by a fuel-burning, forced-air furnace.

**EXCEPTION:** Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in the first room or area served by each main duct leaving the furnace, and the carbon monoxide alarm signals are automatically transmitted to an approved location.

**915.1.4 Fuel-burning appliances outside of dwelling units, sleeping units and classrooms.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms located in buildings that contain fuel-burning appliances or fuel-burning fireplaces.

**EXCEPTIONS:**

1. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where there are no communicating openings between the fuel-burning appliance or fuel-burning fireplace and the dwelling unit, sleeping unit or classroom.
2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in one of the following locations:
  - 2.1 In an approved location between the fuel burning appliance or fuel burning fireplace, and the dwelling unit, sleeping unit or classroom.
  - 2.2 On the ceiling of the room containing the fuel burning appliance or fuel burning fireplace.

**915.1.5 Private garages.** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms in buildings with attached private garages.

**EXCEPTIONS:**

1. Carbon monoxide detection shall not be required where there are no communicating openings between the private garage and the dwelling unit, sleeping unit or classroom.
2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms located more than one story above or below a private garage.
3. Carbon monoxide detection shall not be required where the private garage connects to the building through an open-ended corridor.

4. Where carbon monoxide detection is provided in an approved location between openings to a private garage and dwelling units, sleeping units or classrooms, carbon monoxide detection shall not be required in the dwelling units, sleeping units or classrooms.

**915.1.6 Exempt garages.** For determining compliance with Section 915.1.5, an open parking garage complying with Section 406.5 of the *International Building Code* or an enclosed parking garage complying with Section 406.6 of the *International Building Code* shall not be considered a private garage.

**915.2 Locations.** Where required by Section 915.1.1, carbon monoxide detection shall be installed in the locations specified in Sections 915.2.1 through 915.2.3.

**915.2.1 Dwelling units.** Carbon monoxide detection shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms and on each level of the dwelling. Where a fuel-burning appliance or a fuel-burning fireplace is located within a bedroom or its attached bathroom, carbon monoxide detection shall be installed within the bedroom.

**915.2.2 Sleeping units.** Carbon monoxide detection shall be installed in *sleeping units*.

**EXCEPTION:** Carbon monoxide detection shall be allowed to be installed outside of each separate sleeping area in the immediate vicinity of the sleeping unit where the sleeping unit or its attached bathroom does not contain a fuel-burning appliance or fuel-burning fireplace and is not served by a forced air furnace.

**915.2.3 Group E occupancies.** When required by Section 915.1 in new buildings, or by Chapter 11 of the *International Fire Code*, carbon monoxide detection shall be installed in classrooms in Group E occupancies. Carbon monoxide alarm signals shall be automatically transmitted to an on-site location that is staffed by school personnel.

**EXCEPTIONS:**

1. Carbon monoxide alarm signals shall not be required to be automatically transmitted to an on-site location that is staffed by school personnel in Group E occupancies with an occupant load of 50 or less.
2. Carbon monoxide alarm signals shall not be required to be automatically transmitted to an on-site location that is staffed by school personnel in Group E occupancies where an exception contained in Section 915.1 applies, or in Group E occupancies where signals are transmitted to an off-site service monitored by a third party, such as a service that monitors fire protection systems in the building.

## NEW SECTION

### **WAC 51-54A-0916 Alerting systems.**

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

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

**916.2 Power source.** Alerting systems shall be provided with power supplies in accordance with Section 4.4.1 of NFPA 72

and circuit disconnecting means identified as "EMERGENCY ALERTING SYSTEM."

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

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

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

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

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

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

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

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

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

EXCEPTION: Areas served by approved visual or textual notification, where the visible notification appliances are not also used as a fire alarm signal, are not required to be provided with audibility complying with Section 916.6.

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

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-1007 ((Accessible means of egress.))**  
**Reserved.**

~~((1007.1 Accessible means of egress required. Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress are required by Section 1015.1 or 1021.1 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.~~

EXCEPTIONS: 1. Accessible means of egress are not required in alterations to existing buildings.  
2. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 1007.3, 1007.4 or 1007.5.

3. In assembly areas with sloped or stepped aisles, one accessible means of egress is permitted where the common path of travel is accessible and meets the requirements in Section 1028.8.

4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

~~**1007.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the fire command center or a central control point location approved by the fire department. Where the central control point is not constantly attended, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.))~~

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-1008 ((Doors, gates and turnstiles.))**  
**Reserved.**

~~((1008.1.9.3 Locks and latches. Locks and latches shall be permitted to prevent operation of doors where any of the following exists:~~

~~1. Places of detention or restraint.~~

~~2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:~~

~~2.1. The locking device is readily distinguishable as locked;~~

~~2.2. A readily visible sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and~~

~~2.3. The use of the key-operated locking device is reversible by the building official for due cause.~~

~~3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.~~

~~4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or a tool.~~

~~5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.~~

~~6. Approved, listed locks without delayed egress shall be permitted in Group R-2 boarding homes licensed by Washington state, provided that:~~

~~6.1. The clinical needs of one or more patients require specialized security measures for their safety.~~

6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.

6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.

6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

#### **1008.1.9.6 Special locking arrangements in Group I-2.**

Approved special egress locks shall be permitted in a Group I-2 Occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section 907, provided that the doors unlock in accordance with Items 1 through 7.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the fire command center, a nursing station or other approved location.

4. A building occupant shall not be required to pass through more than one door equipped with a special egress lock before entering an exit.

5. The procedures for the operation(s) of the unlocking system shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the International Fire Code.

6. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

7. Emergency lighting shall be provided at the door.

EXCEPTION: Items 1, 2, 3, and 6 shall not apply to doors to areas where persons, which because of clinical needs, require restraint or containment as part of the function of a psychiatric treatment area provided that all clinical staff shall have the keys, codes or other means necessary to operate the locking devices.)

**AMENDATORY SECTION** (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

#### **WAC 51-54A-1009 ((Stairways and handrails)) Accessible means of egress.**

**((1009.3 Exit access stairways.** Floor openings between stories created by exit access stairways shall be enclosed.

EXCEPTIONS: 1. In other than Group I-2 and I-3 occupancies, exit access stairways that serve, or atmospherically communicate between, only two stories are not required to be enclosed. Such interconnected stories shall not be open to other stories.

2. Exit access stairways serving and contained within a single residential dwelling unit or sleeping unit in Group R-1, R-2 or R-3 occupancies are not required to be enclosed.

3. In Group B or M occupancies, exit access stairways that are designed exclusively for circulation are not required to be enclosed provided that the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the area of the floor opening between stories does not exceed twice the horizontal projected area of the exit access stairway, and the opening is protected by a draft curtain and closely-spaced sprinklers in accordance with NFPA 13.

4. In other than Group B and M occupancies, exit access stairways that are designed exclusively for circulation are not required to be enclosed provided that the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the floor opening does not connect more than four stories, the area of the floor opening between stories does not exceed twice the horizontal projected area of the exit access stairway, and the opening is protected by a draft curtain and closely-spaced sprinklers in accordance with NFPA 13.

5. Exit access stairways with an atrium complying with the provisions of Section 404 of the International Building Code are not required to be enclosed.

6. Exit access stairways and ramps in open parking garages that serve only the parking garage are not required to be enclosed.

7. Stairways serving outdoor facilities where all portions of the means of egress are essentially open to the outside are not required to be enclosed.

8. Exit access stairways serving stages, platforms and technical production areas in accordance with Sections 410.6.2 and 410.6.3 of the International Building Code are not required to be enclosed.

9. Stairways are permitted to be open between the balcony, gallery or press box and the main assembly floor in occupancies such as theaters, places of religious worship, auditoriums and sports facilities.

10. In Group I-3 occupancies, exit access stairways constructed in accordance with Section 408.5 of the International Building Code, are not required to be enclosed.

**1009.18 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.)) **1009.1 Accessible means of egress required.** Accessible means of egress shall comply with this section. Accessible spaces shall be provided with not less than one accessible means of egress. Where more than one means of egress is required by Section 1006.2 or 1006.3 from any accessible space, each accessible portion of the space shall be served by not less than two accessible means of egress.

EXCEPTIONS: 1. Accessible means of egress are not required in alterations to existing buildings.

2. One accessible means of egress is required from an accessible mezzanine level in accordance with Section 1009.3, 1009.4 or 1009.5.

3. In assembly areas with ramped *aisles* or stepped *aisles* one accessible means of egress is permitted where the common path of egress travel is accessible and meets the requirements in Section 1029.8.

4. In parking garages, accessible means of egress are not required to serve parking areas that do not contain accessible parking spaces.

**1009.8 Two-way communication.** A two-way communication system complying with Sections 1009.8.1 and 1009.8.2 shall be provided at the landing serving each elevator or bank of elevators on each accessible floor that is one or more stories above or below the *level of exit discharge*.

- EXCEPTIONS:
1. Two-way communication systems are not required at the landing serving each elevator or bank of elevators where the two-way communication system is provided within *areas of refuge* in accordance with Section 1009.6.5.
  2. Two-way communication systems are not required on floors provided with *ramps* that provide a direct path of egress travel to grade or the level of exit discharge conforming to the provisions of Section 1012.
  3. Two-way communication systems are not required at the landings serving only service elevators that are not designated as part of the accessible *means of egress* or serve as part of the required *accessible route* into a facility.
  4. Two-way communication systems are not required at the landings serving only freight elevators.
  5. Two-way communication systems are not required at the landing serving a private residence elevator.

**1009.8.1 System requirements.** Two-way communication systems shall provide communication between each required location and the *fire command center* or a central control point location *approved* by the fire department. Where the central control point is not a *constantly attended location*, a two-way communication system shall have a timed automatic telephone dial-out capability to a monitoring location. The two-way communication system shall include both audible and visible signals. The two-way communication system shall have a battery backup or an approved alternate source of power that is capable of 90 minutes use upon failure of the normal power source.

**AMENDATORY SECTION** (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-1010 ((Ramps-)) Doors, gates and turnstiles.**

**((1010.1 Scope.** The provisions of this section shall apply to ramps used as a component of a means of egress:

- EXCEPTIONS:
1. Other than ramps that are part of the accessible routes providing access in accordance with Sections 1108.2 through 1108.2.4 and 1108.2.6, ramped aisles within assembly rooms or spaces shall conform with the provisions in Section 1028.11.
  2. Curb ramps shall comply with ICC A117.1.
  3. Vehicle ramps in parking garages for pedestrian exit access shall not be required to comply with Sections 1010.4 through 1010.10 when they are not an accessible route serving accessible parking spaces or other required accessible elements.

4. In a parking garage where one accessible means of egress serving accessible parking spaces or other accessible elements is provided, a second accessible means of egress serving that area may include a vehicle ramp that does not comply with Sections 1010.5, 1010.6, and 1010.9. A landing complying with Sections 1010.7.1 and 1010.7.4 shall be provided at any change of direction in the accessible means of egress.))

**1010.1.9.3 Locks and latches.** Locks and latches shall be permitted to prevent operation of doors where any of the following exists:

1. Places of detention or restraint.
2. In buildings in occupancy Group A having an occupant load of 300 or less, Groups B, F, M, and S, and in places of religious worship, the main exterior door or doors are permitted to be equipped with key-operated locking devices from the egress side provided:
  - 2.1. The locking device is readily distinguishable as locked;
  - 2.2. A readily visible sign is posted on the egress side on or adjacent to the door stating: THIS DOOR TO REMAIN UNLOCKED WHEN BUILDING IS OCCUPIED. The sign shall be in letters 1 inch (25 mm) high on a contrasting background; and
  - 2.3. The use of the key-operated locking device is revocable by the building official for due cause.
3. Where egress doors are used in pairs, approved automatic flush bolts shall be permitted to be used, provided that the door leaf having the automatic flush bolts has no door-knob or surface-mounted hardware.

4. Doors from individual dwelling or sleeping units of Group R occupancies having an occupant load of 10 or less are permitted to be equipped with a night latch, dead bolt, or security chain, provided such devices are openable from the inside without the use of a key or a tool.

5. Fire doors after the minimum elevated temperature has disabled the unlatching mechanism in accordance with listed fire door test procedures.

6. Approved, listed locks without delayed egress shall be permitted in Group R-2 assisted living facilities licensed by the state of Washington, provided that:

- 6.1. The clinical needs of one or more patients require specialized security measures for their safety.
- 6.2. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.
- 6.3. The doors unlock upon loss of electrical power controlling the lock or lock mechanism.
- 6.4. The lock shall be capable of being deactivated by a signal from a switch located in an approved location.
- 6.5. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within six feet of the door.

**1010.1.9.6 Special locking arrangements in Group I-2.** Approved special egress locks shall be permitted in a Group I-2 occupancy where the clinical needs of persons receiving care require such locking. Special egress locks shall be permitted in such occupancies where the building is equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 or an approved automatic smoke or heat detection system installed in accordance with Section



907, provided that the doors unlock in accordance with Items 1 through 7.

1. The doors unlock upon actuation of the automatic sprinkler system or automatic fire detection system.

2. The doors unlock upon loss of power controlling the lock or lock mechanism.

3. The door locks shall have the capability of being unlocked by a signal from the fire command center, a nursing station, or other approved location.

4. A building occupant shall not be required to pass through more than one door equipped with a special egress lock before entering an exit.

5. The procedures for the operation(s) of the unlocking system shall be described and approved as part of the emergency planning and preparedness required by Chapter 4 of the *International Fire Code*.

6. There is a system, such as a keypad and code, in place that allows visitors, staff persons and appropriate residents to exit. Instructions for exiting shall be posted within 6 feet of the door.

7. Emergency lighting shall be provided at the door.

EXCEPTION: Items 1, 2, 3, and 6 shall not apply to doors to areas where persons, which because of clinical needs, require restraint or containment as part of the function of a psychiatric treatment area provided that all clinical staff shall have the keys, codes, or other means necessary to operate the locking devices.

## NEW SECTION

### WAC 51-54A-1011 Stairways.

**1011.17 Stairways in individual dwelling units.** Stairs or ladders within an individual dwelling unit used for access to areas of 200 square feet (18.6 m<sup>2</sup>) or less, and not containing the primary bathroom or kitchen, are exempt from the requirements of Section 1009.

## NEW SECTION

### WAC 51-54A-1012 Ramps.

**1012.1 Scope.** The provisions of this section shall apply to ramps used as a component of a means of egress.

EXCEPTIONS:

- Other than ramps that are part of the accessible routes providing access in accordance with Sections 1108.2 through 1108.2.4 and 1108.2.6, ramped aisles within assembly rooms or spaces shall conform with the provisions in Section 1029.13.
- Curb ramps shall comply with ICC A117.1.
- Vehicle ramps in parking garages for pedestrian exit access shall not be required to comply with Sections 1010.4 through 1010.10 when they are not an accessible route serving accessible parking spaces or other required accessible elements.
- In a parking garage where one accessible means of egress serving accessible parking spaces or other accessible elements is provided, a second accessible means of egress serving that area may include a vehicle ramp that does not comply with Sections 1010.5, 1010.6, and 1010.9. A landing complying with Sections 1010.7.1 and 1010.7.4 shall be provided at any change of direction in the accessible means of egress.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

### WAC 51-54A-1018 ((Corridors.)) Reserved.

~~((1018.5 Air movement in corridors. Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.~~

EXCEPTIONS:

- Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
- Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
- Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.
- Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.
- Where such air is part of an engineered smoke control system:
- Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units subject to the following:
  - The air supplied to the corridor is one hundred percent outside air; and
  - The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and
  - For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9144 mm) on center along the corridor; or
  - For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

~~**1018.6 Corridor continuity.** Fire resistance rated corridors shall be continuous from the point of entry to an exit, and shall not be interrupted by intervening rooms.~~

EXCEPTIONS:

- Foyers, lobbies or reception rooms constructed as required for corridors shall not be construed as intervening rooms.
- In Group R-2 boarding homes and residential treatment facilities licensed by Washington state, seating areas shall be allowed to be open to the corridor provided:
  - The seating area is constructed as required for the corridor;
  - The floor is separated into at least two compartments complying with Section 407.5 of the *International Building Code*;
  - Each individual seating area does not exceed 150 square feet, excluding the corridor width;
  - The combined total space of seating areas per compartment does not exceed 300 square feet, excluding the corridor width;
  - Combustible furnishings located within the seating area shall be in accordance with Section 805; and
  - Emergency means of egress lighting is provided as required by Section 1006 to illuminate the area.

NEW SECTION**WAC 51-54A-1020 Corridors.**

**1020.5 Air movement in corridors.** Corridors shall not serve as supply, return, exhaust, relief or ventilation air ducts.

- EXCEPTIONS:
1. Use of a corridor as a source of makeup air for exhaust systems in rooms that open directly onto such corridors, including toilet rooms, bathrooms, dressing rooms, smoking lounges and janitor closets, shall be permitted provided that each such corridor is directly supplied with outdoor air at a rate greater than the rate of makeup air taken from the corridor.
  2. Where located within a dwelling unit, the use of corridors for conveying return air shall not be prohibited.
  3. Where located within tenant spaces of one thousand square feet (93 m<sup>2</sup>) or less in area, utilization of corridors for conveying return air is permitted.
  4. Incidental air movement from pressurized rooms within health care facilities, provided that a corridor is not the primary source of supply or return to the room.
  5. Where such air is part of an engineered smoke control system.
  6. Air supplied to corridors serving residential occupancies shall not be considered as providing ventilation air to the dwelling units subject to the following:
    - 6.1. The air supplied to the corridor is one hundred percent outside air; and
    - 6.2. The units served by the corridor have conforming ventilation air independent of the air supplied to the corridor; and
    - 6.3. For other than high-rise buildings, the supply fan will automatically shut off upon activation of corridor smoke detectors which shall be spaced at no more than thirty feet (9144 mm) on center along the corridor; or
    - 6.4. For high-rise buildings, corridor smoke detector activation will close required smoke/fire dampers at the supply inlet to the corridor at the floor receiving the alarm.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

**WAC 51-54A-1021 (~~Number of exits and exit configurations~~) Reserved.**

~~((1021.3.1 Access to exits at adjacent levels. Access to exits at other levels shall be by stairways or ramps. Where access to exits occurs from adjacent building levels, the horizontal and vertical exit access travel distance to the closest exit shall not exceed that specified in Section 1016.1. The path of egress travel to an exit shall not pass through more than one adjacent story.~~

EXCEPTION: Landing platforms or roof areas for helistops that are less than 60 feet (18,288 mm) long, or less than 2,000 square feet (186 m<sup>2</sup>) in area, shall be permitted to access the second exit by a fire escape, alternating tread device or ladder leading to the story or level below.)

NEW SECTION**WAC 51-54A-1028 Exit discharge.**

**1028.4.1 Width or capacity.** The required capacity of egress courts shall be determined as specified in Section 1005.1, but

the minimum width shall be not less than 44 inches (1118 mm), except as specified herein. Egress courts serving Group R-3 and U occupancies shall be not less than 36 inches (914 mm) in width. The required capacity and width of egress courts shall be unobstructed to a height of 7 feet (2134 mm).

EXCEPTION: Encroachments complying with Section 1005.7.

NEW SECTION**WAC 51-54A-1030 Emergency escape and rescue.**

**1030.1 General.** In addition to the means of egress required by this chapter, provisions shall be made to emergency escape and rescue openings in Group R-2 occupancies in accordance with Tables 1006.3.2(1) and 1006.3.2(2) and Group R-3 occupancies. Basements and sleeping rooms below the fourth story above grade plane shall have at least one exterior emergency escape and rescue opening in accordance with this section. Where basements contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room, but shall not be required in adjoining areas of the basement. Such openings shall open directly into a public way or to a yard or court that opens to a public way.

- EXCEPTIONS:
1. Basements with a ceiling height of less than 80 inches (2032 mm) shall not be required to have emergency escape and rescue openings.
  2. Emergency escape and rescue openings are not required from basements or sleeping rooms that have an exit door or exit access door that opens directly into a public way or to a yard, court or exterior balcony that opens to a public way.
  3. Basements without habitable spaces and having not more than 200 square feet (18.6 m<sup>2</sup>) in floor area shall not be required to have emergency escape and rescue openings.
  4. Within individual dwelling and sleeping units in Groups R-2 and R-3, where the building is equipped throughout with an automatic sprinkler system installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3, sleeping rooms in basements shall not be required to have emergency escape and rescue openings provided that the basement has one of the following:
    - a. One means of egress and one emergency escape and rescue opening.
    - b. Two means of egress.

AMENDATORY SECTION (Amending WSR 13-24-017, filed 11/21/13, effective 4/1/14)

**WAC 51-54A-1103 Fire safety requirements for existing buildings.**

~~((4103.4.3))~~ **1103.4.2 Three to five stories.** In other than Group I occupancies, interior vertical openings connecting three to five stories shall be protected by either a one-hour fire-resistant and smoke-rated construction or an automatic sprinkler system shall be installed throughout the building in accordance with Section 903.3.1.1 or 903.3.1.2.

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

3. Vertical opening protection for escalators shall be in accordance with Section 1103.4.5, 1103.4.6 or 1103.4.7.

**1103.4.3 More than five stories.** In other than Group I occupancies, interior vertical openings connecting more than five stories shall be protected by fire-resistant and smoke-rated construction.

EXCEPTIONS: 1. Vertical opening protection is not required for Group R-3 occupancies.  
2. Vertical opening protection is not required for open parking garages and ramps.  
3. Vertical opening protection for escalators shall be in accordance with Section 1103.4.8.

**1103.5.5 Nightclub.** An automatic sprinkler system shall be provided throughout A-2 nightclubs as defined in this code. No building shall be constructed for, used for, or converted to occupancy as a nightclub except in accordance with this section.

**1103.9 Carbon monoxide alarms.** Existing Group I or Group R occupancies shall be provided with single station carbon monoxide alarms in accordance with Section ((908.7)) 915.4.3. An inspection will occur when alterations, repairs or additions requiring a permit occur, or when one or more sleeping rooms are added or created. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720-((2012)) 2015 and the manufacturer's instructions.

EXCEPTIONS: 1. For other than R-2 occupancies, if the building does not contain a fuel-burning appliance, a fuel-burning fireplace, or an attached garage.  
2. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, or electrical permits.  
3. Installation, alteration or repairs of noncombustion plumbing or mechanical systems.  
4. Sleeping units or dwelling units in I and R-1 occupancies and R-2 college dormitories, hotel, DOC prisons and work releases and ((DSHS licensed boarding home)) assisted living facilities and residential treatment ((facility occupancies)) facilities licensed by the state of Washington which do not themselves contain a fuel-burning appliance, a fuel-burning fireplace, or have an attached garage, need not be provided with carbon monoxide alarms provided that:  
4.1. The sleeping units or dwelling unit is not adjacent to any room which contains a fuel-burning appliance, a fuel-burning fireplace, or an attached garage; and  
4.2. The sleeping units or dwelling unit is not connected by duct work or ventilation shafts with a supply or return register in the same room to any room containing a fuel-burning appliance, a fuel-burning fireplace, or to an attached garage; and  
4.3. The building is provided with a common area carbon monoxide detection system.  
5. An open parking garage, as defined in the International Building Code, or enclosed parking garage ventilated in accordance with Section 404 of the International Mechanical Code shall not be considered an attached garage.

## NEW SECTION

**WAC 51-54A-1105 Construction requirements for existing Group I-2.**

**1105.1 General.** This section shall be applied by jurisdictions conducting surveys for compliance with the federal centers for medicare and medicaid reimbursement program. Existing Group I-2 shall meet all of the following requirements:

1. The minimum fire safety requirements in Section 1103.
2. The minimum means of egress requirements in Section 1104.
3. The additional egress and construction requirements in Section 1105.

Where the provisions of this chapter conflict with the construction requirements that applied at the time of construction, the most restrictive provisions shall apply.

## NEW SECTION

**WAC 51-54A-3103 Temporary tents and membrane structures.**

**3103.5 Use period.** Temporary tents, air-supported, air-inflated or tensioned membrane structures are permitted to be erected for a period of less than 180 days within a 12-month period on a single premises. Such structures erected for 180 days or more within a 12-month period shall comply with the IBC.

## NEW SECTION

**WAC 51-54A-3800 Marijuana processing or extraction facilities.**

### **SECTION 3801—ADMINISTRATION**

**3801.1 Scope.** Marijuana processing or extraction facilities shall comply with this chapter and the *International Building Code*. The extraction process includes the act of extraction of the oils and fats by use of a solvent, desolventizing of the raw material and production of the miscella, distillation of the solvent from the miscella and solvent recovery. The use, storage, transfilling, and handling of hazardous materials in these facilities shall comply with this chapter, other applicable provisions of this code and the *International Building Code*.

**3801.2 Application.** The requirements set forth in this chapter are requirements specific only to marijuana processing and extraction facilities and shall be applied as exceptions or additions to applicable requirements set forth elsewhere in this code.

**3801.3 Multiple hazards.** Where a material, its use or the process it is associated with poses multiple hazards, all hazards shall be addressed in accordance with Section 5001.1 and other material specific chapters.

**3801.4 Existing buildings or facilities.** Existing buildings or facilities used for the processing of marijuana shall comply with this chapter. Existing buildings or facilities used for

marijuana extraction shall comply with the requirements of this chapter by July 1, 2016.

**3801.5 Permits.** Permits shall be required as set forth in Section 105.6 and 105.7.

#### SECTION 3802—DEFINITIONS

**Marijuana extraction facility (MEF):** A building used for the solvent-based extraction process of marijuana.

**Marijuana extraction equipment (MEE):** Equipment or appliances used for the extraction of botanical material such as essential oils, from marijuana.

**Marijuana extraction room (MER):** The room or space in which the solvent-based extractions occur.

**Finding:** The results of an inspection, examination, analysis or review.

**Observation:** A practice or condition not technically non-compliant with other regulations or requirements, but could lead to noncompliance if left unaddressed.

**Desolventizing:** The act of removing a solvent from a material.

**Miscella:** A mixture, in any proportion, of the extracted oil or fat and the extracting solvent.

**Transfilling:** The process of taking a gas source, either compressed or in liquid form (usually in bulk containers), and transferring it into a different container (usually a smaller compressed cylinder).

#### SECTION 3803—PROCESSING OR EXTRACTION OF MARIJUANA

**3803.1 Location.** Marijuana processing shall be located in a building complying with the *International Building Code* and this code. The marijuana extraction process shall be located in a room dedicated to the extraction process. The extraction room shall not be used for any other purpose including storage.

**3803.2 Staffing.** The extraction process shall be continuously staffed by personnel trained in the extraction process, the transfer of LP-gas where applicable, and all emergency procedures. All staff training records shall be maintained on-site by the owner and made available upon request from the fire *code official*.

**3803.3 Systems, equipment and processes.** Systems, equipment, and processes shall be in accordance with Sections 3802.3.1 through 3802.3.3.7.

**3803.3.1 Application.** Systems, equipment and processes shall include, but are not limited to, vessels, chambers, containers, cylinders, tanks, piping, tubing, valves, fittings, and pumps.

**3803.3.2 General requirements.** In addition to the requirements in Section 3802, systems, equipment and processes shall also comply with Section 5003.2, other applicable provisions of this code, the *International Building Code*, and the *International Mechanical Code*.

**3803.3.3 Additional requirements for marijuana extraction.** In addition to the requirements of Section 3802.3, marijuana extraction systems, equipment and process shall comply with this section.

**3803.3.3.1 General requirements.** The requirements set forth in Section 5003.2 shall apply to vessels, chambers, containers, cylinders, tanks, piping, tubing, valves, fittings, and pumps used in the extraction process. The use of ovens in post-process purification or winterization shall comply with Section 3802.3.3.7.

**3803.3.3.2 Systems and equipment.** Systems or equipment used for the extraction of marijuana/cannabis oils from plant material shall be listed for the specific use. If the system used for extraction of marijuana/cannabis oils and products from plant material is not listed, then the system shall have a designer of record. If the designer of record is not a licensed Washington professional engineer, then the system shall be peer reviewed by a licensed Washington professional engineer. In reviewing the system, the licensed professional engineer shall review and consider any information provided by the system's designer or manufacturer. For systems and equipment not listed for the specific use, a technical report documenting the design or peer review as outlined in Section 3802.3.3.4.2 shall be prepared and submitted to the fire *code official* for review and approval for systems and equipment used for the extraction of marijuana/cannabis oils and products from plant material. The firm or individual performing the engineering analysis for the technical report shall be approved by the fire *code official* prior to performing the analysis.

**3803.3.3.3 Change of extraction medium.** Where the medium of extraction or solvent is changed from the material indicated in the technical report or as required by the manufacturer, the technical report shall be revised at the cost of the facility owner, submitted for review and approval by the fire *code official* prior to the use of the equipment with the new medium or solvent. If the original engineer of record is not available, then new engineer of record shall comply with Section 3802.3.3.4.1.

**3803.3.3.4 Required technical report.** The technical report documenting the design or peer review shall be submitted for review and approval by the fire *code official* prior to the equipment being located or installed at the facility.

**3803.3.3.4.1 Approval of the engineer of record.** Where a technical report is required to be submitted for review and approval by the fire *code official* to meet the requirements of 3802.3.3.2, the following actions shall occur:

1. Prior to submittal of the technical report, the engineer shall submit educational background and professional experience specific to the review and approval of system, equipment and processes with like hazards of those associated with the marijuana extraction system to the fire *code official*.

2. Once the proof of qualifications are found acceptable by the fire *code official*, the engineer of record shall produce the technical report and the report shall be signed and sealed in accordance with Washington state requirements.

The proof of qualifications shall include documentation indicating the person is a professional engineer licensed in Washington state.

**3803.3.3.4.2 Content of technical report and engineering analysis.** All, but not limited to, the items listed below shall be included in the technical report:

1. Manufacturer information.
2. Engineer of record information.
3. Date of review and report revision history.
4. Signature page shall include:
  - a. Author of the report;
  - b. Date of report;
  - c. Seal, date and signature of engineer of record performing the design or peer review; and
  - d. Date, signature, and stamp of the professional engineer performing the engineering document review of the report. The engineering document review cannot be performed by the authoring engineer.
5. Model number of the item evaluated. If the equipment is provided with a serial number, the serial number shall be included for verification at time of site inspection.
6. Methodology of the design or peer review process used to determine minimum safety requirements. Methodology shall consider the basis of design, and shall include a code analysis and code path to demonstrate the reason as to why specific code or standards are applicable or not.
7. Equipment description. A list of every component and subassembly (clamp, fittings, hose, quick disconnects, gauges, site glass, gaskets, valves, pumps, vessels, containers, switches, etc.) of the system or equipment, indicating the manufacturer, model number, material, and solvent compatibility. Vendor cut sheets shall be provided.
8. A general flow schematic or general process flow diagram (PFD) of the process. Post-processing or winterization may be included in this diagram. All primary components of the process equipment shall be identified and match the aforementioned list. Operating temperatures, pressures, and solvent state of matter shall be identified in each primary step or component. A piping and instrumentation diagram (PID or PI&D) may be provided but is not required.
9. Analysis of the vessel(s) if pressurized beyond standard atmospheric pressure. Analysis shall include purchased and fabricated components.
10. Structural analysis for the frame system supporting the equipment.
11. Process safety analysis of the extraction system, from the introduction of raw product to the end of the extraction process.
12. Comprehensive process hazard analysis considering failure modes and points of failure throughout the process. This portion of the review should include review of emergency procedure information provided by the manufacturer of the equipment or process and not that of the facility, building or room.
13. Review of the assembly instructions, operational and maintenance manuals provided by the manufacturer.
14. Report shall include findings and observations of the analysis.
15. List of references used in the analysis.

**3803.3.3.5 Building analysis.** If the technical report, or manufacturer's literature indicate specific requirements for the location, room, space or building, where the extraction process is to occur, the engineer of record, as approved in 3802.3.3.4.1 shall review the construction documents of such location, room, space or building and provide a report of their findings and observations to the fire *code official*.

**Analysis shall include:**

1. Process safety analysis of the entire process from raw material to finished product.
2. Comprehensive process hazard analysis considering failure modes and points throughout the process. Should include review of emergency procedures as related to the equipment or process, and the facility.

**3803.3.3.6 Site inspection.** Prior to operation of the extraction equipment, if required by the fire *code official*, the engineer of record, as approved in Section 3802.3.3.4.1 shall inspect the site of the extraction process once equipment has been installed for compliance with the technical report and the building analysis. The engineer of record shall provide a report of findings and observations of the site inspection to the fire *code official* prior to the approval of the extraction process. The field inspection report authored by engineer of record shall include the serial number of the equipment used in the process and shall confirm the equipment installed is the same model and type of equipment identified in the technical report.

**3803.3.3.7 Post-process purification and winterization.** Post-processing and winterization involving the heating or pressurizing of the miscella to other than normal pressure or temperature shall be approved and performed in an appliance listed for such use. Domestic or commercial cooking appliances shall not be used. The use of industrial ovens shall comply with Chapter 30.

EXCEPTION: An automatic fire extinguishing system shall not be required for batch-type Class A ovens having less than 3.0 cubic feet of work space.

**3803.4 Construction requirements.**

**3803.4.1 Location.** Marijuana extraction shall not be located in any building containing a Group A, E, I or R occupancy.

**3803.4.1.1 Extraction room.** The extraction equipment and extraction process shall be located in a room dedicated to extraction.

**3803.4.2 Egress.** Each marijuana extraction room shall be provided with at least one exit, swinging in the direction of travel provided with an automatic closer and panic hardware.

**3803.4.2.1 Facility egress.** The marijuana extraction room shall not enter directly into an exit, exit passageway, horizontal exit or along the sole egress path from another portion of the building.

**3803.4.3 Ventilation.** Each marijuana extraction room shall be provided with a dedicated hazardous exhaust system complying with Section 5004.3 for all solvents other than water. The operation of the hazardous exhaust system shall be continuous.

**3803.4.4 Control area.** Each marijuana extraction room shall be considered a single control area and comply with Section 5003.8.3.

**3803.4.5 Ignition source control.** Extraction equipment and extraction processes using a hydrocarbon-based liquid or gas solvent shall be provided with ventilation rates for the room to maintain the concentration of flammable constituents in air below 25 percent of the lower flammability limit of the respective solvent. If not provided with the required ventilation rate, then Class I Division II electrical requirements shall apply to the entire room.

**3803.4.6 Interlocks.** All electrical components within the extraction room shall be interlocked with the hazardous exhaust system and when provided, the gas detection system. When the hazardous exhaust system is not operational, then light switches and electrical outlets shall be disabled. Activation of the gas detection system shall disable all light switches and electrical outlets.

**3803.4.7 Emergency power.**

**3803.4.7.1 Emergency power for extraction process.** Where power is required for the operation of the extraction process, an automatic emergency power source shall be provided. The emergency power source shall have sufficient capacity to allow safe shutdown of the extraction process plus an additional 2 hours of capacity beyond the shutdown process.

**3803.4.7.2 Emergency power for other than extraction process.** An automatic emergency power system shall be provided for the following items when installed.

**3803.4.7.2.1 Required electrical systems.**

1. Extraction room lighting.
2. Extraction room ventilation system.
3. Solvent gas detection system.
4. Emergency alarm systems.
5. Automatic fire extinguishing systems.

**3803.4.8 Continuous gas detection system.** For extraction processes utilizing gaseous hydrocarbon-based solvents, a continuous gas detection system shall be provided. The gas detection threshold shall be no greater than 25 percent of the LEL/LFL limit of the materials.

**3803.4.9 Liquefied-petroleum gases** shall not be released to the atmosphere.

**3803.5 Carbon dioxide enrichment or extraction.** Extraction processes using carbon dioxide shall comply with the section.

**3803.5.1 Scope.** Carbon dioxide systems with more than 100 pounds of carbon dioxide shall comply with Sections 3802.5 through 3802.5.8. This section is applicable to carbon dioxide systems utilizing compressed gas systems, liquefied-gas system, dry ice, or on-site carbon dioxide generation.

**3803.5.2 Permits.** Permits shall be required as set forth in Sections 105.6 and 105.7.

**3803.5.3 Equipment.** The storage, use, and handling of liquid carbon dioxide shall be in accordance with Chapter 54

and the applicable requirements of NFPA 55, Chapter 13. Insulated liquid carbon dioxide system shall have pressure relief devices in accordance with NFPA 55.

**3803.5.5 Protection from damage.** Carbon dioxide systems shall be installed so the storage tanks, cylinders, piping and fittings are protected from damage by occupants or equipment during normal facility operations.

**3803.5.7 Signage.** At the entrance to each area using or storing carbon dioxide, signage shall be posted indicating the hazard. Signs shall be durable and permanent in nature and not less than 7 inches wide by 10 inches tall. Signs shall bear the "skull and crossbones" emblem with the warning "DANGER! POTENTIAL OXYGEN DEFICIENT ATMOSPHERE." NFPA 704 signage shall be provided at the building main entry and the rooms where the carbon dioxide is used and stored.

**3803.5.8 Ventilation.** Mechanical ventilation shall be in accordance with the *International Mechanical Code* and shall comply with all of the following:

1. Mechanical ventilation in the room or area shall be at a rate of not less than 1 cubic foot per minute per square foot.
2. The exhaust system intake shall be taken from a point within 12 inches of the floor.
3. The ventilation system shall be designed to operate at a negative pressure in relation to the surrounding area.

**3803.6 Flammable or combustible liquid.** The use of a flammable or combustible liquid for the extraction of oils and fats from marijuana shall comply with this section.

**3803.6.1 Scope.** The use of flammable and combustible liquids for liquid extraction process where the liquid is boiled, distilled, or evaporated shall comply with this section and NFPA 30.

**3803.6.2 Location.** The process using a flammable or combustible liquid shall be located within a hazardous exhaust fume hood, rated for exhausting flammable vapors. Electrical equipment used within the hazardous exhaust fume hood shall be rated for use in flammable atmospheres. Heating of flammable or combustible liquids over an open flame is prohibited.

EXCEPTION: The use of a heating element not rated for flammable atmospheres may be approved where documentation from the manufacturer or an approved testing laboratory indicates it is rated for heating of flammable liquids.

#### NEW SECTION

##### **WAC 51-54A-5307 Carbon dioxide (CO<sub>2</sub>) systems.**

**5307.1 General.** Carbon dioxide systems with more than 100 pounds (45.4 kg) of carbon dioxide shall comply with Sections 5307.2 through 5307.5.2.

AMENDATORY SECTION (Amending WSR 13-04-063, filed 2/1/13, effective 7/1/13)

##### **WAC 51-54A-8000 Referenced standards.**

NFPA 96-07 Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations . . . . . 609.3

NFPA 720-((12)) 15 Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units ..... 908.7, 1103.9

**WSR 15-16-112**  
**PROPOSED RULES**  
**DEPARTMENT OF ECOLOGY**

[Order 13-12—Filed August 4, 2015, 2:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-09-097.

Title of Rule and Other Identifying Information: Ecology proposes to amend an existing rule, chapter 173-401 WAC, Operating permit regulation.

Hearing Location(s): Department of Ecology, Headquarters, 300 Desmond Drive S.E., Lacey, WA 98503, on September 10, 2015, at 10:00 a.m.; directions [http://www.ecy.wa.gov/directory\\_hq.html](http://www.ecy.wa.gov/directory_hq.html); webinar, ecology is also offering the presentation, question and answer (Q&A) session, and public hearing through a webinar. A webinar is an online meeting forum that can be accessed from any computer or smart phone with an internet connection. To join the webinar, click on the following link for more information and instructions [http://www.ecy.wa.gov/programs/air/rules/rules\\_laws/wac173401/1312/Involvement.htm](http://www.ecy.wa.gov/programs/air/rules/rules_laws/wac173401/1312/Involvement.htm).

Ecology is holding one public hearing on this rule proposal. The hearing will begin with a short presentation followed by a Q&A session. Testimony will start after the Q&A session. Comments may be provided orally by those who attend in person or via the webinar. Staff will also accept written comments submitted at the hearing but **not** via the webinar.

**Submit Your Comments:** You can give us your official comments in the following ways: (1) Oral testimony or submit written comments in person at the public hearing; (2) provide oral testimony through the webinar; (3) e-mail your comments to [AQComments@ecy.wa.gov](mailto:AQComments@ecy.wa.gov); (4) mail comments to the Department of Ecology, Margo Thompson, P.O. Box 47600, Olympia, WA 98504-7600; or (5) fax (360) 407-7534.

Date of Intended Adoption: December 1, 2015.

Submit Written Comments to: Margo Thompson, P.O. Box 47600, Olympia, WA 98504-7600, e-mail [AQComments@ecy.wa.gov](mailto:AQComments@ecy.wa.gov), fax (360) 407-7534, by September 18, 2015.

Assistance for Persons with Disabilities: For special accommodations or documents in alternate format, call (360) 407-6800, 711 (relay service), or 877-833-6341 (TTY), by September 8, 2015.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This rule-making proposal is to amend chapter 173-401 WAC, Operating permit regulation. Amendments will:

- Update language for the complexity portion of ecology's air operating permit (AOP) fees to allow for fairer fee distribution to ecology AOP sources.
- Revise nonstatutory audit provisions.

- Clarify applicability requirements.
- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Originally, ecology proposed to amend chapter 173-400 WAC, General regulations for air pollution sources and chapter 173-455 WAC, Air quality fee rule, to maintain consistency with the operating permit regulation. Ecology realized this is not necessary, so we will not be amending them in this rule making.

Reasons Supporting Proposal: 1. Fees - AOP sources are required under state and federal law to pay fees that cover the full cost of the AOP program. This rule making proposes to:

- Allow flexibility for ecology to develop fairer fee distribution associated with ecology's work load for ecology AOP sources.
- Establish annual public process for setting the distribution of fee burden. Under that process, some fees for ecology AOP sources will increase and others may decrease.

2. Audits - fiscal and performance audits of AOP permitting agencies are required by state law. This rule making proposes to:

- Update fiscal and performance audit requirements to better align with needs of a mature program.
- Reduce the frequency of performance audits to match the needs of a mature program. Reducing the performance audit frequency also lowers program costs.
- Remove audit questions from the rule and redesign the performance audit focus. Redesigning the performance audit provisions provides more meaningful feedback to each permitting agency and their regulated communities.

3. Applicability - the applicability section of the rule determines which sources must comply with AOP requirements. This rule making proposes to:

- Update applicability for nonmajor AOP sources to align with the federal operating permit rule.

4. Rule language - this rule making proposes to:

- Update language to align with federal rules.
- Lessen confusion and increase usability of the rule.
- Correct errors.

Statutory Authority for Adoption: RCW 70.94.011, 70.94.161, 70.94.162, and 70.94.331, provide clear and direct authority to adopt rules on this subject.

Statute Being Implemented: Chapter 70.94 RCW, Washington Clean Air Act.

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

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

Name of Agency Personnel Responsible for Drafting: Margo Thompson, Department of Ecology, Lacey, Washington, (360) 407-6827; Implementation: Gail Spencer, Depart-

ment of Ecology, Lacey, Washington, (360) 407-7530; and Enforcement: (Respective air agency): Benton Clean Air Agency, Kennewick, (509) 783-1304; Northwest Clean Air Agency, Mount Vernon, (360) 428-1617; Olympic Clean Air Agency, Olympia, (800) 422-5623; Puget Sound Clean Air Agency, Seattle, (800) 552-3565; Southwest Clean Air Agency, Vancouver, (800) 633-0709; Spokane Regional Clean Air Agency, Spokane, (509) 477-4727; Yakima Regional Clean Air Agency, Yakima, (800) 540-6950; Department of Ecology - Central Regional Office, Union Gap, (509) 575-2490; Department of Ecology - Eastern Regional Office, Spokane, (509) 329-3400; and Department of Ecology - Industrial Section, Lacey, (360) 407-6800.

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

#### Small Business Economic Impact Statement

**Executive Summary:** Based on research and analysis required by the Regulatory Fairness Act (RFA), RCW 19.85.070, ecology has determined that the proposed air quality rule, operating permit regulation (chapter 173-401 WAC) does not have a disproportionate impact on small business. This is because the rule only impacts large businesses. (A small business is defined by the RFA as having fifty or fewer employees.) Ecology did not, therefore, include language in the proposed rule to minimize disproportionate impacts.

The small business economic impact statement is intended to be read with the associated cost-benefit analysis (ecology publication #15-02-012), which contains more in-depth discussion of the analysis.

The proposed rule amendments would:

- Update language for the complexity portion of ecology's AOP fees to allow for fairer fee distribution to ecology AOP sources and establish a public process for setting the distribution of fee burden.
- Revise nonstatutory audit provisions.
- Clarify applicability requirements to allow nonmajor sources with AOPs to have permit requirements only for the subset of their units that made them subject to the permit.
- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

Ecology involved small businesses (or their representatives) and local governments and agencies in the development of this rule. Local clean air agencies were actively involved in informing [forming] this rule making.

We do not expect significant impacts to jobs statewide, because losses due to fee increases in (or within) one industry would be largely counterbalanced by gains due to fee reductions elsewhere, because fees would be redistributed using a public process under the proposed rule.

#### SECTION 1: BACKGROUND, BASELINE, AND PROPOSED RULE:

**1.1 Introduction:** Based on research and analysis required by the RFA, RCW 19.85.070, ecology has determined that the proposed air quality rule, operating permit regulation (chapter 173-401 WAC) does not have a disproportionate

impact on small business. This is because the rule only impacts large businesses. (A small business is defined by the RFA as having fifty or fewer employees.) Ecology did not, therefore, include language in the proposed rule to minimize disproportionate impacts.

The small business economic impact statement is intended to be read with the associated cost-benefit analysis (ecology publication #15-02-012), which contains more in-depth discussion of the analysis.

Title V of the federal Clean Air Act requires states to develop and implement an AOP program in accordance with 40 C.F.R. Part 70 for businesses and industries that are the largest sources of air pollution. These operating permits are often referred to as AOPs, Title V Permits, or Part 70 Permits. An AOP combines into one document requirements for operations, procedures, applicable regulations, emissions standards, monitoring, recordkeeping, and reporting applicable to a given source. The purpose of the AOP is to make it easier to comply with and enforce air pollution laws. Ecology, the energy facility site evaluation council (EFSEC), and the seven local clean air agencies have received EPA approval to administer Washington's AOP program.

Washington's AOP regulation is chapter 173-401 WAC. The regulation requires a facility to have an AOP if it has the potential to emit any of the following:

- More than one hundred tons per year of any criteria pollutant, such as nitrogen oxides (NO<sub>x</sub>), volatile organic compounds (VOCs), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), particulate matter smaller than 10 microns in diameter (PM<sub>10</sub>), particulate matter smaller than 2.5 microns in diameter (PM<sub>2.5</sub>), lead, and any ozone depleting substance. Lower thresholds may apply in nonattainment areas;
- More than ten tons per year of any hazardous air pollutant (HAP), as listed in subsection 112(b) of the federal Clean Air Act; or
- More than twenty-five tons per year of a combination of any HAPs.

A facility may also be required to have an AOP if it is subject to certain federal air quality requirements, including:

- Title IV Acid Rain Program;
- Certain new source performance standards (NSPS); or
- Certain national emission standard for hazardous air pollutants (NESHAP).

**1.2 Proposed Rule Amendments:** The operating permit regulation rule governs the operating permit program administered by ecology and delegated to local clean air agencies:

The proposed rule amendments would:

- Update language for the complexity portion of ecology's AOP fees to allow for fairer fee distribution to ecology AOP sources and establish a public process for setting the distribution of fee burden.
- Revise nonstatutory audit provisions.
- Clarify applicability requirements to allow nonmajor sources with AOPs to have permit requirements



only for the subset of their units that made them subject to the permit.

- Clarify rule provisions, update language to be consistent with state and federal rules, and correct errors.

**1.3 Reasons for the Proposed Rule Amendments:** The overall reasons for the proposed rule amendments include:

- Fees - Sources are required under state and federal law to pay fees that cover the full cost of the AOP program. The proposed rule amendments:
  - o Update language for the complexity portion of ecology's AOP fee.
  - o Allow flexibility for ecology to develop fairer fee distribution associated with ecology's workload for ecology AOP sources.
  - o Establish annual public process for setting the distribution of fee burden.
- Audits - Audits of permitting agencies are required by state law. The proposed rule amendments:
  - o Update fiscal and performance audit requirements to better align with needs of a mature program.
  - o Reduce the frequency of performance audits to match the needs of a mature program. This also reduces unnecessary program costs.
  - o Remove audit questions from the rule and redesign the focus of audits. This provides more meaningful feedback to each permitting agency and its regulated communities.
- Applicability - Determines which sources must comply with AOP requirements. The proposed rule amendments:
  - o Update applicability to align with the federal operating permit rule.
- Form and function - The proposed rule amendments update the rule language to align with federal rules, lessen confusion, increase usability of the rule in a modern context, and correct errors.

**1.4 Baseline:** The baseline for our analyses generally consists of existing rules and laws, and their requirements. For economic analyses, the baseline also includes the implementation of those regulations, including any guidelines and policies that result in behavior changes and real impacts. This is what allows us to make a consistent comparison between the state of the world with or without the proposed rule amendments.

For this rule making, the baseline includes:

- Federal rule: Title V of the federal Clean Air Act requires states to develop and implement an AOP program in accordance with 40 C.F.R. Part 70 for facilities that are the largest sources of air pollution. These operating permits are often referred to as AOPs, Title V Permits, or Part 70 Permits. They combine into one document requirements for operations, procedures, applicable regulations, emissions standards, monitoring, recordkeeping, and reporting. The purpose of the AOP is to make it easier to comply with and enforce air pollution laws.

- State law: The state Clean Air Act is chapter 70.94 RCW, which directly authorizes ecology to adopt rules on this subject.
- Existing state rule: Washington's AOP regulation is in chapter 173-401 WAC. The regulation requires a facility to have an AOP if it has the potential to emit any of the following:
  - o More than one hundred tons per year of any pollutant, such as nitrogen oxides (NOx), volatile organic compounds (VOCs), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), particulate and particulate matter (PM). Lower thresholds may apply in nonattainment areas;
  - o More than ten tons per year of any HAP, as listed in subsection 112(b) of the federal Clean Air Act; or
  - o More than twenty-five tons per year of a combination of any HAPs.

**Section 2: Analysis of Compliance Costs:** Total compliance costs imposed by the proposed rule do not change or have a possibility of cost-savings under the proposed rule (see associated cost-benefit analysis for this rule making). The proposed rule, however, establishes a process for ecology to develop a complexity fee allocation based on workload used to manage each of ecology's AOPs. For this analysis, we consider the additional compliance costs of increases in fees that might arise from such a program.

While the proposed rule does not change the total amount charged to support the ecology-managed portion of the AOP program (it is legislatively determined), it does create a public process to develop a complexity fee distribution based on actual ecology workload required to manage each of ecology's AOPs.

The calculation method would be determined by the public process established in the proposed rule. Ecology did not identify any compliance costs arising directly from the proposed rule.

**Section 3: Quantification of Cost Ratios:** Using the most recent list of permittees in the AOP program with permits managed by ecology, we determined the companies with controlling interest in all cases employed more than fifty employees.<sup>1</sup> The business sizes ranged from fifty to ninety-nine employees employed in-state by interstate or international businesses, to fifty-nine thousand employed worldwide. We therefore determined that the proposed rule does not impact small businesses, and that it was not possible to compare impacts per employee on small versus the largest ten percent of businesses, as directed by the RFA.

<sup>1</sup>Washington employment security department, workforce explorer database. Company web sites and annual reports.

**Section 4: Actions Taken to Reduce Impact of the Rule on Small Businesses:** Ecology did not take any action to reduce the impact of the proposed rule on small businesses because the proposed rule does not have a disproportionate impact on small businesses.

**Section 5: The Involvement of Small Businesses and Local Government in the Development of the Proposed Rule:** Ecology involved small businesses (or their representatives) and local governments and agencies in the develop-

ment of this rule. Local clean air agencies were actively involved in informing [forming] this rule making. Rule development was also aided by three committees:

- Fee Allocation Advisory Committee: Members included:
  - o Dennis Bowser, Department of Energy
  - o Anya Caudill, Ecology
  - o David Moore, Boeing
  - o Doug Krapas, Inland Empire Paper Company (IEPCO)
  - o Phil Gent, Ecology
  - o Richard Hibbard, Ecology
  - o Dale Jackson, Department of Energy
  - o Jeff Johnston, Ecology
  - o Ken Johnson, Weyerhaeuser
  - o Mike Ennis, Association of Washington Businesses
  - o Pete Hildebrandt
  - o Nancy Pritchett, Ecology
  - o Crystal Rau, Ecology
  - o Reed Kaldor, Fluor Hanford, Inc
  - o Garin Schriever, Ecology
  - o Margo Thompson, Ecology
- Audit Provisions Advisory Committee: Members included:
  - o Agata McIntyre, Northwest Clean Air Agency
  - o April Westby, Spokane Clean Air Agency
  - o Anya Caudill, Ecology
  - o Crystal Rau, Ecology
  - o David Moore, Boeing
  - o Doug Krapas, IEPCO
  - o Garin Schriever, Ecology
  - o Philip Gent, Ecology
  - o Lynnette Haller, Ecology
  - o Hasan Tahat, Yakima Regional Clean Air Agency
  - o Richard Hibbard, Ecology
  - o Jeff Johnston, Ecology
  - o Mark Buford, Northwest Clean Air Agency
  - o Mark Goodin, Olympic Regional Clean Air Agency
  - o Mike Ennis, Association of Washington Businesses
  - o Paul Mairose, Southwest Clean Air Agency
  - o Pete Hildebrandt
  - o Nancy Pritchett, Ecology
  - o Robin Priddy, Benton Clean Air Agency
  - o Steve VanSlyke, Puget Sound Clean Air Agency
  - o Margo Thompson, Ecology
  - o Wess Safford, Southwest Clean Air Agency
- Applicability Advisory Committee: Members included:
  - o Anya Caudill, Ecology
  - o David W. Moore, Boeing
  - o Doug Krapas, IEPCO
  - o John C. Ewell, III, City of Lynnwood
  - o Rebecca Fox, City of Anacortes
  - o Dick Frank, City of Vancouver
  - o William Franz, City of Anacortes

- o John St. Clair, Southwest Clean Air Agency
- o Jeff Johnston, Ecology
- o Larry Bateman, City of Bellingham
- o Mark Buford, Northwest Clean Air Agency
- o Mark Goodin, Olympic Regional Clean Air Agency
- o Agata McIntyre, Northwest Clean Air Agency
- o Stephen Nelson, Coal Creak [Creek] Environmental
- o Peg Wending, City of Bellingham
- o Nancy Pritchett, Ecology
- o Margo Thompson, Ecology
- o Rich Hibbard, Ecology
- o Pamela Randolph, City of Edmonds
- o Steve VanSlyke, Puget Sound Clean Air Agency
- o Uri Papish, Southwest Clean Air Agency

**Section 6: The Standard Industry Classification (SIC) Codes of Impacted Industries:** The SIC system has long been replaced by the North American Industry Classification System (NAICS). Based on the list of existing permits, the following NAICS codes may be affected by the proposed rule, based on existing permits in the AOP program managed by ecology:<sup>2</sup>

<sup>2</sup>Washington employment security department, workforce explorer database.

2122	Metal Ore Mining	3313	Alumina and Aluminum Production
2211	Power Generation and Supply	4235	Metal and Mineral Merchant Wholesalers
3211	Sawmills and Wood Preservation	4238	Machinery and Supply Merchant Wholesalers
3219	Other Wood Product Manufacturing	4441	Building Material and Supplies Dealers
3219	Other Wood Product Manufacturing	4862	Pipeline Transportation of Natural Gas
3221	Pulp, Paper, and Paperboard Mills	5416	Management and Technical Consulting Services
3222	Converted Paper Product Manufacturing	5622	Waste Treatment and Disposal

**Section 7: Impact on Jobs:** We used the Washington state office of financial management's Washington input-output model (OFM-IO) to assess the proposed rule's impact on jobs across the state. This methodology estimates the impact as reductions or increases in spending in certain sectors of the state economy flow through to purchases, suppliers, and demand for other goods. Compliance costs incurred by an

industry are entered in the OFM-IO model as a decrease in spending and investment.<sup>3</sup>

<sup>3</sup>For more information, see <http://www.ofm.wa.gov/economy/io/2007/default.asp>.

Since the proposed rule does not stipulate a specific complexity fee distribution method or calculation, but rather establishes a public process to develop a new fee distribution based on workload used to manage each permit, we examined the scope of how fee increases and decreases affect jobs in the OFM-IO model.

If we account for the implicit transfers of burden from those businesses for which fees decrease to those for which fees increase, the statewide impact nets out to approximately no change in jobs. It is important to note that some industries are more labor-intensive than others (and also pay different wages than others), and a reduction in their fees might result in a slightly greater increase in employment than would be necessary to balance out the job-reduction resulting from an increase in fees to a less labor-intensive industry.

Since the proposed rule does not, however, create a specific new fee distribution calculation, we could not estimate the relative increases and decreases in fees across industries, and consequently could not quantify this jobs impact. Qualitatively, due to transfers of fee burden, it is likely to be near zero.

A copy of the statement may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Lacey, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail [kasia.patora@ecy.wa.gov](mailto:kasia.patora@ecy.wa.gov).

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Kasia Patora, Economics and Regulatory Research, Department of Ecology, P.O. Box 47600, Lacey, WA 98504-7600, phone (360) 407-6184, fax (360) 407-6989, e-mail [kasia.patora@ecy.wa.gov](mailto:kasia.patora@ecy.wa.gov).

August 4, 2015  
Polly Zehm  
Deputy Director

**AMENDATORY SECTION** (Amending WSR 11-17-037, filed 8/10/11, effective 9/10/11)

**WAC 173-401-200 Definitions.** The definitions of terms contained in chapter 173-400 WAC are incorporated by reference, unless otherwise defined here. Unless a different meaning is clearly required by context, the following words and phrases, as used in this chapter, shall have the following meanings:

(1) **"Affected source"** means a source that includes one or more affected units.

(2) **"Affected states"** are the states or federally recognized Tribal Nations:

(a) Whose air quality may be affected when a chapter 401 permit, permit modification, or permit renewal is being proposed; or

(b) That are within fifty miles of the permitted source.

(3) **"Affected unit"** means a fossil-fuel fired combustion device or a source that opts-in under 40 C.F.R. part 74, that is subject to any emission reduction requirement or limitation under the Acid Rain Program.

(4) **"Applicable requirement"** means all of the following as they apply to emissions units in a chapter 401 source (including requirements that have been promulgated or approved by EPA, ecology or a local authority through rule making at the time of permit issuance but have future-effective compliance dates):

(a) The following provisions of the Federal Clean Air Act (FCAA):

(i) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rule making under Title I of the FCAA (Air Pollution Prevention and Control) that implements the relevant requirements of the FCAA, including any revisions to that plan promulgated in 40 C.F.R. 52;

(ii) Any term or condition of any preconstruction permits issued pursuant to regulations approved or promulgated through rule making under Title I, including parts C (Prevention of Significant Deterioration) or D (Plan Requirements for Nonattainment Areas), of the FCAA;

(iii) Any standard or other requirement under section 111 (New Source Performance Standards) of the FCAA, including section 111(d);

(iv) Any standard or other requirement under section 112 (Hazardous Air Pollutants) of the FCAA, including any requirement concerning accident prevention under section 112 (r)(7) of the FCAA;

(v) Any standard or other requirement of the acid rain program under Title IV of the FCAA (Acid Deposition Control) or the regulations promulgated thereunder;

(vi) Any requirements established pursuant to section 504(b) or section 114 (a)(3) of the FCAA;

(vii) Any standard or other requirement governing solid waste incineration, under section 129 of the FCAA;

(viii) Any standard or other requirement for consumer and commercial products, under section 183(e) of the FCAA;

(ix) Any standard or other requirement for tank vessels, under section 183(f) of the FCAA;

(x) Any standard or other requirement of the program to control air pollution from outer continental shelf sources, under section 328 of the FCAA;

(xi) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the FCAA, unless the administrator has determined that such requirements need not be contained in a Title V permit; and

(xii) Any national ambient air quality standard or increment or visibility requirement under part C of Title I of the FCAA, but only as it would apply to temporary sources permitted pursuant to WAC 173-401-635.

(b) Chapter 70.94 RCW and rules adopted thereunder. This includes requirements in regulatory orders issued by the permitting authority.

(c) In permits issued by local air pollution control authorities, the requirements of any order or regulation adopted by the authority.

(d) Chapter 70.98 RCW and rules adopted thereunder.

(e) Chapter 80.50 RCW and rules adopted thereunder.

(5) "**Chapter 401 permit**" or "**permit**" means any permit or group of permits covering a chapter 401 source that is issued, renewed, amended, or revised pursuant to this chapter.

(6) "**Chapter 401 source**" means any source subject to the permitting requirements of this chapter.

(7) "**Continuous compliance**" means collection of all monitoring data required by the permit under the data collection frequency required by the permit, with no deviations, and no other information that indicates deviations, except for unavoidable excess emissions or other operating conditions during which compliance is not required. Monitoring data includes information from instrumental (e.g., CEMS, COMS, or parameter monitors) and noninstrumental (e.g., visual observation, inspection, recordkeeping) forms of monitoring.

(8) "**Delegated authority**" means an air pollution control authority that has been delegated the permit program pursuant to RCW 70.94.161 (2)(b).

(9) "**Designated representative**" shall have the meaning given to it in section 402(26) of the FCAA and the regulations promulgated thereunder and in effect on April 7, 1993.

(10) "**Draft permit**" means the version of a permit for which the permitting authority offers public participation or affected state review.

(11) "**Emissions allowable under the permit**" means an enforceable permit term or condition determined at issuance to be required by an applicable requirement that establishes an emissions limit (including a work practice standard) or an enforceable emissions cap that the source has assumed to avoid an applicable requirement to which the source would otherwise be subject.

(12) "**Emissions unit**" means any part or activity of a stationary source that emits or has the potential to emit any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA. This term is not meant to alter or affect the definition of the term "unit" for purposes of Title IV of the FCAA.

(13) The "**EPA**" or the "**administrator**" means the administrator of the U.S. Environmental Protection Agency or her/his designee.

(14) "**Federal Clean Air Act**" or "**FCAA**" means the Federal Clean Air Act, also known as Public Law 88-206, 77 Stat. 392. December 17, 1963, 42 U.S.C. 7401 et seq., as last amended by the Clean Air Act Amendments of 1990, P.L. 101-549, November 15, 1990.

(15) "**Final permit**" means the version of a chapter 401 permit issued by the permitting authority that has completed all review procedures required by this chapter and 40 C.F.R. §§ 70.7 and 70.8.

(16) "**General permit**" means a permit which covers multiple similar sources or emissions units in lieu of individual permits being issued to each source.

(17) "**Insignificant activity**" or "**insignificant emissions unit**" means any activity or emissions unit located at a chapter 401 source which qualifies as insignificant under the criteria listed in WAC 173-401-530. These units and activities are exempt from permit program requirements except as provided in WAC 173-401-530.

(18) "**Intermittent compliance**" means any form of compliance other than continuous compliance. A certification of intermittent compliance under WAC 173-401-630(5) shall be filed where the monitoring data or other information available to the permittee shows either there are periods of noncompliance, or periods of time during which the monitoring required by the permit was not performed or recorded.

(19) "**Major source**" means any stationary source (or any group of stationary sources) that are located on one or more contiguous or adjacent properties, and are under common control of the same person (or persons under common control) belonging to a single major industrial grouping and that are described in (a), (b), or (c) of this subsection. For the purposes of defining "major source," a stationary source or group of stationary sources shall be considered part of a single industrial grouping if all of the pollutant emitting activities at such source or group of sources on contiguous or adjacent properties belong to the same major group (i.e., all have the same two-digit code) as described in the *Standard Industrial Classification Manual*, 1987.

(a) A major source under section 112 of the FCAA, which is defined as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, ten tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the FCAA, or twenty-five tpy or more of any combination of such hazardous air pollutants. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources; or

(b) A major stationary source of air pollutants, as defined in section 302 of the FCAA, that directly emits or has the potential to emit, one hundred tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant). The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of this section, unless the source belongs to one of the following categories of stationary source:

- (i) Coal cleaning plants (with thermal dryers);
- (ii) Kraft pulp mills;
- (iii) Portland cement plants;
- (iv) Primary zinc smelters;
- (v) Iron and steel mills;
- (vi) Primary aluminum ore reduction plants;
- (vii) Primary copper smelters;
- (viii) Municipal incinerators capable of charging more than two hundred fifty tons of refuse per day;
- (ix) Hydrofluoric, sulfuric, or nitric acid plants;
- (x) Petroleum refineries;
- (xi) Lime plants;
- (xii) Phosphate rock processing plants;
- (xiii) Coke oven batteries;
- (xiv) Sulfur recovery plants;
- (xv) Carbon black plants (furnace process);

- (xvi) Primary lead smelters;
  - (xvii) Fuel conversion plants;
  - (xviii) Sintering plants;
  - (xix) Secondary metal production plants;
  - (xx) Chemical process plants;
  - (xxi) Fossil-fuel boilers (or combination thereof) totaling more than two hundred fifty million British thermal units per hour heat input;
  - (xxii) Petroleum storage and transfer units with a total storage capacity exceeding three hundred thousand barrels;
  - (xxiii) Taconite ore processing plants;
  - (xxiv) Glass fiber processing plants;
  - (xxv) Charcoal production plants;
  - (xxvi) Fossil-fuel-fired steam electric plants of more than two hundred fifty million British thermal units per hour heat input; or
  - (xxvii) All other stationary source categories, which as of August 7, 1980, were being regulated by a standard promulgated under section 111 or 112 of the FCAA;
- (c) A major stationary source as defined in part D of Title I of the FCAA, including:
- (i) For ozone nonattainment areas, sources with the potential to emit one hundred tpy or more of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate," fifty tpy or more in areas classified as "serious," twenty-five tpy or more in areas classified as "severe," and ten tpy or more in areas classified as "extreme"; except that the references in this paragraph to one hundred, fifty, twenty-five, and ten tpy of nitrogen oxides shall not apply with respect to any source for which the administrator has made a finding, under section 182 (f)(1) or (2) of the FCAA, that requirements under section 182(f) of the FCAA do not apply;
  - (ii) For ozone transport regions established pursuant to section 184 of the FCAA, sources with the potential to emit fifty tpy or more of volatile organic compounds;
  - (iii) For carbon monoxide nonattainment areas (A) that are classified as "serious," and (B) in which stationary sources contribute significantly to carbon monoxide levels, sources with the potential to emit fifty tpy or more of carbon monoxide; and
  - (iv) For particulate matter (PM-10) nonattainment areas classified as "serious," sources with the potential to emit seventy tpy or more of PM-10.
- (20) **"Permit modification"** means a revision to a chapter 401 permit that meets the requirements of WAC 173-401-725.
- (21) **"Permit program costs"** means all reasonable (direct and indirect) costs required to develop and administer a permit program (whether such costs are incurred by the permitting authority or other state or local agencies that do not issue permits directly, but that support permit issuance or administration).
- (22) **"Permit revision"** means any permit modification or administrative permit amendment.
- (23) **"Permitting authority"** means the department of ecology, local air authority, or other agency authorized under RCW 70.94.161 (3)(b) and approved by EPA to carry out a permit program under this chapter.

(24) **"Potential to emit"** means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by the administrator. This term does not alter or affect the use of this term for any other purposes under the FCAA, or the term "capacity factor" as used in Title IV of the FCAA or the regulations promulgated thereunder.

(25) **"Proposed permit"** means the version of a permit that the permitting authority proposes to issue and forwards to the administrator for review in compliance with 40 C.F.R. 70.8.

(26) **"Regulated air pollutant"** means the following:

- (a) Nitrogen oxides or any volatile organic compounds;
- (b) Any pollutant for which a national ambient air quality standard has been promulgated;
- (c) Any pollutant that is subject to any standard promulgated under section 111 of the FCAA;
- (d) Any Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA; or
- (e) Any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the FCAA, including sections 112 (g), (j), and (r), including the following:

(i) Any pollutant subject to requirements under section 112(j) of the FCAA. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the FCAA, any pollutant for which a subject source would be major shall be considered to be regulated on the date eighteen months after the applicable date established pursuant to section 112(e) of the FCAA; and

(ii) Any pollutant for which the requirements of section 112 (g)(2) of the FCAA have been met, but only with respect to the individual source subject to section 112 (g)(2) requirement; and

(f) Any air pollutant for which numerical emission standards, operational requirements, work practices, or monitoring requirements applicable to the source have been adopted under RCW 70.94.331, 70.94.380, and 70.94.395.

(27) **"Regulated pollutant (for fee calculation)"**, which is used only for purposes of WAC 173-401-900, means any "regulated air pollutant" except the following:

- (a) Carbon monoxide;
- (b) Any pollutant that is a regulated air pollutant solely because it is a Class I or II substance subject to a standard promulgated under or established by Title VI of the FCAA; or
- (c) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under section 112(r) of the FCAA.

(d) Any regulated air pollutant emitted from an insignificant activity or emissions unit as determined under WAC 173-401-530.

(28) **"Renewal"** means the process by which a permit is reissued at the end of its term.

(29) **"Responsible official"** means one of the following:

(a) For a corporation: A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(i) The facilities employ more than two hundred fifty persons or have gross annual sales or expenditures exceeding forty-three million in 1992 dollars; or

(ii) The delegation of authority to such representative is approved in advance by the permitting authority;

(b) For a partnership or sole proprietorship: A general partner or the proprietor, respectively;

(c) For a municipality, state, federal, or other public agency: Either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a regional administrator of EPA); or

(d) For affected sources:

(i) The designated representative in so far as actions, standards, requirements, or prohibitions under Title IV of the FCAA or the regulations promulgated thereunder and in effect on April 7, 1993 are concerned; and

(ii) The designated representative for any other purposes under 40 C.F.R. Part 70.

(30) "**Section 502 (b)(10) changes**" are changes that contravene an express permit term. Such changes do not include changes that would violate applicable requirements or contravene enforceable permit terms and conditions that are monitoring (including test methods), recordkeeping, reporting, or compliance certification requirements.

(31) "**Small business stationary source**" means a stationary source that:

(a) Is owned or operated by a person that employs one hundred or fewer individuals;

(b) Is a small business concern as defined in the Federal Small Business Act;

(c) Is not a major source;

(d) Does not emit fifty tons or more per year of any regulated pollutant; and

(e) Emits less than seventy-five tons per year of all regulated pollutants.

(32) "**Solid waste incineration unit**" (for purposes of this chapter) means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). Such term does not include incinerators or other units required to have a permit under section 3005 of the Solid Waste Disposal Act (42 U.S.C. 6925). The term "solid waste incineration unit" does not include:

(a) Materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals;

(b) Qualifying small power production facilities, as defined in section (3)(17)(C) of the Federal Power Act (16

U.S.C. 796 (17)(C)) or qualifying cogeneration facilities as defined in section (3)(18)(B) of the Federal Power Act (16 U.S.C. 796 (18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel) for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating, or cooling purposes; or

(c) Air curtain incinerators provided that such incinerators only burn wood wastes, yard wastes, and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the administrator by rule.

(33) "**State**" means any nonfederal permitting authority, including any local agency, interstate association, or state-wide program.

(34) "**Stationary source**" means any building, structure, facility, or installation that emits or may emit any air contaminant. For purposes of this chapter, air contaminants include any regulated air pollutant or any pollutant listed under section 112(b) of the FCAA.

(35) "**Subject to regulation**" means, for any air pollutant, that the pollutant is subject to either a provision in the FCAA, or a nationally applicable regulation codified by EPA in subchapter C of 40 C.F.R. chapter 1 (in effect on October 6, 2010), that requires actual control of the quantity of emissions of that pollutant, and that such a control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Except that:

(a) Greenhouse gases (GHGs), the air pollutant defined in 40 C.F.R. 86.1818-12(a) as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride, shall not be subject to regulation under this chapter unless, as of July 1, 2011, the GHG emissions are at a stationary source emitting or having the potential to emit 100,000 tpy CO<sub>2</sub> equivalent emissions and the source is otherwise required to have an operating permit.

(b) The term "tpy (tons per year) CO<sub>2</sub> equivalent emissions" (CO<sub>2</sub>e) shall represent an amount of GHGs emitted, and shall be computed by multiplying the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A-1 to subpart A of 40 C.F.R. part 98 - Global Warming Potentials, and summing the resultant value for each to compute a tpy CO<sub>2</sub>e. For purposes of this subsection (b), prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material).

(36) "Title I modification" or "modification under any provision of Title I of the FCAA" means any modification under Sections 111 (Standards of Performance for New Stationary Sources) or 112 (Hazardous Air Pollutants) of the FCAA and any physical change or change in the method of operations that is subject to the preconstruction review regulations promulgated under Parts C (Prevention of Significant Deterioration) and D (Plan Requirements for Nonattainment Areas) of Title I of the FCAA.

AMENDATORY SECTION (Amending WSR 02-19-078, filed 9/16/02, effective 10/17/02)

**WAC 173-401-300 Applicability.** (1) Chapter 401 sources. The provisions of this chapter apply in all areas of the state of Washington to the following sources:

(a) Any source required by the FCAA to have an operating permit. These include the following sources:

(i) Any major source as defined in WAC 173-401-200.

(ii) Any source, including an area source, subject to a standard, limitation, or other requirement under section 111 (Standards of Performance for New Stationary Sources) of the FCAA. A small municipal waste combustion unit constructed on or before August 30, 1999, and regulated under WAC 173-400-050(5) becomes subject to this chapter on July 1, 2002.

(iii) Any source, including an area source, subject to a standard or other requirement under section 112 of the FCAA, except that a source is not required to obtain a permit solely because it is subject to regulations or requirements under section 112(r) (Prevention of Accidental Releases) of the FCAA.

(iv) Any solid waste incineration units required to obtain permits under section 129 of the FCAA.

A commercial and industrial solid waste incineration unit constructed on or before November 30, 1999, and regulated under WAC 173-400-050(4) becomes subject to this chapter on July 1, 2002.

(v) Any "affected source" regulated under Title IV (Acid Deposition Control) of the FCAA.

(vi) Any source in a source category designated by the EPA pursuant to 40 C.F.R. Part 70, as amended through April 7, 1993.

(b) Any source that the permitting authority determines may cause or contribute to air pollution in such quantity as to create a threat to the public health or welfare under RCW 70.94.161(4) using the procedures in subsection (5) of this section.

(c) Any other source which chooses to apply for a permit.

(d) ~~((Deferral. A source subject to the secondary aluminum production requirements in 40 C.F.R. Part 63, Subpart RRR (in effect on July 1, 2000) that is not a major source and is not located at a major source as defined under 40 C.F.R. 63.2 and is not otherwise required to obtain a chapter 401 permit is deferred from chapter 173-401 WAC until December 4, 2004. This category includes sweat furnaces, aluminum scrap shredders, thermal chip dryers, scrap dryers/delaquer-ing kilns/decoating kilns, group 2 furnaces (processing clean~~

~~charge only and no reactive fluxing), dross-only furnaces, and rotary dross coolers.~~

(e)) A municipal solid waste landfill constructed, reconstructed or modified before May 30, 1991, and regulated under WAC 173-400-070(9) becomes subject to this chapter on September 20, 2001.

Note: Under 40 C.F.R. 62.14352(e) (in effect on July 1, 2000), an affected landfill must have submitted its chapter 401 application so that by April 6, 2001, the permitting agency was able to determine that it was timely and complete. Under 40 C.F.R. 70.7(b), an affected source may not operate if it has not submitted a timely and complete application.

(2) Source category exemptions.

(a) All sources listed in subsection (1)(a) of this section that are not major sources, affected sources, or solid waste incineration units required to obtain a permit pursuant to section 129(e) of the FCAA, are exempted from the obligation to obtain a chapter 401 permit until such time that: ~~((i) Ecology completes a rulemaking to determine whether nonmajor sources should be required to obtain permits. During this rulemaking, ecology will consider the compliance information contained in individual permit applications when evaluating the regulatory effectiveness and administrative feasibility of issuing operating permits to nonmajor sources relative to other regulatory options. This rulemaking must be completed no later than three years after the effective date of the permit program; or~~

~~((ii)) The administrator completes a rulemaking to determine how the program should be structured for nonmajor sources and determines that such sources must obtain operating permits and ecology completes a rule making to adopt EPA's revised applicability criteria.~~

(b) Subsection (2)(a) of this section shall not apply to nonmajor sources subject to a standard or other requirement established under either section 111 or section 112 of the FCAA after July 21, 1992, if, during those rulemakings, the administrator determines that such sources must obtain a permit at an earlier date and, subsequently, ecology completes a rule making to adopt ~~((EPS's)) EPA's~~ applicability criteria.

(c) Any source listed in (a) of this subsection exempt from the requirement to obtain a permit under this section may opt to apply for a permit under this chapter.

(d) The following source categories are exempt from the obligation to obtain permit:

(i) All sources and source categories that would be required to obtain a permit solely because they are subject to 40 C.F.R. Part 60, Subpart AAA - Standards of Performance for New Residential Wood Heaters; and

(ii) All sources and source categories that would be required to obtain a permit solely because they are subject to part 61, Subpart M - National Emission Standard for Hazardous Air Pollutants for Asbestos, section ~~((61.145)) 61.145~~, Standard for Demolition and Renovation.

(3) Emissions units and chapter 401 sources.

(a) For major sources, the permitting authority shall include in the permit all applicable requirements for all relevant emissions units in the major source.

(b) For any nonmajor source, the permitting authority shall include in the permit all applicable requirements appli-

cable to the emission units that cause the source to be subject to this chapter.

(4) Fugitive emissions. Fugitive emissions from a chapter 401 source shall be included in the permit application and the permit in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source.

(5) Process for determining threat to public health or welfare. The following criteria shall be used to identify sources that are covered pursuant to subsection (1)(b) of this section:

(a) The source may cause or ~~((to))~~ contribute to air pollution in such quantity as to create a violation of any ambient air quality standard as demonstrated by a dispersion modeling analysis performed in accordance with EPA's dispersion modeling guidelines, monitoring, or other appropriate methods; or

(b) The source may cause or contribute to air pollution in such quantity as to create a significant ambient level of any ~~((class A or class B))~~ toxic air pollutant contained in chapter 173-460 WAC as demonstrated by a dispersion modeling analysis done in accordance with EPA's dispersion modeling guidelines, monitoring, or other appropriate methods.

(c) Small business stationary sources otherwise covered under (a) and (b) of this subsection are exempt except when all of the following requirements are satisfied:

(i) The source is in an area that currently exceeds or has been projected by ecology to exceed within five years any federal or state air quality standard. Prior to determining that any area threatens to exceed a standard, ecology shall hold a public hearing or hearings within the threatened area.

(ii) Ecology provides justification that requiring a source to have a permit is necessary to meet or to prevent exceeding a federal or state air quality standard.

(6) Permitting authorities shall develop and maintain a list of names of chapter 401 sources within their jurisdictions. This list shall be made available to the public. A chapter 401 source inadvertently omitted from this list is not exempted from the requirement to obtain a permit under this chapter.

(7) ~~((Federally))~~ Legally and practicably enforceable limits. Any source which is defined as a chapter 401 source solely because its potential to emit exceeds the annual tonnage thresholds defined in WAC 173-401-200 shall be exempt from the requirement to obtain an operating permit when ~~((federally))~~ legally and practicably enforceable conditions which limit that source's potential to emit to levels below the relevant tonnage thresholds have been established for that source.

(a) In applying for an exemption under this subsection, the owner or operator of the source shall demonstrate to the permitting authority that the source's potential to emit, taking into account any ~~((federally))~~ legally and practicably enforceable restrictions assumed by the source, does not exceed the tonnage thresholds defined in WAC 173-401-200. Such demonstrations shall be in accordance with WAC 173-401-520 and shall contain emissions measurement and monitoring data, location of monitoring records, and other information necessary to support the source's emission calculations.

(b) Permitting authorities may use the following approaches to establish ~~((federally))~~ legally and practicably enforceable limitations:

(i) Regulatory orders. At the request of the owner or operator of a source, the permitting authority may establish source-specific conditions in a regulatory order issued pursuant to WAC ~~((173-400-090))~~ 173-400-091.

(ii) Notice of construction approvals. The permitting authority may establish source-specific conditions in a notice of construction approval issued pursuant to state or local regulations ~~((contained in an EPA approved state implementation plan));~~ or

(iii) General permits. The permitting authority may establish source-category requirements which limit a source's potential to emit through a general permit issued pursuant to RCW 70.94.161(11). ~~((Following EPA approval of the general permit, limitations on potential to emit become federally enforceable against a particular source after that source applies for, and receives coverage under the general permit.))~~

(c) A source receiving a ~~((federally))~~ legally and practicably enforceable limit on its potential to emit shall annually certify that its potential to emit is less than that which would require the source to obtain an operating permit. Such certifications shall contain the information specified in (a) of this subsection.

(d) Notice of issuance of any order or permit which limits a source's potential to emit shall be published in the permit register pursuant to WAC 173-401-805 (2)(e).

AMENDATORY SECTION (Amending WSR 94-11-105, filed 5/17/94, effective 6/17/94)

**WAC 173-401-510 Permit application form.** (1) Standard application form and required information. Ecology shall develop a standard application form or forms to be used by each permitting authority. The application shall include information as described below for each emissions unit at a chapter 401 source other than insignificant emissions units ~~((shall be included in the application))~~ and unregulated emission units at nonmajor sources, as described in WAC 173-401-300 (3)(b). However, an application may not omit information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the fee amount required under the permitting authority's fee schedule.

(2) Required data elements for individual permit applications. The application forms developed under subsection (1) of this section shall contain the data elements specified below:

(a) Identifying information, including company name and address (or plant name and address if different from the company name), owner's name and agent, responsible official name and address, and telephone number and names of plant site manager/contact.

(b) A description of the source's processes and products (by Standard Industrial Classification Code) including any associated with each alternative operating scenario identified by the source pursuant to WAC 173-401-650.

(c) The following emissions-related information:

(i) All emissions of pollutants for which the source is major, and all emissions of regulated air pollutants. A permit



application shall describe all emissions of regulated air pollutants emitted from any emissions unit, except emissions from insignificant emission units or activities as defined in WAC 173-401-530. The permitting authority shall require additional information related to the emissions of air pollutants sufficient to verify which requirements are applicable to the source, and other information necessary to collect any permit fees owed under the permitting authority's fee schedule;

(ii) Identification and description of all points of emissions described in (c)(i) of this subsection in sufficient detail to establish the basis for fees and applicability of applicable requirements;

(iii) Emissions rates in tons per year (tpy) and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method;

(iv) The following information to the extent it is needed to determine or regulate emissions: Fuels, fuel use, raw materials, production rates, and operating schedules;

(v) Identification and description of all air pollution control equipment and compliance monitoring devices or activities;

(vi) Limitations on source operation affecting emissions or any work practice standards, where applicable, for all regulated pollutants at the chapter 401 source;

(vii) Other information required by any applicable requirement (including information related to stack height limitations developed pursuant to section 123 of the FCAA); and

(viii) Calculations on which the information in (c)(i) through (vii) of this subsection are based.

(d) The following air pollution control requirements:

(i) Citation and description of all applicable requirements; and

(ii) Description of or reference to any applicable test method for determining compliance with each applicable requirement.

(e) Other specific information that may be necessary to implement and enforce other applicable requirements or this chapter or to determine the applicability of such requirements.

(f) An explanation of any proposed exemptions from otherwise applicable requirements.

(g) Additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to WAC 173-401-650(1) or to define permit terms and conditions implementing WAC 173-401-650((~~e~~)) (1) and 173-401-722.

(h) A compliance plan for all chapter 401 sources that contains all the following:

(i) A description of the compliance status of the source with respect to all applicable requirements;

(ii) A description as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis; and

(C) For requirements for which the source is not in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;

(iii) A compliance schedule as follows:

(A) For applicable requirements with which the source is in compliance, a statement that the source will continue to comply with such requirements;

(B) For applicable requirements that will become effective during the permit term, a statement that the source will meet such requirements on a timely basis;

(C) A schedule of compliance for sources that are not in compliance with all applicable requirements at the time of permit issuance. Such a schedule shall include a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any applicable requirements for which the source will be in non-compliance at the time of permit issuance. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject. Any such schedule of compliance shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based;

(iv) For those sources required to have a schedule of compliance to remedy a violation, a schedule for submission of certified progress reports every six months or at a more frequent period specified in an applicable requirement.

(v) The compliance plan content requirements specified in this paragraph shall apply and be included in the acid rain portion of a compliance plan for an affected source, except as specifically superseded by regulations promulgated under Title IV of the FCAA with regard to the schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

(i) Requirements for compliance certification, including the following:

(i) A certification of compliance with all applicable requirements by a responsible official consistent with WAC 173-401-520 and section 114 (a)(3) of the FCAA;

(ii) A statement of methods used for determining compliance, including a description of monitoring, recordkeeping, and reporting requirements and test methods;

(iii) A schedule for submission of compliance certifications during the permit term, to be submitted annually, or more frequently if specified by the underlying applicable requirement; and

(iv) A statement indicating the source's compliance status with any applicable enhanced monitoring and compliance certification requirements of the FCAA.

(j) The use of nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by regulations promulgated under Title IV of the FCAA and in effect on April 7, 1993.

(k) Requirements which the source believes are inapplicable pursuant to WAC 173-401-640(2) and a request to extend the permit shield to those requirements.

AMENDATORY SECTION (Amending WSR 94-11-105, filed 5/17/94, effective 6/17/94)

**WAC 173-401-531 Thresholds for hazardous air pollutants.** General. The following tables provide thresholds for hazardous air pollutants:

(1) Carcinogens:

CAS Number	Chemical Name	Threshold Levels (tons/year)
189-55-9	1, 2, 7, 8-dibenzopyrene	0.005
107-06-2	1, 2-dichloroethane	0.4
78-87-5	1, 2-dichloropropane	0.5
540-73-8	1, 2-dimethylhydrazine	0.004
122-66-7	1, 2-diphenylhydrazine	0.045
106-99-0	1, 3-butadiene	0.035
1120-71-4	1, 3-propane sultone	0.003
106-46-7	1, 4-dichlorobenzene (p)	0.5
123-91-1	1, 4-dioxane (1, 4-diethyleneoxide)	0.5
94-75-7	2, 4-d salts & esters	0.5
95-80-7	2, 4-toluene diamine	0.01
584-84-9	2, 4-toluene diisocyanate	0.05
53-96-3	2-acetylaminofluorene	0.0025
119-90-4	3, 3'-dimethoxybenzidine	0.5
119-93-7	3, 3-dimethyl benzidine	0.004
101-14-4	4, 4'-methylenebis (2-chloroaniline)	0.5
75-07-0	acetaldehyde	0.5
107-13-1	acrylonitrile	0.15
62-53-3	aniline	0.5
C7440-38-2	arsenic and inorganic arsenic compounds	0.002
1332-21-4	asbestos (fibers/ml)	0.00004
71-43-2	benzene	0.5
92-87-5	benzidine (and its salts)	0.00015
56-55-3	benzo(a)anthracene	0.005
50-32-8	benzo(a)pyrene	0.005
205-99-2	benzo(b)fluoranthene	0.005
7440-41-7	beryllium and compounds (except salts)	0.004
117-81-7	bis (2-ethylhexyl) phthalate	0.5
542-88-1	bis (chloromethyl) ether	0.00015
75-25-2	bromoform	0.5
7440-43-9	cadmium and compounds	0.005
56-23-5	carbon tetrachloride	0.5
57-74-9	chlordane	0.005
510-15-6	chlorobenzilate	0.2
67-66-3	chloroform	0.45
107-30-2	chloromethyl methyl ether	0.1
126-99-8	chloroprene	0.5
C7440-47-3	chromium, hexavalent metal	0.001
218-01-9	chrysene	0.005
————	coke oven emissions	0.015
3547-04-4	DDE	0.005
53-70-3	dibenz(a, h)anthracene	0.005
132-64-9	dibenzofuran	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
111-44-4	dichloroethyl ether	0.03
75-09-2	dichloromethane	0.5
77-78-1	dimethyl sulfate	0.1
————	dioxins & furans (tcdd equivalent)	3e-07
106-89-8	epichlorohydrin	0.5
107-06-2	ethylene dichloride	0.4
106-93-4	ethylene dibromide (dibromethane)	0.05
75-21-8	ethylene oxide	0.1
96-45-7	ethylene thiourea	0.3
76-44-8	heptachlor	0.01
118-74-1	hexachlorobenzene	0.005
58-89-9	hexachlorocyclohexane, gamma	0.005
302-01-2	hydrazine	0.002
193-39-5	indeno (1, 2, 3-cd) pyrene	0.005
————	lead & compounds (except those listed)	0.005
58-89-9	lindane	0.005
75-09-2	methylene chloride	0.5
62-75-9	n-nitrosodimethylamine	0.0005
C7440-02-0	nickel and compounds (except those listed)	0.02
13463-39-3	nickel carbonyl	0.1
95-53-4	o-toluidine	0.5
87-86-5	pentachlorophenol	0.35
127-18-4	perchloroethylene	0.5
1336-36-3	polychlorinated biphenyls	0.0045
75-56-9	propylene oxide	0.5
8001-35-2	toxaphene	0.005
79-01-6	trichloroethylene	0.5
75-01-4	vinyl chloride	0.1
79-34-5	1, 1, 2, 2-tetrachloroethane	0.15
79-00-5	1, 1, 2-trichloroethane	0.5
57-14-7	1, 1-dimethyl hydrazine	0.004
96-12-8	1, 2-dibromo-3-chloropropane	0.004
79-06-1	acrylamide	0.01
98-07-7	benzotrithloride	0.003
62-73-7	dichlorvos	0.1
79-44-7	dimethyl carbamoyl chloride	0.5
140-88-5	ethyl acrylate	0.5
51-79-6	ethyl carbamate	0.5
151-56-4	ethylene imine	0.5
87-68-3	hexachlorobutadiene	0.5
67-72-1	hexachloroethane	0.5
60-34-4	methyl hydrazine	0.03
684-93-5	n-nitroso-n-methylurea	0.5
12035-72-2	nickel refinery dust	0.08
————	nickel subsulfide	0.02
82-68-8	pentachloronitrobenzene	0.15
91-22-5	quinoline	0.003
1582-09-8	trifluralin	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
593-60-2	vinyl bromide	0.5
75-35-4	vinylidene chloride	0.2
189559	1, 2: 7, 8-dibenzopyrene	0.005
121142	2, 4-dinitrotoluene	0.01
88062	2, 4, 6-trichlorophenol	0.5
91941	3, 3-dichlorobenzidene	0.1
57596	7, 12-dimethylbenz(a)anthracene	0.005
50000	formaldehyde	0.5

## (2) Noncarcinogens:

CAS Number	Chemical Name	Threshold Levels (tons/year)
75-34-3	ethylidene dichloride (1, 1-dichloroethane)	0.5
75-55-8	1, 2 propylenimine (2-methyl aziridine)	0.003
120-82-1	1, 2, 4-trichlorobenzene	0.5
106-88-7	1, 2-epoxybutane	0.5
542-75-6	1, 3-dichloropropene (dichloropropene)	0.5
51-28-5	2, 4-dinitrophenol	0.5
111-76-2	2-butoxyethanol	0.5
110-80-5	2-ethoxyethanol	0.5
109-86-4	2-methoxyethanol	0.5
92-93-3	4-nitrobiphenyl	0.5
100-02-7	4-nitrophenol	0.5
75-05-8	acetonitrile	0.5
98-86-2	acetophenone	0.5
107-02-8	acrolein	0.04
79-10-7	acrylic acid	0.5
107-05-1	allyl chloride	0.5
C7440-36-0	antimony & compounds as sb	0.5
1309-64-4	antimony trioxide, as sb	0.5
7784-42-1	arsine	0.1
100-44-7	benzyl chloride	0.1
92-52-4	biphenyl	0.5
156-62-7	calcium cyanamide	0.5
105-60-2	caprolactam, dust	0.5
105-60-2	caprolactam, vapor	0.5
133-06-2	captan	0.5
63-25-2	carbaryl	0.5
75-15-0	carbon disulfide	0.5
463-58-1	carbonyl sulfide	0.5
120-80-9	catechol	0.5
7782-50-5	chlorine	0.1
79-11-8	chloroacetic acid	0.1
532-27-4	chloroacetophenone, alpha-	0.06
108-90-7	chlorobenzene	0.5
C7440-47-3	chromium (ii) compounds, as cr	0.5
C7440-47-3	chromium (iii) compounds, cr	0.5
10210-68-1	cobalt carbonyl, as co	0.1
7440-48-4	cobalt, as co metal dust, fume	0.1

CAS Number	Chemical Name	Threshold Levels (tons/year)
1319-77-3	cresols/cresylic acid, (isomers and mixture)	0.5
95-48-7	o-cresol	0.5
108-39-4	m-cresol	0.5
106-44-5	p-cresol	0.5
98-82-8	cumene	0.5
51-12-5	cyanides, as cn	0.5
84-74-2	dibutyl phthalate	0.5
111-42-2	diethanolamine	0.5
60-11-7	dimethyl aminoazobenzene	0.5
121-69-7	dimethylaniline	0.5
68-12-2	dimethylformamide	0.5
131-11-3	dimethylphthalate	0.5
100-41-4	ethyl benzene	0.5
75-00-3	ethyl chloride	0.5
107-21-1	ethylene glycol	0.5
111-76-2	ethylene glycol monobutyl ether	0.5
————	glycol ethers (except for listed ones)	0.5
77-47-4	hexachlorocyclopentadiene	0.1
822-06-0	hexamethylene, 1, 6-diisocyanate	0.02
110-54-3	hexane (n-hexane)	0.5
110-54-3	hexane, other isomers	0.5
7647-01-0	hydrogen chloride	0.5
7664-39-3	hydrogen fluoride, as f	0.1
123-31-9	hydroquinone	0.5
78-59-1	isophorone	0.5
108-31-6	maleic anhydride	0.5
C7439-96-5	manganese dust & compounds (except listed)	0.5
748-79-4	mercuric chloride	0.01
10045-94-0	mercuric nitrate	0.01
C7439-97-6	mercury, elemental	0.01
72-43-5	methoxychlor	0.5
67-56-1	methyl alcohol	0.5
74-83-9	methyl bromide	0.5
74-87-3	methyl chloride	0.5
71-55-6	methyl chloroform (1, 1, 1-trichloroethane)	0.5
78-93-3	methyl ethyl ketone (mek)	0.5
74-88-4	methyl iodide	0.06
108-10-1	methyl isobutyl ketone	0.5
624-83-9	methyl isocyanate	0.1
80-62-6	methyl methacrylate	0.5
1634-04-4	methyl tert-butyl ether	0.5
12108-13-3	methylcyclopentadienyl manganese tricarbonyl	0.1
101-68-8	methylene bisphenyl isocyanate	0.1
91-20-3	naphthalene	0.5
98-95-3	nitrobenzene	0.5
106-50-3	p-phenylenediamine	0.5

CAS Number	Chemical Name	Threshold Levels (tons/year)
56-38-2	parathion	0.1
108-95-2	phenol	0.1
62-38-4	phenyl mercuric acetate	0.01
75-44-5	phosgene	0.1
7803-51-2	phosphine	0.5
7723-14-0	phosphorus	0.1
85-44-9	phthalic anhydride	0.5
57-57-8	propiolactone, beta-	0.1
123-38-6	propionaldehyde	0.5
114-26-1	propoxur	0.5
106-51-4	quinone	0.5
C7782-49-2	selenium compounds, as se	0.5
7783-79-1	selenium hexafluoride, as se	0.5
7488-56-4	selenium sulfides (mono and di)	0.5
100-42-5	styrene monomer	0.5
78-00-2	tetraethyl lead, as pb	0.01
75-74-1	tetramethyl lead, as pb	0.01
7550-45-0	titanium tetrachloride	0.1
108-88-3	toluene	0.5
121-44-8	triethylamine	0.5
108-05-4	vinyl acetate	0.5
593-60-2	vinyl bromide	0.5
1330-20-7	xylenes (m-,o-,p-isomers)	0.5
79469	2-nitropropane	0.5
540841	2, 2, 4-trimethylpentane	0.5
95954	2, 4, 5-trichlorophenol	0.5
92671	4-aminobiphenyl	0.5
101779	4, 4'-methylenedianiline	0.5
534521	4, 6-dinitro-o-cresol and salts	0.1
60355	acetamide	0.5
1345046	antimony trisulfide	0.1
7783702	antimony pentafluoride	0.1
28300745	antimony potassium tartrate	0.5
133904	chloramben	0.5
((2)) ———	chromium compounds, except hexavalent and trivalent	0.5
10025737	chromic chloride	0.1
334883	diazomethane	0.5
64675	diethyl sulfate	0.5
62207765	fluomine	0.1
680319	hexamethylphosphoramide	0.01
12108133	methylcyclopentadienyl manganese	0.1
101688	methylene diphenyl diisocyanate	0.1
69892	N-nitrosomorpholine	0.5
90040	o-anisidine	0.5
————	polycyclic organic matter	0.01
151508	potassium cyanide	0.1
14339	sodium cyanide	0.1
10102188	sodium selenite	0.1

CAS Number	Chemical Name	Threshold Levels (tons/year)
13410010	sodium selenate	0.1
96093	styrene oxide	0.5

**AMENDATORY SECTION** (Amending WSR 93-20-075, filed 10/4/93, effective 11/4/93)

**WAC 173-401-630 Compliance requirements.** (1) General. Consistent with WAC 173-401-615, all chapter 401 permits shall contain compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a chapter 401 permit shall contain a certification by a responsible official that meets the requirements of WAC 173-401-520.

(2) Inspection and entry. Each permit shall contain inspection and entry requirements that require, that upon presentation of credentials and other documents as may be required by law, the permittee shall allow the permitting authority or an authorized representative to perform the following:

(a) Enter upon the permittee's premises where a chapter 401 source is located or emissions-related activity is conducted, or where records must be kept under the conditions of the permit;

(b) Have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(c) Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit; and

(d) As authorized by WAC 173-400-105 and the FCAA, sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(3) Schedule of compliance. Each permit shall contain a schedule of compliance consistent with WAC 173-401-510 (2)(h)(iii).

(4) Progress reports. For those sources required to have a schedule of compliance, the permit shall require progress reports consistent with an applicable schedule of compliance and WAC 173-401-510 (2)(h) to be submitted at least semi-annually, or at a more frequent period if specified in the applicable requirement or by the permitting authority. Such progress reports shall contain the following:

(a) Dates for achieving the activities, milestones, or compliance required in the schedule of compliance, and dates when such activities, milestones, or compliance were achieved; and

(b) An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

(5) Compliance certification. Each permit shall contain requirements for compliance certification with terms and conditions contained in the permit, including emission limitations, standards, or work practices. Permits shall include each of the following:

(a) A requirement that compliance certifications be submitted once per year. Permitting authorities may require that compliance certifications be submitted more frequently for those emission units not in compliance with permit terms and conditions or where more frequent certification is specified in the applicable requirement;

(b) In accordance with WAC 173-401-615(1), a means for monitoring the compliance of the source with its emissions limitations, standards, and work practices;

(c) A requirement that the compliance certification include the following:

(i) The identification of each term or condition of the permit that is the basis of the certification;

(ii) The compliance status;

(iii) Whether compliance was continuous or intermittent;

(iv) The method(s) used for determining the compliance status of the source, currently and over the reporting period consistent with WAC 173-401-615 (3)(a); ~~(and)~~

(v) If necessary, the owner or operator also shall identify any other material information that must be included in the certification to comply with Section 113 (c)(2) of the FCAA, which prohibits knowingly making a false certification or omitting material information; and

(vi) Such other facts as the authority may require to determine the compliance status of the source.

(d) A requirement that all compliance certifications be submitted to the administrator as well as to the permitting authority; and

(e) Such additional requirements as may be specified pursuant to sections 114 (a)(3) and 504(b) of the FCAA.

AMENDATORY SECTION (Amending WSR 93-20-075, filed 10/4/93, effective 11/4/93)

**WAC 173-401-724 Off-permit changes.** (1) The source shall be allowed to make changes not specifically addressed or prohibited by the permit terms and conditions without requiring a permit revision, provided that the proposed changes do not weaken the enforceability of existing permit conditions. Any change that is a Title I modification or is a change subject to the acid rain requirements under Title IV of the FCAA must be submitted as a permit revision.

(2) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition.

(3) Sources must provide contemporaneous written notice to the permitting authority and EPA of each such change, except for changes that qualify as insignificant under ~~((Appendix A of this chapter))~~ WAC 173-401-530. Such written notice shall describe each such change, including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change.

(4) The change shall not qualify for the permit shield under WAC 173-401-640.

(5) The permittee shall keep a record describing changes made at the source that result in emissions of a regulated air pollutant subject to an applicable requirement, but not otherwise regulated under the permit, and the emissions resulting from those changes.

(6) A source making a change under this section shall comply with applicable preconstruction review requirements established pursuant to RCW 70.94.152.

AMENDATORY SECTION (Amending WSR 93-20-075, filed 10/4/93, effective 11/4/93)

**WAC 173-401-800 Public involvement.** (1) Purpose. It is ecology's and local air authorities' goal to ensure that accurate permitting information is made available to the public in a timely manner. The permitting authority is responsible for providing notice of permitting actions that allows sufficient time for comment and for providing enough information to inform the public of the extent of the actions proposed. These public involvement regulations establish a statewide process to be followed by all permitting authorities.

(2) Public notice.

(a) The permitting authority shall provide public notice for the following actions:

(i) Issuance of a draft permit or permit renewal;

(ii) Intended denial of a permit application;

(iii) Issuance of a draft permit modification;

(iv) Issuance of a draft general permit;

(v) Scheduling of a public hearing under subsection (4) of this section; and

(vi) Any other related activities that the permitting authority considers to involve substantial public interest.

(b) Public notice shall be provided by the permitting authority ~~((in the newspaper of largest general circulation))~~ by prominent advertisement in the area ~~((of))~~ affected by the facility applying for a permit. Publication ~~((includes paid advertisement, legal notice, or other appropriate format,))~~ in Ecology's Operating Permit Register does not satisfy this requirement. Prominent advertisement may be by publication in a newspaper of general circulation in the area affected by the facility applying for a permit as determined by the permitting authority. The permitting authority may provide additional notice to the public through other methods, such as newsletters and press releases. Notice shall also be published in the *Ecology Permit Register*. The permitting authority shall send information on any action requiring publication in the *Permit Register* to ecology within three days of the action.

(c) Notice of the activities described in (a) of this subsection shall also be provided to persons requesting to receive such notice. The permitting authority shall maintain a mailing list of persons requesting notice, and may maintain more than one list, such as lists based on geographical location. No request shall require the extension of the comment period associated with the notice. The permitting authority may from time to time inform the public of the opportunity to be on the list and may also delete from the list persons who fail to respond to an inquiry of continued interest in receiving the notices.

(d) Public notice must include:

(i) Name and address of the permitting authority;

(ii) Name and address of the permit applicant, and if different, the name and address of the facility or activity regulated by the permit, unless it is a general permit;

(iii) A brief description of the business conducted at the facility and activity involved in the permit action;

(iv) Name, address, and telephone number of a person from whom interested persons may obtain further information such as copies of the draft permit, the application, and relevant supporting materials;

(v) A brief description of the comment procedures, including the procedures to request a hearing, and the time and place of any hearings scheduled for the permit; and

(vi) A description of the emission change involved in any permit modification.

(e) The permitting authority must make available for public inspection, in at least one location near the chapter 401 source, all nonproprietary information contained in the permit application, draft permit and supporting materials. Public inspections of materials for nonstationary sources or general permits may be located at the discretion of the permitting authority.

(3) Public comment. Except as otherwise provided in WAC 173-401-725, the permitting authority shall provide a minimum of thirty days for public comment on actions described in subsection (2)(a) of this section. This comment period begins on the date of publication of notice in the *Permit Register* or publication in the newspaper of largest general circulation in the area of the facility applying for the permit, whichever is later. No proposed permit shall be issued until the public comment period has ended and the permitting authority has prepared a response to the comments received.

(4) Public hearings. The applicant, any interested governmental entity, any group or any person may request a public hearing within the comment period required under subsection (3) of this section. Any such request shall indicate the interest of the entity filing it and why a hearing is warranted. The permitting authority may, in its discretion, hold a public hearing if it determines significant public interest exists. Any such hearing shall be held at a time(s) and place(s) as the permitting authority deems reasonable. The permitting authority shall provide at least thirty days prior notice of any hearing.

(5) The permitting authority shall keep a record of the commentors and issues raised during the public participation process. Such records shall be available to the public.

**AMENDATORY SECTION** (Amending WSR 93-20-075, filed 10/4/93, effective 11/4/93)

**WAC 173-401-820 Review by affected states.** (1) Notice. The permitting authority shall give notice of each draft permit, permit revision, or permit renewal to any affected state on or before the time that the permitting authority provides this or permit revision notice to the public under WAC 173-401-800 and 173-401-805, except to the extent WAC 173-401-725 (2) or (3) requires the timing of the notice to be different.

(2) Response. The permitting authority, as part of the submittal of the proposed permit to the administrator (or as soon as possible after the submittal for minor permit modification procedures allowed under WAC 173-401-725 (2) and (3)), shall notify the administrator and any affected state in writing of any refusal by the permitting authority to accept all recommendations for the proposed permit that the affected

state submitted during the public or affected state review period. The notice shall include the permitting authority's reasons for not accepting any such recommendation. The permitting authority is not required to accept recommendations that are not based on applicable requirements or the requirements of this chapter.

(3) British Columbia notification. The permitting authority shall notify British Columbia of draft permits, permit revisions, or permit renewals at sources located within 100 kilometers of the Washington-British Columbia border. Such notice shall be concurrent with notification of EPA and affected states.

**AMENDATORY SECTION** (Amending WSR 94-02-041, filed 12/30/93, effective 1/30/94)

**WAC 173-401-900 Fee determination—Ecology.** (1) Fee determination. Ecology shall develop a fee schedule, consistent with the process outlined below, according to which it will collect fees from permit program sources under its jurisdiction. The fees shall be sufficient to cover ecology's permit administration costs and its share of ecology's development and oversight costs. The fee schedule shall also indicate the shares of ecology's development and oversight costs that are to be collected by each delegated local authority. Opportunities for public participation shall be afforded throughout the fee determination process, as provided in WAC 173-401-920(1).

(2) Fee eligible activities. The costs of the permit administration and development and oversight activities are fee eligible.

(a) Permit administration. Permit administration costs are those incurred by each permitting authority, including ecology, in administering and enforcing the operating permit program with respect to sources under its jurisdiction. Permit administration costs are those enumerated in WAC 173-401-940(1).

(b) Development and oversight. Development and oversight costs are those incurred by ecology in developing and administering the state operating permit program and in overseeing the administration of the program by the delegated local authorities. Development and oversight costs are those enumerated in WAC 173-401-940(2).

(3) Workload analysis. Ecology shall conduct a workload analysis projecting resource requirements, organized by categories of fee-eligible activities, for the purpose of preparing the budget. Ecology shall, for the two-year period corresponding to each biennium, identify the permit administration and development and oversight activities that it will perform during that biennium. The workload analysis shall include resource requirements for both the direct and indirect costs of the permit administration activities enumerated in WAC 173-401-940(1) and the development and oversight activities enumerated in WAC 173-401-940(2). Ecology shall publish a draft workload analysis together with the draft budget for the following biennium on or before February 28 of each even-numbered year and shall provide opportunity for public comment thereon in accordance with WAC 173-401-920(1). Ecology shall publish a final workload analysis

together with the final budget for the following biennium on or before June 30 of each even-numbered year.

(4) Budget development. Ecology shall, for the two-year period corresponding to each biennium, prepare an operating permit program budget for that biennium. The budget shall be based on the resource requirements identified in the workload analysis for the biennium and shall take into account the projected operating permit program account balance at the start of the biennium. Ecology shall publish a draft budget for the following biennium together with the draft workload analysis on or before February 28 of each even-numbered year and shall provide opportunity for public comment thereon in accordance with WAC 173-401-920(1). The draft budget shall include data on unit costs (e.g., salary schedules and the indirect cost rate) used in preparing budget projections. Ecology shall publish a final budget together with the final workload analysis for the following biennium on or before June 30 of each even-numbered year.

(5) Allocation methodology.

(a) Development and oversight costs. Ecology shall allocate its development and oversight costs among all permitting authorities, including ecology, based upon the number of permit program sources under the jurisdiction of each permitting authority, except that extraordinary costs or other costs readily attributable to a specific permitting authority may be assessed by that authority.

(b) Permit administration costs and ecology's share of development and oversight costs.

(i) Fee allocation. Ecology shall allocate its permit administration costs and its share of ecology's development and oversight costs among the permit program sources for whom it acts as permitting authority, according to a three-tiered structure based upon:

~~((i))~~ (A) Tier 1: The number of sources under its jurisdiction;

~~((ii))~~ (B) Tier 2: The complexity of the sources under its jurisdiction; and

~~((iii))~~ (C) Tier 3: The size of the sources under its jurisdiction, as measured by the quantity of each regulated pollutant (for fee calculation) emitted.

~~((The complexity of each source shall be determined based on a ranking system under which ecology assigns to each source a complexity value of 1, 2 or 3, corresponding to ecology's assessment of))~~ (ii) Each of the three tiers shall be equally weighted.

(iii) Complexity level determination in (b)(i)(B) of this subsection.

(A) Ecology must annually assign a complexity level to each source based on ecology's operating permit related work activity.

(B) A source's complexity level determination must correspond to the relative difficulty of issuing and maintaining an operating permit ((for that source)) and the time spent in permit related activities.

(C) Ecology must annually determine the complexity portion of the fee for each source.

(iv) Public process for complexity determination. Ecology must use the following process when determining the complexity portion of the fee:

(A) Ecology must post on ecology's web site on or about October 31st of each year the basis for the complexity level determination.

(B) Ecology must provide thirty days for public comment.

(C) Ecology has thirty days to respond to comments after the close of the public comment period.

(D) If ecology concludes adjustments are necessary, ecology will provide revised fee statements based on updated calculations.

(v) The quantity of each regulated pollutant emitted by a source shall be determined based on the annual emissions data during the most recent calendar year for which data is available. ((Each of the three tiers shall be equally weighted.))

(c) WAC 173-401-300(7) Sources. Ecology shall allocate to permit program sources that qualify for an exemption pursuant to WAC 173-401-300(7) after the effective date of the date of the state operating permit program the portion of ecology's permit administration costs and ecology's share of its development and oversight costs that results from including such sources in the first tier of the allocation structure described in (b)(i) of this subsection. After ~~((federally))~~ legally and practicably enforceable limits have been established and for so long as a source continues to meet the requirements for exemption under WAC 173-401-300(7), that source shall pay registration program fees pursuant to RCW 70.94.015(2) in lieu of paying operating permit program fees.

(6) Fee schedule. Ecology shall issue annually a fee schedule reflecting the permit administration fee and the share of the development and oversight fee to be paid by each permit program source under its jurisdiction and reflecting the development and oversight assessment to be paid by each permitting authority. The fee schedule shall be based on the information contained in the final source data statements, as provided in WAC 173-401-925(3), for each year; the final source data statements shall be issued after opportunity for petition and review has been afforded in accordance with WAC 173-401-925. Ecology shall publish the fee schedule for the following year on or before October 31 of each year.

AMENDATORY SECTION (Amending WSR 94-02-041, filed 12/30/93, effective 1/30/94)

**WAC 173-401-920 Accountability—Ecology and delegated local authorities.** (1) Public participation during fee determination process. Ecology shall provide for public participation in the fee determination process described under WAC 173-401-900, which provision shall include, but not be limited to, the following:

(a) Ecology shall provide opportunity for public review of and comment on each biennial workload analysis and budget.

(b) Ecology shall publish in the *Permit Register* notice of issuance of its draft biennial workload analysis and draft biennial budget and issuance of its annual fee schedule.

(c) Ecology shall make available for public review, on or before February 28 of each even-numbered year, copies of its draft biennial workload analysis and draft biennial budget.

Ecology shall make available for public review, on or before October 31 of each year, copies of its annual fee schedule, including information on availability of the data used for the determination. Ecology shall maintain a mailing list of persons requesting opportunity for review under this subsection or under WAC 173-401-925(1). Ecology may, from time to time, inform the public of the opportunity to be placed on the mailing list and may delete from the list persons who fail to respond to an inquiry regarding continued interest in receiving materials.

(d) Ecology shall provide at least sixty days for public comment on the draft biennial workload analysis and draft biennial budget. Such sixty-day period for comment shall run from the date ecology mails the draft workload analysis and draft budget as provided in (c) of this subsection.

(2) Tracking of revenues, time and expenditures.

(a) Revenues. Ecology shall track revenues on a source-specific basis.

(b) Time and expenditures. Ecology shall track time and expenditures on the basis of source categories and functional categories, except that, as part of a demonstration project undertaken pursuant to RCW 70.94.162, ecology will track time and expenditures on a source-specific basis for at least three but no more than five sources.

(i) Sources will be grouped into five categories, as follows:

- (A) Kraft pulping mills;
- (B) Sulfite pulping mills;
- (C) Metal processing and related industries;
- (D) Sources located on the Hanford Reservation; and
- (E) Other sources, including those sources under the jurisdiction of ecology's central and eastern regional offices.

(ii) Functions will be grouped into several categories and subcategories, as follows:

- (A) Program management and support;
- (B) Program development;
- (C) Permit processing;
- (I) Application assistance and review;
- (II) Preparing draft and final permits;
- (D) Permit management and compliance activities;
- (E) Technical assistance; and
- (F) Outreach and education.

(c) Use of information obtained from tracking revenues, time and expenditures.

(i) Ecology shall use the information obtained from tracking revenues, time and expenditures to modify its workload analysis during the biennial review provided for under WAC 173-401-900.

(ii) The information obtained from tracking revenues, time and expenditures shall not provide a basis for challenge to the amount of an individual source's fee.

~~((3) Periodic fiscal audits, reports and performance audits. A system of regular, periodic fiscal audits, reports and performance audits shall be conducted in order to evaluate the implementation of the operating permit program by ecology and delegated local authorities. Ecology and each delegated local authority shall gather baseline data, where appropriate, to which the various evaluation criteria will be compared.~~

~~(a) Fiscal audits. Ecology and each delegated local authority shall contract with the state auditor to have the auditor perform a standard fiscal audit of ecology's and each delegated local authority's operating permit program every other year.~~

~~(b) Annual routine performance audits. Ecology and each local authority shall be subject to annual routine performance audits, except that the routine performance audit shall be incorporated into the extensive performance audit, conducted pursuant to subsection (3)(d) of this section, in each year during which an extensive performance audit is conducted. Ecology shall conduct the audits of each of the delegated local authorities. An individual from another state's environmental agency shall conduct the audit of ecology. In the event that no such individual is able to serve in this capacity, an independent contractor shall conduct the audit of ecology; the contractor is to be free of any conflicts of interest, to the extent possible, and is to be agreed upon by a committee comprised of one representative each from the environmental and regulated communities, and one representative of a delegated local authority. Any contractor applying to conduct the audit of ecology shall be required to disclose in its application any potential conflicts of interest. The annual routine performance audits shall incorporate by reference information contained in the relevant annual report and, every other year, in the relevant fiscal audit. The annual routine performance audits shall address the following questions and measures of performance:~~

~~(i) How many permits lapsed?~~

~~(A) Explanation of lapse;~~

~~(B) Comments;~~

~~(ii) What is the total number of permit applications or applications for permit modifications?~~

~~(A) Average application processing time;~~

~~(B) Number of disapproved applications and reason for disapproval;~~

~~(C) Number of permit applications regarding which permitting authority had to return to source to request additional information. Number of times permitting authority had to return to source before permit deemed complete;~~

~~(iii) To how many permits did the EPA object? To what percentage of permits did EPA object (including objection upon petition from public)?~~

~~(A) Grounds for objection;~~

~~(B) Agency response;~~

~~(I) Deficiency remedied;~~

~~(II) Timeliness (that is to say, within ninety days? Did administrator issue permit?)~~

~~(iv) How many permits were subject to legal/administrative challenge? What percentage of permits were subject to legal/administrative challenge?~~

~~(A) Challenging party;~~

~~(B) Grounds for challenge;~~

~~(I) Substantive;~~

~~(II) Procedural;~~

~~(C) Outcome of challenge/prevaling party;~~

~~(D) Agency response;~~

~~(v) How many administrative enforcement actions were taken for failure to meet permit requirements? How many notices of violation were issued?~~



(A) Date issued; time elapsed since violation discovered;  
 (B) Reason;  
 (C) Result (that is to say, penalties? Orders of agreement? Legal challenge?)  
 (D) Source returned to compliance; date; (if not, explain);  
 (vi) What was the frequency of inspections at each facility?  
 (A) Announced;  
 (B) Unannounced;  
 (C) Comparison with baseline data;  
 (vii) How many accidental releases, as defined in Section 112(r) of the Federal Clean Air Act, occurred?  
 (A) Reason identified;  
 (B) Agency response;  
 (C) Resulting changes to terms of permit, if any;  
 (D) Comparison with baseline data;  
 (viii) What was the amount of the expenditures per permit issuance?  
 (A) Average for program;  
 (B) Average for source category;  
 (e) Annual random individual permit review. Five percent of the permits issued by each permitting authority, or if five percent of the permits issued by a permitting authority is equal to or less than one, at least one permit issued by the permitting authority shall be subject to review each year in conjunction with the annual routine performance audit. The permit to be reviewed shall be selected at random. Ecology shall conduct the review in the case of each of the delegated local authorities. An individual from another state's environmental agency shall conduct the audit of ecology. In the event that no such individual is able to serve in this capacity, an independent contractor shall conduct the audit of ecology; the contractor is to be free of any conflicts of interest, to the extent possible and is to be agreed upon by a committee comprised of one representative each from the environmental and regulated communities, and one representative of a delegated local authority. Any contractor applying to conduct the audit of ecology shall be required to disclose in its application any potential conflicts of interest. The annual random individual permit review shall address the following questions and measures of performance:

(i) Can reviewer, from information available in permit, determine all requirements to which the source is subject?  
 (ii) Does permit include all applicable requirements?  
 (iii) Can reviewer, from information available in file, determine compliance status for each emission point? For facility?  
 (iv) Does the file include technical reviews, source tests, CEM performance specification tests, permit applications, record of citizen complaints, correspondence with facility and other supporting documentation?  
 (v) Are all major emissions points identified in permit?  
 (vi) Are all pieces of control equipment identified in permit?  
 (vii) Does the permit specify operation and maintenance requirements?  
 (viii) Does the permit specify all monitoring, recording, reporting and certification requirements to which source is subject?

(ix) Are alternative operating scenarios specified in permit? Are the conditions adequately specified?  
 (x) Is the permit expiration date noted?  
 (xi) Does the permit indicate which requirements are enforceable by federal/state mechanisms? Does the permit state the existence of opportunity for PCHB and other judicial review and opportunity to petition EPA?  
 (xii) Were all procedural requirements, including notice to public and affected states, satisfied in issuing/modifying permit?  
 (xiii) Did permit writer work with source to identify and consider opportunities for pollution prevention? Were any pollution prevention measures implemented?  
 (xiv) Evaluation of overall performance:  
 (A) Is permit complete and understandable? Assess completeness, clarity, etc.;  
 (B) Assess procedural adequacy of permit issuance process.  
 (d) Periodic extensive performance audits. Ecology and each local authority shall be subject to extensive performance audits every five years. In addition, ecology or a delegated local authority may be subject to an extensive performance audit more frequently under the conditions of WAC 173-401-920 (3)(e). Ecology shall conduct the audits of each of the delegated local authorities. An individual from another state's environmental agency shall conduct the audit of ecology. In the event that no such individual is able to serve in this capacity, an independent contractor shall conduct the audit of ecology; the contractor is to be free of any conflicts of interest, to the extent possible and is to be agreed upon by a committee comprised of one representative each from the environmental and regulated communities, and one representative of a delegated local authority. Any contractor applying to conduct the audit of ecology shall be required to disclose in its application any potential conflicts of interest. The extensive performance audits shall incorporate by reference the information contained in the annual reports and the routine performance audits for the relevant period and shall take the place of the routine performance audit every fifth year (that is to say, they gather the routine performance audit information in addition to the information indicated below). The extensive performance audits shall address the following questions and measures of performance:

(i) What was the number of modifications?  
 (A) Comparison with projection;  
 (B) Applicable to how many sources;  
 (ii) Did the permitting authority have personnel adequate to complete workload in timely fashion?  
 (iii) Were the total fees assessed adequate to fund program?  
 (A) Amount of shortfall or overcharge;  
 (B) Explanation;  
 (iv) Were the total fees collected equal to total fees assessed?  
 (A) Amount/percentage of shortfall;  
 (B) Reason for shortfall;  
 (v) Was there a program budget increase or decrease over period?  
 (A) Percentage increase or decrease;

(B) Explanation (for example, sources no longer part of operating permit program; new federal requirements implemented through permit program);

(vi) What was the number of instances of late fee payment?

(A) Agency response;

(B) Result (that is to say, was the fee paid? Penalty assessed? Time interval between payment and date fee amount due?)

(vii) How many sources were in compliance with all applicable requirements? What percentage of sources were in compliance with all applicable requirements? How do the number and percentage of sources in compliance with all applicable requirements compare with baseline compliance data?

(viii) What was the number of businesses availing themselves of services offered by state or local business assistance programs? What level of effort was required to provide assistance?

(ix) Were inspection results adequately documented?

(x) Were the methods used to ascertain compliance and the frequency of required reporting and related activities appropriate for each facility?

(A) Frequency of inspections appropriate for relevant facility;

(B) Monitoring requirements appropriate for relevant facility;

(xi) Were the operation and maintenance plans adequate?

(xii) Were public information efforts adequate?

(A) Public notice for actions relating to permitted sources meets/exceeds statutory requirements;

(B) Agency/permit writers accessible to regulated community, to environmental community, and to stakeholders and general public;

(C) Other outreach efforts;

(xiii) Evaluation of overall performance:

(A) Is permitting authority issuing quality permits?

(B) Is permitting authority issuing/renewing permits in timely fashion?

(C) Is permitting authority ensuring that sources are in compliance with terms and conditions of permit?

(D) Is permitting authority effectively using operating permit as a tool for securing environmental improvements?

(E) Is permitting authority efficiently administering program (includes, in the case of ecology, statewide program)? Indicate inefficiencies, where these exist;

(F) Evaluation of particular questions identified in annual report/routine performance audit for further examination;

(e) Finding of inadequate administration or need for further evaluation. If, in the process of conducting a fiscal audit, annual routine performance audit, or annual random individual permit review, the entity conducting the audit finds that ecology or a delegated local authority is inadequately administering the operating permit program or finds that further evaluation is immediately warranted, an extensive performance audit shall be conducted, as provided in WAC 173-401-920 (4)(d).

(f) Preaudit public meeting with auditor. Ecology and each delegated local authority shall provide the opportunity for interested individuals to provide comment to the entity conducting an annual routine performance audit, annual random permit review or extensive performance audit prior to the audit. Such opportunity shall consist of a single, informal meeting at which at least one representative from the regulated community and at least one representative of the environmental community are present. Ecology and each delegated local authority shall provide notice of the preaudit meeting in the *Permit Register*.

(g) Annual reports. Ecology and each delegated local authority shall prepare an annual report evaluating its operating permit program administration. Such report shall include any findings resulting from the relevant fiscal audits, annual routine performance audits, annual random individual permit reviews or periodic extensive performance audits. Ecology shall submit its annual report to the appropriate standing committees of the legislature. Each delegated local authority shall submit its report to its board of directors and to ecology.) (3) Fiscal audits and reports.

(a) Ecology and each delegated local authority shall contract with the state auditor to have the auditor perform a fiscal audit of ecology's and each delegated local authority's operating permit program every other year.

(b) Fiscal audits shall address the following:

(i) Determine how much operating permit fee revenue was collected each fiscal year.

(ii) Determine whether operating permit fee revenue covered all authorized program expenses.

(iii) Determine whether the fees were computed correctly.

(iv) Determine whether invoices were sent out in a timely manner.

(v) Determine whether billed fees were collected.

(vi) Determine how fee revenues and expenses were accounted for, including amounts of shortfalls and overages and an explanation for them.

(vii) Determine if there was a program budget increase or decrease over the period being audited.

(viii) Determine whether operating permit fee revenues were used only for authorized activities.

(4) Performance audits and reports. Ecology and each local authority (the agencies) shall have a performance audit at least every three years.

(a) Overview performance audit. Every three years, the agencies shall:

(i) Conduct an overview audit using data collected in previous years. Each agency shall collect and analyze their data and provide a summary to the air operating permit performance audit advisory committee (the committee).

(ii) Consider program efficiencies that could reduce costs or improve performance of the operating permit program and report any identified efficiencies to the committee.

(b) Intensive performance audit.

(i) The committee, as established in subsection (5) of this section, may recommend an agency participate in a more intensive audit.

(ii) The public may submit a request for an intensive audit to the committee. The request must identify issues of

concern and explain how the overview performance audit does not address them.

(ii) An intensive audit will not take place more frequently than every six years.

(iv) Ecology shall determine final recommendations for the requirements of the overview and intensive performance audits.

(c) Performance audit elements. The following are intended to serve as a guideline for operating permit program intensive performance audits.

Intensive performance audits may include, but are not limited to, assessing the following elements:

(i) Administration of program - Review of activities such as program administration, training, data management, fee administration, and clerical support.

(ii) Permit processing - Review of activities such as review of required permit elements, adequacy of statement of basis, adequacy of technical support document, timeliness of permit processing, permit modifications, permit amendments, and permit appeals.

(iii) Permit management - Review of activities such as inspections, stack test oversight, reports, complaint investigations, administrative enforcement, and compliance.

(iv) Technical assistance - Review of the operating permit technical assistance program.

(v) Education and outreach - Review of activities such as public notification, permit register maintenance, notifications to EPA and affected states, and publications.

(d) Reports on the overview and intensive audit results.

Ecology shall publish a report for each audit. The report shall include:

(i) Recommendations from the committee members.

(ii) Ecology's final recommendations for performance audit requirements.

(iii) Audit results. Ecology shall distribute a copy of the report to the delegated local authorities and the committee members. Ecology shall also post the report on their web site.

(5) Air operating permit performance audit advisory committee (the committee).

(a) Ecology shall establish the committee.

(b) The committee shall operate under a written charter. In consultation with the committee, ecology shall establish the committee charter.

(c) The committee shall meet at least once every three years and begin the first overview performance audit no later than January 2017.

(d) Ecology shall appoint committee members.

(e) Committee membership shall include, at a minimum:

(i) Representation from ecology.

(ii) Representation from the regulated community.

(iii) Representation from a delegated local authority.

(iv) The following representation is desirable:

(A) Environmental group(s).

(B) General public.

(f) The committee shall:

(i) Develop a timeline for the schedule of agency reviews, collecting reports, reviewing reports, and submitting recommendations to ecology.

(ii) Every three years, review data reports prepared by the agencies.

(iii) Submit to ecology:

(A) Recommendations for evaluating and improving program performance statewide.

(B) Observations from the data review, including trends analysis (identifying trends).

(C) Recommendations for intensive audit content if an intensive audit is recommended.

(g) Public process. The committee meetings shall be open to the public. Ecology shall announce the public meeting and opportunity to comment on performance audit recommendations.

(6) Conducting intensive performance audits.

(a) If ecology determines that an intensive performance audit is needed, ecology shall establish the intensive audit schedule.

(b) Ecology shall audit the delegated local authorities. A delegated local authority shall audit ecology. An independent contractor may be used to conduct a required intensive audit.

(c) Performance audit contractor requirements.

(i) If an independent contractor is used to conduct an intensive performance audit, the contractor must have experience with the operating permit program.

(ii) To the extent possible, the contractor shall be free of any conflicts of interest. A contractor applying to conduct the audits shall disclose any potential conflicts of interest in its application.

AMENDATORY SECTION (Amending WSR 94-02-041, filed 12/30/93, effective 1/30/94)

**WAC 173-401-925 Source data statements and petition for review of statements—Ecology and delegated local authorities.**

(1) Preliminary source data statements. Ecology shall provide to the permit program sources under its jurisdiction and to those persons on the mailing list, maintained in accordance with WAC 173-401-920 (1)(c), or to those requesting receipt of source data statements under this subsection a preliminary statement of emissions and other data from that source upon which ecology intends to base its allocation determination under WAC 173-401-900(5) as well as a preliminary statement of emissions and other data from each of the permit program sources under ecology's jurisdiction upon which ecology intends to base its allocation determination. Such preliminary statement shall be provided to the permit program sources and to other persons on the mailing list on or before July 31 of each year. Such preliminary statement shall indicate the name, address and telephone number of the person or persons to whom the source or other individual may direct inquiries and/or petitions for review under subsection (2) of this section regarding the accuracy of the data contained therein.

(2) Petition for review of statement. A permit program source or other individual may petition ecology to review for accuracy the data contained in any preliminary source data statement provided for under subsection (1) of this section. Such petition shall be lodged on or before August 31 of each year. Such petition shall be in writing, directed to the individual indicated on the statement of source data. Such petition shall indicate clearly the data to be reviewed, the specific action that the source or petitioning individual is requesting

be taken and may, if the source or petitioning individual desires, be accompanied by written documentation supporting the request for review. Such petition shall, in addition, state the name, address and telephone number of the person or persons to whom ecology may direct inquiries regarding the request. Upon receipt of such a petition, ecology must issue its written response to the petitioner and any other affected party on or before September 30 of each year. Such response shall state the ~~((conclusions))~~ observations of the review and the reasons therefore, and shall contain a new preliminary source data statement, revised to reflect any changes necessitated by ecology's response.

(3) Final source data statement. Ecology shall provide to the permit program sources under its jurisdiction and to those persons on the mailing list, maintained in accordance with WAC 173-491-920 (1)(c), or to those requesting receipt of source data statements under this subsection a final statement of emissions and other data from that source upon which ecology will base its allocation determination under WAC 173-401-900 on or before October 31 of each year. In addition, the final source data statements shall include a final statement of emissions and other data upon which ecology intends to base its allocation determination from each of the permit program sources under its jurisdiction. The final source data statement will be accompanied by a fee schedule reflecting the fee to be paid by each source. Ecology may include with the fee schedule an invoice, or a notice stating that fees listed in the fee schedule must be paid by February 28th of the following year.

(4) Delegated local authorities. Delegated local authorities shall establish procedures for administrative dispute resolution for disputes pertaining to fees.

AMENDATORY SECTION (Amending WSR 94-02-041, filed 12/30/93, effective 1/30/94)

**WAC 173-401-935 Development and oversight remittance by local authorities—Ecology and delegated local authorities.** (1) Collection. On or before October 31 of each year, ecology shall provide to each delegated local authority a statement of the share of ecology's development and oversight costs for which the authority is responsible for collecting from sources under its jurisdiction.

(2) Remittance. Each delegated local authority shall remit to ecology ~~((one-half of))~~ the share of ecology's development and oversight costs for which ~~((it))~~ the delegated local authority is responsible for collecting from sources under its jurisdiction on or before March 31 ~~((of each year and shall remit to ecology the balance of its share of ecology's development and oversight costs on or before June 30 of each year))~~.

AMENDATORY SECTION (Amending WSR 94-02-041, filed 12/30/93, effective 1/30/94)

**WAC 173-401-940 Fee eligible activities—Ecology and delegated local authorities.** (1) Permit administration activities shall include:

(a) Preapplication assistance and review of an application and proposed compliance plan for a permit, permit revision, or renewal;

(b) Source inspections, testing and other data-gathering activities necessary for the development of a permit, permit revision, or renewal;

(c) Acting on an application for a permit, permit revision, or renewal, including the costs of developing an applicable requirement as part of the processing of a permit, permit revision, or renewal, preparing a draft permit and fact sheet, and preparing a final permit, but excluding the costs of developing BACT, LAER, BART, or RACT requirements for criteria and toxic air pollutants;

(d) Notifying and soliciting, reviewing and responding to comment from the public and contiguous states and tribes, conducting public hearings regarding the issuance of a draft permit and other costs of providing information to the public regarding operating permits and the permit issuance process;

(e) Modeling necessary to establish permit limits or to determine compliance with permit limits;

(f) Reviewing compliance certifications and emissions reports and conducting related compilation and reporting activities;

(g) Conducting compliance inspections, complaint investigations, and other activities necessary to ensure that a source is complying with permit conditions;

(h) Administrative enforcement activities and penalty assessment, excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(i) The share attributable to permitted sources of the development and maintenance of emissions inventories;

(j) The share attributable to permitted sources of ambient air quality monitoring and associated recording and reporting activities;

(k) Training for permit administration and enforcement;

(l) Fee determination, assessment, and collection, including the costs of necessary administrative dispute resolution and penalty collection;

(m) Required fiscal audits, periodic performance audits, and reporting activities;

(n) Tracking of time, revenues and expenditures, and accounting activities;

(o) Administering the permit program including the costs of clerical support, supervision, and management; ~~((and))~~

(p) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act; and

(q) Provision of assistance to small business consistent with RCW 70.94.162.

(2) Development and oversight activities shall include:

(a) Review and determinations necessary for delegation of authority to administer and enforce a permit program to a local air authority under RCW 70.94.161(2) and 70.94.860;

(b) Conducting fiscal audits and periodic performance audits of delegated local authorities, and other oversight functions required by the operating permit program;

(c) Administering enforcement actions taken by the department on behalf of a permitting authority, including those actions taken by the department under RCW 70.94.785, but excluding the costs of proceedings before the pollution control hearings board and all costs of judicial enforcement;

(d) Determination and assessment with respect to each permitting authority of the fees covering its share of the costs of development and oversight;

(e) Training and assistance for permit program administration and oversight, including training and assistance regarding technical, administrative, and data management issues;

(f) Development of generally applicable regulations or guidance regarding the permit program or its implementation or enforcement;

(g) State codification of federal rules or standards for inclusion in operating permits;

(h) Preparation of delegation package and other activities associated with submittal of the state permit program to the United States Environmental Protection Agency for approval, including ongoing coordination activities;

(i) General administration and coordination of the state permit program, related support activities, and other agency indirect costs, including necessary data management and quality assurance;

(j) Required fiscal audits and periodic performance audits of the department, and reporting activities;

(k) Tracking of time, revenues and expenditures, and accounting activities;

(l) Public education and outreach related to the operating permit program, including the maintenance of a permit register;

(m) The share attributable to permitted sources of compiling and maintaining emissions inventories;

(n) The share attributable to permitted sources of ambient air quality monitoring, related technical support, and associated recording activities;

(o) Provision of assistance to small business as required under Section 507 of the Federal Clean Air Act as it exists on the effective date of this act or its later enactment as adopted by reference by the director by rule;

(p) Provision of services by the department of revenue and the office of the state attorney general and other state agencies in support of permit program administration;

(q) A one-time revision to the state implementation plan to make those administrative changes necessary to ensure coordination of the state implementation plan and the operating permit program; and

(r) Other activities required by operating permit regulations issued by the United States Environmental Protection Agency under the Federal Clean Air Act.

Hearing Location(s): Insurance Commissioner's Office, TR 120, 5000 Capitol Boulevard, Tumwater, WA 98504-0255, on September 21, 2015, at 10:00 a.m.

Date of Intended Adoption: September 22, 2015.

Submit Written Comments to: Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, e-mail rulescoordinator@oic.wa.gov, fax (360) 586-3109, by September 18, 2015.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by September 18, 2015, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules will amend the existing holding company regulation, chapter 284-18 WAC and other WAC sections to conform with the amendments made by legislation enacted during the 2015 legislative session. In addition, since the legislation repealed chapter 48.31C RCW and provided that the entities regulated by this chapter would now be regulated under chapter 48.31B RCW, the proposed rules will repeal chapter 284-18A WAC.

Reasons Supporting Proposal: In the 2015 legislative session, chapter 122, Laws of 2015, was enacted making changes to the Insurer Holding Company Act and repealing chapter 48.31C RCW.

Statutory Authority for Adoption: RCW 48.02.060 and 48.31B.040.

Statute Being Implemented: Chapter 48.31B RCW.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Jim Tompkins, P.O. Box 98504-0258 [40258], Olympia, WA 98504-0258, (360) 725-7036; Implementation and Enforcement: Ron Pastuch, P.O. Box 98504-0259 [40259], Olympia, WA 98504-0259, (360) 725-7211.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The entities that must comply with the proposed rule are not small businesses, pursuant to chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Jim Tompkins, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7036, fax (360) 586-3109, e-mail rulescoordinator@oic.wa.gov.

August 4, 2015

Mike Kreidler

Insurance Commissioner

### WSR 15-16-113

#### PROPOSED RULES

#### OFFICE OF

#### INSURANCE COMMISSIONER

[Insurance Commissioner Matter No. R 2015-05—Filed August 4, 2015, 2:35 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-067.

Title of Rule and Other Identifying Information: Insurer holding companies.

AMENDATORY SECTION (Amending WSR 12-03-087, filed 1/15/12, effective 2/15/12)

**WAC 284-03-030 Exemptions.** (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. Requestors should be aware of the following exemptions found specifically in the insurance code (Title 48 RCW), that restrict the availability of some documents held by the OIC for inspection and copying:

(a) Medical malpractice - Closed claim reports - Annual reports, RCW 48.140.040 and 48.140.050.

(b) Confidentiality of documents, materials, or other information, RCW 48.02.065.

(c) Insurer's risk-based capital reports, RCW 48.05.510 through 48.05.535.

(d) Insurance fraud, RCW 48.30A.045 through 48.30A.-065 and 48.135.060.

(e) ~~((Confidential proprietary and trade secret information, RCW 48.31C.020 through 48.31C.050 and 48.31C.070-))~~ Documents, materials, or information about insurer's transactions with affiliates, RCW 48.31B.025 and 48.31B.030.

(f) Material acquisitions or disposition information, RCW 48.43.200, 48.44.530 through 48.44.555, and 48.46.-600 through 48.46.625.

(g) Service contract provider's annual reports, RCW 48.110.040.

(h) Statistical summaries, RCW 48.140.040.

(2) The OIC is prohibited by statute from disclosing lists of individuals for commercial purposes.

This list is **for informational purposes** only and a failure to list an exemption **shall not affect the efficacy of any exemption**.

AMENDATORY SECTION (Amending WSR 09-20-069, filed 10/5/09, effective 11/5/09)

**WAC 284-07-110 Definitions.** For the purposes of WAC 284-07-100 through 284-07-230 the following definitions shall apply:

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants (AICPA) and in all states in which he or she is licensed to practice; for Canadian and British companies, the terms mean a Canadian-chartered or British-chartered accountant.

(2) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(3) "Audit committee" means a committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of these controlled insurers solely for the purposes of WAC 284-07-100 through 284-07-230 at the election of the controlling person. Refer to WAC 284-07-213(5) for exercising this election. If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

(4) "Audited financial report" means and includes those items specified in WAC 284-07-130.

(5) "Group of insurers" means those licensed insurers included in the reporting requirements of chapter((s)) 48.31B ~~((and 48.31C))~~ RCW, or a set of insurers as identified by

management, for the purpose of assessing the effectiveness of internal control over financial reporting.

(6) "Indemnification" means an agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(7) "Independent board member" has the same meaning as described in WAC 284-07-213(3).

(8) "Insurer" has the same meaning as set forth in RCW 48.01.050. It also includes health care service contractors registered under chapter 48.44 RCW, health maintenance organizations registered under chapter 48.46 RCW, fraternal benefit societies registered under chapter 48.36A RCW, and self-funded multiple employer welfare arrangements authorized under chapter 48.125 RCW.

(9) "Internal control over financial reporting" means a process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g) and includes those policies and procedures that:

(a) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets;

(b) Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g) and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and

(c) Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, i.e., those items specified in WAC 284-07-130 (2)(b) through (g).

(10) "NAIC" means the National Association of Insurance Commissioners.

(11) "Policy holder" shall also mean subscriber.

(12) "SEC" means the United States Securities and Exchange Commission.

(13) "Section 404" means Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder.

(14) "Section 404 report" means management's report on internal control over financial reporting as defined by the SEC and the related attestation report of the independent certified public accountant described in WAC 284-07-110(1).

(15) "SOX compliant entity" means an entity that either is required to be compliant with, or voluntarily is compliant with, all of the following provisions of the Sarbanes-Oxley Act of 2002:

(a) The preapproval requirements of Section 201 (Section 10A(i) of the Securities and Exchange Act of 1934);

(b) The audit committee independence requirements of Section 301 (Section 10A (m)(3) of the Securities and Exchange Act of 1934); and

(c) The internal control of financial reporting requirements of Section 404 (Item 308 of SEC Regulations S-K).

AMENDATORY SECTION (Amending WSR 11-24-087, filed 12/7/11, effective 1/7/12)

**WAC 284-07-600 Definitions.** For the purposes of this regulation, WAC 284-07-610 and 284-07-620, called the biographical affidavits regulation, the following definitions apply:

(1) A "biographical affidavit" means the current National Association of Insurance Commissioners (NAIC) Biographical Affidavit, Form 11, available on the NAIC's web site at [www.naic.org](http://www.naic.org).

(2) A "domestic insurer" includes an entity organized under the laws of this state, domiciled in this state or using this state as its state of entry including:

(a) An insurer authorized under chapter 48.05 RCW.

(b) A fraternal benefit society as defined in RCW 48.36A.010 and authorized under chapter 48.36A RCW.

(c) A health care service contractor defined in RCW 48.44.010 and registered under chapter 48.44 RCW.

(d) A health maintenance organization defined in RCW 48.46.020 and registered under chapter 48.46 RCW.

(e) A self-funded multiple employer welfare arrangement defined in RCW 48.125.010 and authorized under chapter 48.125 RCW.

(f) An alien insurer authorized under chapter 48.05 RCW and subject to the requirements under chapter 48.35 RCW.

(3) A "foreign insurer" or an "alien insurer" are as defined in RCW 48.05.010 and authorized under chapter 48.05 RCW.

(4) An "officer" or "director" includes:

(a) ~~((A controlling))~~ An individual with controlling interests as defined in RCW 48.31B.005 ~~((2) and 48.31C.010)~~ (3);

(b) An executive officer as defined in WAC 284-18-340 and 284-18A-340; and

(c) Key management personnel who control the operations of a domestic, foreign or alien insurer.

#### NEW SECTION

**WAC 284-18-200 Purpose.** The purpose of these rules is to set forth rules and procedural requirements which the commissioner deems necessary to carry out the provisions of the NAIC Insurance Holding Company System Regulatory Act, chapter 48.31B RCW, of the insurance code hereinafter referred to as "the act." The information called for by these rules is hereby declared to be necessary and appropriate in the public interest and for the protection of the policyholders in this state.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-300 Forms—General requirements.** (1) Forms A, B, C, ~~((and))~~ D, E, and F are intended to be guides in the preparation of the statements required by ~~((sections 4, 6, and 7, chapter 462, Laws of 1993))~~ RCW 48.31B.015, 48.31B.020, 48.31B.025, and 48.31B.030. They are not

intended to be blank forms which are to be filled in. These statements filed ~~((shall))~~ must contain the numbers and captions of all items, but the text of the items may be omitted provided the answers thereto are prepared in such a manner as to indicate clearly the scope and coverage of the items. All instructions, whether appearing under the items of the form or elsewhere therein, are to be omitted. Unless expressly provided otherwise, if any item is inapplicable or the answer thereto is in the negative, an appropriate statement to that effect ~~((shall))~~ must be made.

(2) ~~((Two complete copies of))~~ The Forms A, ((and one copy of Forms)) B, C, ((and)) D, E, and F including exhibits and all other papers and documents filed as a part thereof, ~~((shall))~~ must be filed with the commissioner ~~((by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Insurance Building, Post Office Box 40255, Olympia, Washington 98504-0255, Attention: Company Supervision. One complete copy of Form A shall also be filed with the commissioner by personal delivery or mail addressed to: Insurance Commissioner of the State of Washington, Seattle, Washington 98104, Attention: Chief Examiner. A copy of Form C shall be filed in each state in which an insurer is authorized to do business, if the commissioner of that state has notified the insurer of its request in writing, in which case the insurer has ten days from receipt of the notice to file such form. At least one of the copies shall))~~ as instructed on the commissioner's web site. The forms must be manually or electronically signed in the manner prescribed on the ((form)) commissioner's web site. Unsigned copies ((shall)) must be conformed. If the signature of any person is affixed pursuant to a power of attorney or other similar authority, a copy of ~~((such))~~ the power of attorney or other authority ~~((shall))~~ must also be filed with the statement.

(3) If an applicant requests a hearing on a consolidated basis under RCW 48.31B.015 (4)(c) in addition to filing the Form A with the commissioner, the applicant must file a copy of the Form A with the National Association of Insurance Commissioners (NAIC) in electronic form.

(4) Statements ~~((should))~~ must be prepared ~~((on paper 8 1/2" x 11" (or 8 1/2" x 14") in size and preferably bound at the top or the top left hand corner. Exhibits and financial statements, unless specifically prepared for the filing, may be submitted in their original size. All copies of any statement, financial statements, or exhibits shall be clear, easily readable, and suitable for photocopying))~~ electronically as instructed on the commissioner's web site. Debits in credit categories and credits in debit categories ((shall)) must be designated so as to be clearly distinguishable as such on ~~((photocopies))~~ the statements. Statements ~~((shall))~~ must be in the English language and monetary values ~~((shall))~~ must be stated in United States currency. If any exhibit or other ~~((paper or))~~ document filed with the statement is in a foreign language, it ~~((shall))~~ must be accompanied by a translation into the English language and any monetary value shown in a foreign currency normally ~~((shall))~~ must be converted into United States currency.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-310 Forms—Incorporation by reference, summaries, and omissions.** (1) Information required by any item of Form A, ~~((Form))~~ B, ~~((or Form))~~ D, E, or F may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or any other document may be incorporated by reference in answer or partial answer to any item of Form A, ~~((Form))~~ B, ~~((or Form))~~ D, E, or F provided ~~((such))~~ the document ~~((or paper))~~ is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits if the documents are extensive. Documents currently on file with the commissioner which were filed within three years need not be attached as exhibits. References to information contained in exhibits or in documents already on file ~~((shall))~~ must clearly identify the material and ~~((shall))~~ must specifically indicate that such material is to be incorporated by reference in answer to the item. Matter ~~((shall))~~ must not be incorporated by reference in any case where ~~((such))~~ the incorporation would render the statement incomplete, unclear, or confusing.

(2) Where an item requires a summary or outline of the provisions of any document, only a brief statement ~~((shall))~~ must be made as to the pertinent provisions of the document. In addition to ~~((such))~~ the statement, the summary or outline may incorporate by reference particular parts of any exhibit or document currently on file with the commissioner which was filed within three years and may be qualified in its entirety by ~~((such))~~ the reference. In any case where two or more documents required to be filed as exhibits are substantially identical in all material respects except as to the parties thereto, the dates of execution, or other details, a copy of only one of ~~((such))~~ the documents need be filed with a schedule identifying the omitted documents and setting forth the material details in which ~~((such))~~ the documents differ from the documents a copy of which is filed.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-320 Forms—Information unknown or unavailable and extension of time to furnish.** ~~((1))~~ Information required need be given only insofar as it is known or reasonably available to the person filing the statement. If any required information is unknown and not reasonably available to the person filing, either because the obtaining thereof would involve unreasonable effort or expense, or because it rests peculiarly within the knowledge of another person not affiliated with the person filing, the information may be omitted, subject to the following conditions:

(a) ~~The person filing shall give such information on the subject as it possesses or can acquire without unreasonable effort or expense, together with the sources thereof; and~~

~~(b) The person filing shall include a statement either showing that unreasonable effort or expense would be involved or indicating the absence of any affiliation with the person within whose knowledge the information rests and~~

~~stating the result of a request made to such person for the information.~~

~~((2))~~ If it is impractical to furnish any required information, document, or report at the time it is required to be filed, there ~~((may))~~ must be filed with the commissioner a separate document:

~~((a))~~ (1) Identifying the information, document, or report in question;

~~((b))~~ (2) Stating why the filing thereof at the time required is impractical; and

~~((c))~~ (3) Requesting an extension of time for filing the information, document, or report to a specified date. The request for extension ~~((shall be deemed))~~ is granted unless the commissioner within sixty days after receipt thereof enters an order denying the request.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-330 Forms—Additional information and exhibits.** In addition to the information expressly required to be included in Forms A, ~~((Form))~~ B, ~~((Form))~~ C, ~~((and Form))~~ D, ~~((there shall be added such))~~ E, and F the commissioner may request further material information, if any, as may be necessary to make the information contained therein not misleading. The person filing may also file ~~((such))~~ exhibits as it may desire in addition to those expressly required by the statement. ~~((Such))~~ The exhibits ~~((shall))~~ must be so marked as to indicate clearly the subject matters to which they refer. Changes to Forms A, B, C, ~~((or))~~ D ~~((shall))~~, E, or F must include on the top of the cover page the phrase: "Change No. (insert number) to" and ~~((shall))~~ must indicate the date of the change and not the date of the original filing.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-340 Definitions.** (1) "The act" means the Insurer Holding Company Act, ~~((sections 1 through 15, chapter 462, Laws of 1993))~~ chapter 48.31B RCW.

(2) "Executive officer" means chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.

(3) ~~("Foreign insurer" shall include an alien insurer except where clearly noted otherwise.~~

(4)) "Ultimate controlling person" means that person which is not controlled by any other person.

~~((5))~~ (4) Unless the context otherwise requires, other terms found in ~~((these regulations))~~ this chapter and in ~~((section 2, chapter 462, Laws of 1993))~~ RCW 48.31B.005, are used as defined in ~~((that section 2, chapter 462, Laws of 1993))~~ RCW 48.31B.005. Other nomenclature or terminology is according to Title 48 RCW, or industry usage if not defined by Title 48 RCW.



AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-350 Subsidiaries of domestic insurers.**

The authority to invest in subsidiaries under ~~((the act)) chapter 48.31B RCW~~ is in addition to any authority to invest in subsidiaries which may be contained in any other provision of Title 48 RCW.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-360 Acquisition of control—Statement**

**filing.** A person required to file a statement ~~((pursuant to section 4, chapter 462, Laws of 1993, shall))~~ under RCW 48.31B.015, must furnish the required information on Form A, ~~((hereby made a part of this regulation))~~ set forth in WAC 284-18-910. The person must also furnish the required information on Form E set forth in WAC 284-18-950.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-370 Amendments to Form A.**

The applicant ~~((shall))~~ must promptly advise the commissioner of any changes in the information ~~((sø))~~ furnished on Form A arising subsequent to the date upon which ~~((such))~~ the information was furnished but prior to the commissioner's disposition of the application.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-380 Acquisition ~~((of section 4(1), chapter 462, Laws of 1993))~~ under RCW 48.31B.015, insurers.**

(1) If the person being acquired is ~~((deemed to be))~~ a "domestic insurer" solely because of the provisions of ~~((the second paragraph of section (4)(1), chapter 462, Laws of 1993))~~ RCW 48.31B.015 (1)(d), the name of the domestic insurer on the cover page should be indicated as follows:

"ABC Insurance Company, a subsidiary of XYZ Holding Company."

(2) Where ~~((such an))~~ the insurer is being acquired, references to "the insurer" contained in Form A ~~((shall))~~ must refer to both the domestic subsidiary insurer and the person being acquired.

NEW SECTION

**WAC 284-18-385 Preacquisition notification.**

If a domestic insurer, including any person controlling a domestic insurer, is proposing a merger or acquisition under RCW 48.31B.015 (1)(a) that person must file a preacquisition notification form, Form E, set forth in WAC 284-18-950.

Additionally, if a nondomiciliary insurer authorized to do business in this state is proposing a merger or acquisition under RCW 48.31B.020 that person must file a preacquisition notification form, Form E. No preacquisition form need be filed if the acquisition is beyond the scope of RCW 48.31B.020 as set forth in RCW 48.31B.020 (2)(b).

In addition to the information required by Form E, the commissioner may require an expert opinion as to the competitive impact of the proposed acquisition.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-390 Annual registration of insurers—**

**Statement filing.** An insurer required to file an annual registration statement ~~((pursuant to section 6, chapter 462, Laws of 1993, shall))~~ under RCW 48.31B.025, must furnish the required information on Form B, ~~((hereby made a part of these regulations))~~ set forth in WAC 284-18-920.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-400 Summary of registration—State-**

**ment filing.** An insurer required to file an annual registration statement ~~((pursuant to section 6, chapter 462, Laws of 1993))~~ under RCW 48.31B.025, is also required to furnish information required on Form C, ~~((hereby made a part of this regulation. An insurer shall file a copy of Form C in each state in which the insurer is authorized to do business, if requested by the commissioner of that state))~~ set forth in WAC 284-18-930.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-410 Amendments to Form B.** (1) An amendment to Form B ~~((shall))~~ must be filed within fifteen days after the end of any month in which there is a material change to the information provided in the annual registration statement.

(2) Amendments ~~((shall))~~ must be filed in the Form B format with only those items which are being amended reported. Each ~~((such))~~ amendment ~~((shall))~~ must include at the top of the cover page "Amendment No. (insert number) to Form B for (insert year)" and ~~((shall))~~ must indicate the date of the change and not the date of the original filings.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-420 Alternative and consolidated regis-**

**trations.** (1) Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers which are required to register under ~~((section 6, chapter 462, Laws of 1993))~~ RCW 48.31B.025. A registration statement may include information not required by the act regarding any insurer in the insurance holding company system even if ~~((such))~~ the insurer is not authorized to do business in this state. In lieu of filing a registration statement on Form B, the authorized insurer may file a copy of the registration statement or similar report which it is required to file in its state of domicile, provided:

(a) The statement or report contains substantially similar information required to be furnished on Form B; and

(b) The filing insurer is the principal insurance company in the insurance holding company system.

(2) The question of whether the filing insurer is the principal insurance company in the insurance holding company system is a question of fact and an insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, ~~((shall))~~ must set forth a brief statement of facts which will substantiate the filing insurer's claim that it, in fact, is the principal insurer in the insurance holding company system.

(3) With the prior approval of the commissioner, an unauthorized insurer may follow any of the procedures which could be done by an authorized insurer under subsection (1) of this section.

(4) Any insurer may take advantage of the provisions of ~~((section 6 (8) or (9), chapter 462, Laws of 1993))~~ RCW 48.31B.025 (8) or (9), without obtaining the prior approval of the commissioner. The commissioner, however, reserves the right to require individual filings if he or she deems ~~((such))~~ the filings necessary in the interest of clarity, ease of administration, or the public good.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-430 Disclaimers and termination of registration.** (1) A disclaimer of affiliation or a request for termination of registration claiming that a person does not, or will not upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") ~~((shall))~~ must contain the following information:

(a) The number of authorized, issued, and outstanding voting securities of the subject;

(b) With respect to the person whose control is denied and all affiliates of ~~((such))~~ the person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of ~~((such))~~ the shares concerning which there is a right to acquire, directly or indirectly;

(c) All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of ~~((such))~~ the person;

(d) A statement explaining why ~~((such))~~ the person should not be considered to control the subject.

(2) A request for termination of registration ~~((shall be deemed to have been))~~ is granted unless the commissioner, within thirty days after he or she receives the request, notifies the registrant otherwise.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-440 Transactions subject to prior notice—Notice filing.** (1) An insurer required to give notice of a proposed transaction ~~((pursuant to section 7, chapter 462, Laws of 1993, shall))~~ under RCW 48.31B.030, must furnish the required information on Form D, ~~((hereby made a part of these regulations))~~ set forth in WAC 284-18-940.

(2) Agreements for cost-sharing services and management services must at a minimum and as applicable:

(a) Identify the person providing the services and the nature of the services;

(b) Set forth the methods to allocate costs;

(c) Require timely settlement, not less frequently than on a quarterly basis, and compliance with the requirements in the accounting practices and procedures manual;

(d) Prohibit advancement of funds by the insurer to the affiliate except to pay for services defined in the agreement;

(e) State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance;

(f) Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement;

(g) Specify that all books and records of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

(h) State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer;

(i) Include standards for termination of the agreement with and without cause;

(j) Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services;

(k) Specify that, if the insurer is placed in receivership or delinquency proceedings by the commissioner under either chapter 48.31 or 48.99 RCW, or both:

(i) All of the rights of the insurer under the agreement extend to the receiver or commissioner; and

(ii) All books and records will immediately be made available to the receiver or commissioner, and must be turned over to the receiver or commissioner immediately upon the receiver or the commissioner's request;

(l) Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership under either chapter 48.31 or 48.99 RCW, or both; and

(m) Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a delinquency proceeding by the commissioner under either chapter 48.31 or 48.99 RCW, or both, and will make them available to the receiver, for so long as the affiliate continues to receive timely payments for services rendered.

#### NEW SECTION

**WAC 284-18-445 Enterprise risk report.** The ultimate controlling person of an insurer required to file an enterprise risk report under RCW 48.31B.025(12) must furnish the required information on Form F, set forth in WAC 284-18-960.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-450 Extraordinary dividends and other distributions.** (1) Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders ~~((shall))~~ must include the following:

(a) The amount of the proposed dividend;

(b) The date established for payment of the dividend;

(c) A statement as to whether the dividend is to be in cash or other property and, if in property, a description

thereof, its cost, and its fair market value together with an explanation of the basis for valuation;

(d) A copy of the calculations determining that the proposed dividend is extraordinary. The work paper ~~((shall))~~ must include the following information:

(i) The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurers own securities) paid within the period of twelve consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year;

(ii) Surplus as regards policyholders (total capital and surplus) as of the ~~((31st day of))~~ preceding December ~~((next preceding))~~ 31st;

(iii) If the insurer is a life insurer, the net gain from operations for the twelve-month period ending the ~~((31st day of))~~ preceding December ~~((next preceding))~~ 31st;

(iv) If the insurer is not a life insurer, the net income less realized capital gains for the twelve-month period ending the ~~((31st day of December next))~~ preceding December 31st and the two preceding twelve-month periods; and

(v) If the insurer is not a life insurer, the dividends paid to stockholders excluding distributions of the insurer's own securities in the preceding two calendar years.

(e) A balance sheet and statement of income for the period intervening from the last annual statement filed with the commissioner and the end of the month preceding the month in which the request for dividend approval is submitted; and

(f) A brief statement as to the effect of the proposed dividend upon the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs.

(2) Subject to RCW 48.31B.030(2) each registered insurer ~~((shall))~~ must report to the commissioner all ~~((other))~~ dividends and other distributions to shareholders within ~~((five))~~ fifteen business days following the declaration thereof, ~~((and at least fifteen business days before payment,))~~ including the same information required by subsection (1)~~((a) and (d)(i) through (v))~~ of this section.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-460 Adequacy of surplus.** The factors set forth in ~~((section 7(3), chapter 462, Laws of 1993))~~ RCW 48.31B.030(3), are not intended to be an exhaustive list. In determining the adequacy and reasonableness of an insurer's surplus no single factor is necessarily controlling. The commissioner, instead, will consider the net effect of all of these factors plus other factors bearing on the financial condition of the insurer. In comparing the surplus maintained by other insurers, the commissioner will consider the extent to which each of these factors varies from company to company and in determining the quality and liquidity of investments in subsidiaries, the commissioner will consider the individual subsidiary and may discount or disallow its valuation to the extent that the individual investments so warrant.

NEW SECTION

**WAC 284-18-500 Severability.** If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or its application of the provision to other persons or circumstances is not affected.

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-910 Form A.**

FORM A  
STATEMENT REGARDING THE  
ACQUISITION OF CONTROL OF OR MERGER WITH A DOMESTIC  
INSURER

\_\_\_\_\_  
Name of Domestic Insurer

BY

\_\_\_\_\_  
Name of Acquiring Person (Applicant)

Filed with the Insurance Department of

\_\_\_\_\_  
(State of domicile of insurer being acquired)

Date: \_\_\_\_\_, ~~((19))~~ 20 \_\_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning this Statement Should be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. INSURER AND METHOD OF ACQUISITION**

State the name and address of the domestic insurer to which this application relates and a brief description of how control is to be acquired.

**ITEM 2. IDENTITY AND BACKGROUND OF THE APPLICANT**

(a) State the name and address of the applicant seeking to acquire control over the insurer.

(b) If the applicant is not an individual, state the nature of its business operations for the past five years or for such lesser period as ~~((such))~~ the person and any predecessors thereof shall have been in existence. Briefly describe the business intended to be done by the applicant and the applicant's subsidiaries.

(c) Furnish a chart or listing clearly presenting the identities of the inter-relationships among the applicant and all affiliates of the applicant. ~~((No affiliate need be identified if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person affiliated with the applicant.))~~ Indicate in ~~((such))~~ the chart or listing

the percentage of voting securities of each ((such)) person which is owned or controlled by the applicant or by any other ((such)) person. If control of any person is maintained other than by the ownership or control of voting securities, indicate the basis of ((such)) the control. As to each person specified in such chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile. If court proceedings involving a reorganization or liquidation are pending with respect to any such person, indicate which person, and set forth the title of the court, nature of proceedings and the date when commenced.

**ITEM 3. IDENTITY AND BACKGROUND OF INDIVIDUALS ASSOCIATED WITH THE APPLICANT**

On the biographical affidavit, include a third-party background check, and state the following with respect to (1) the applicant if (s)he is an individual or (2) all persons who are directors, executive officers or owners of ten percent or more of the voting securities of the applicant if the applicant is not an individual.

- (a) Name and business address;
- (b) Present principal business activity, occupation or employment including position and office held and the name, principal business and address of any corporation or other organization in which ((such)) employment is carried on;
- (c) Material occupations, positions, offices or employment during the last five years, giving the starting and ending dates of each and the name, principal business and address of any business corporation or other organization in which each ((such)) occupation, position, office or employment was carried on; if any ((such)) occupation, position, office or employment required licensing by or registration with any federal, state or municipal governmental agency, indicate ((such)) the fact, the current status of ((such)) the licensing or registration, and an explanation of any surrender, revocation, suspension or disciplinary proceedings in connection therewith;
- (d) Whether or not ((such)) the person has ever been convicted in a criminal proceeding (excluding minor traffic violations) during the last ten years and, if so, give the date, nature of conviction, name and location of court, and penalty imposed or other disposition of the case.

**ITEM 4. NATURE, SOURCE AND AMOUNT OF CONSIDERATION**

(a) Describe the nature, source and amount of funds or other considerations used or to be used in effecting the merger or other acquisition of control. If any part of the same is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding or trading securities, furnish a description of the transaction, the names of the parties thereto, the relationship, if any, between the borrower and the lender, the amounts borrowed or to be borrowed, and copies of all agreements, promissory notes and security arrangements relating thereto.

(b) Explain the criteria used in determining the nature and amount of ((such)) the consideration.

(c) If the source of the consideration is a loan made in the lender's ordinary course of business and if the applicant wishes the identity of the lender to remain confidential, he or

she must specifically request that the identity be kept confidential.

**ITEM 5. FUTURE PLANS OF INSURER**

Describe any plans or proposals which the applicant may have to declare an extraordinary dividend, to liquidate ((such)) the insurer, to sell its assets to or merge it with any person or persons or to make any other material change in its business operations or corporate structure or management.

**ITEM 6. VOTING SECURITIES TO BE ACQUIRED**

State the number of shares of the insurer's voting securities which the applicant, its affiliates and any person listed in Item 3 plan to acquire, and the terms of the offer, request, invitation, agreement or acquisition, and a statement as to the method by which the fairness of the proposal was arrived at.

**ITEM 7. OWNERSHIP OF VOTING SECURITIES**

State the amount of each class of any voting security of the insurer which is beneficially owned or concerning which there is a right to acquire beneficial ownership by the applicant, its affiliates or any person listed in Item 3.

**ITEM 8. CONTRACTS, ARRANGEMENTS, OR UNDERSTANDINGS WITH RESPECT TO VOTING SECURITIES OF THE INSURER**

Give a full description of any contracts, arrangements or understandings with respect to any voting security of the insurer in which the applicant, its affiliates or any person listed in Item 3 is involved, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. ((Such)) The description ((shall)) must identify the persons with whom such contracts, arrangements or understandings have been entered into.

**ITEM 9. RECENT PURCHASES OF VOTING SECURITIES**

Describe any purchases of any voting securities of the insurer by the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement. Include in ((such)) the description the dates of purchase, the names of the purchasers, and the consideration paid or agreed to be paid therefor. State whether any ((such)) shares so purchased are hypothecated.

**ITEM 10. RECENT RECOMMENDATIONS TO PURCHASE**

Describe any recommendations to purchase any voting security of the insurer made by the applicant, its affiliates or any person listed in Item 3, or by anyone based upon interviews or at the suggestion of the applicant, its affiliates or any person listed in Item 3 during the twelve calendar months preceding the filing of this statement.

**ITEM 11. AGREEMENTS WITH BROKER-DEALERS**

Describe the terms of any agreement, contract or understanding made with any broker-dealer as to solicitation of voting securities of the insurer for tender and the amount of any fees, commissions or other compensation to be paid to broker-dealers with regard thereto.

ITEM 12. FINANCIAL STATEMENTS AND EXHIBITS

(a) Financial statements (~~(and)~~), exhibits (~~(shall)~~), and three-year projections of the insurer(s) must be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) The financial statements (~~(shall)~~) must include the annual financial statements of the persons identified in Item 2(c) for the preceding five fiscal years (or for such lesser period as (~~(such)~~) the applicant and its affiliates and any predecessors thereof shall have been in existence), and similar information covering the period from the end of (~~(such)~~) the person's last fiscal year, if (~~(such)~~) the information is available. (~~(Such)~~) The statements (~~(may)~~) must be prepared on either an individual basis, or, unless the commissioner otherwise requires, on a consolidated basis if (~~(such)~~) the consolidated statements are prepared in the usual course of business.

The annual financial statements of the applicant (~~(shall)~~) must be accompanied by the certificate of an independent public accountant to the effect that (~~(such)~~) the statements present fairly the financial position of the applicant and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the applicant is an insurer which is actively engaged in the business of insurance, the financial statements need not be certified, provided they are based on the annual statement of (~~(such)~~) the person filed with the insurance department of the person's domiciliary state and are in accordance with the requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of (~~(such)~~) the state.

(c) File as exhibits copies of all tender offers for, requests or invitations for, tenders of, exchange offers for, and agreements to acquire or exchange any voting securities of the insurer and (if distributed) of additional soliciting material relating thereto, any proposed employment, consultation, advisory or management contracts concerning the insurer, annual reports to the stockholders of the insurer and the applicant for the last two fiscal years, and any additional documents or papers required by Form A or WAC 284-18-300 or 284-18-320.

ITEM 13. AGREEMENT REQUIREMENTS FOR ENTERPRISE RISK MANAGEMENT

Applicant agrees to provide, to the best of its knowledge and belief, the information required by Form F within fifteen business days after the end of the month in which the acquisition of control occurs.

ITEM 14. SIGNATURE AND CERTIFICATION

Signature and certification required as follows:

SIGNATURE

(~~(Pursuant to)~~) Under the requirements of (~~(section 4, chapter 462, Laws of 1993)~~) RCW 48.31B.015 \_\_\_\_\_ has caused this application to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, ((49)) 20 \_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Applicant

BY \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached application dated \_\_\_\_\_, ((49)) 20 \_\_\_\_, for and on behalf of (Name of Applicant); that (s)he is the (Title of Officer) of such company and that (s)he is authorized to execute and file (~~(such)~~) the instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

WAC 284-18-920 Form B.

FORM B  
INSURANCE HOLDING COMPANY SYSTEM  
ANNUAL REGISTRATION STATEMENT

Filed with the Insurance Department of the State of

\_\_\_\_\_  
By \_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name Address  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_, ((49)) 20 \_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. IDENTITY AND CONTROL OF REGISTRANT**

Furnish the exact name of each insurer registering or being registered (hereinafter called "the registrant"), the home office address and principal executive offices of each; the date on which each registrant became part of the insurance holding company system; and the method(s) by which control of each registrant was acquired and is maintained.

**ITEM 2. ORGANIZATIONAL CHART**

Furnish a chart or listing clearly presenting the identities of and interrelationships among all affiliated persons within the insurance holding company system. ~~((No affiliate need be shown if its total assets are equal to less than one-half of one percent of the total assets of the ultimate controlling person within the insurance holding company system unless it has assets valued at or exceeding ten million dollars.))~~ The chart or listing ~~((should))~~ must show the percentage of each class of voting securities of each affiliate which is owned, directly or indirectly, by another affiliate. If control of any person within the system is maintained other than by the ownership or control of voting securities, indicate the basis of ~~((such))~~ the control. As to each person specified in ~~((such))~~ the chart or listing indicate the type of organization (e.g., corporation, trust, partnership) and the state or other jurisdiction of domicile.

**ITEM 3. THE ULTIMATE CONTROLLING PERSON**

As to the ultimate controlling person in the insurance holding company system furnish the following information:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure of the person, i.e., corporation, partnership, individual, trust, etc.
- (e) The principal business of the person.
- (f) The name and address of any person who holds or owns ten percent or more of any class of voting security, the class of ~~((such))~~ the security, the number of shares held of record or known to be beneficially owned, and the percentage of class so held or owned.
- (g) If court proceedings involving a reorganization or liquidation are pending, indicate the title and location of the court, the nature of proceedings and the date when commenced.

**ITEM 4. BIOGRAPHICAL INFORMATION**

If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, furnish the following information for the directors and executive officers of the ultimate controlling person: The individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any conviction of crimes other than minor traffic violations during the past ten years. If the ultimate controlling person is an individual, furnish the individual's name and address, his or her principal occupation and all offices and positions held during the past five years, and any convictions of crimes other than minor traffic violations.

**ITEM 5. TRANSACTIONS AND AGREEMENTS**

Briefly describe the following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the registrant and its affiliates:

- (a) Loans, other investments, or purchases, sales or exchanges of securities of the affiliates by the registrant or of the registrant by its affiliates;
- (b) Purchases, sales or exchanges of assets;
- (c) Transactions not in the ordinary course of business;
- (d) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the registrant's assets to liability, other than insurance contracts entered into in the ordinary course of the registrant's business;
- (e) All management agreements, service contracts and all cost-sharing arrangements;
- (f) Reinsurance agreements;
- (g) Dividends and other distributions to shareholders;
- (h) Consolidated tax allocation agreements; and
- (i) Any pledge of the registrant's stock or of the stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system.

No information need be disclosed if such information is not material for purposes of ~~((section 6, chapter 462, Laws of 1993))~~ RCW 48.31B.025.

Sales, purchases, exchanges, loans or extensions of credit, investments or guarantees involving one-half of one percent or less of the registrant's admitted assets as of the ~~((31st day of))~~ preceding December ~~((next preceding shall not be deemed))~~ 31st are not material. (Note: Commissioner may by rule, regulation, or order provide otherwise.)

The description ~~((shall))~~ must be in a manner as to permit the proper evaluation thereof by the commissioner, and ~~((shall))~~ must include at least the following: The nature and purpose of the transaction, the nature and amounts of any payments or transfers of assets between the parties, the identity of all parties to ~~((such))~~ the transaction, and relationship of the affiliated parties to the registrant.

**ITEM 6. LITIGATION OR ADMINISTRATIVE PROCEEDINGS**

A brief description of any litigation or administrative proceedings of the following types, either then pending or concluded within the preceding fiscal year, to which the ultimate controlling person or any of its directors or executive officers was a party or of which the property of any ~~((such))~~ person is or was the subject; give the names of the parties and the court or agency in which ~~((such))~~ the litigation or proceeding is or was pending:

- (a) Criminal prosecutions or administrative proceedings by any government agency or authority which may be relevant to the trustworthiness of any party thereto; and
- (b) Proceedings which may have a material effect upon the solvency or capital structure of the ultimate holding company including, but not necessarily limited to, bankruptcy, receivership or other corporate reorganizations.

**ITEM 7. STATEMENT REGARDING PLAN OR SERIES OF TRANSACTIONS**

The insurer ~~((shall))~~ must furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions, the purpose of which is to avoid statutory threshold amounts and the review that might otherwise occur.

**ITEM 8. FINANCIAL STATEMENTS AND EXHIBITS**

(a) Financial statements and exhibits ~~((should))~~ must be attached to this statement as an appendix, but list under this item the financial statements and exhibits so attached.

(b) If the ultimate controlling person is a corporation, an organization, a limited liability company, or other legal entity, the financial statements ~~((shall))~~ must include the annual financial statements of the ultimate controlling person in the insurance holding company system as of the end of the person's latest fiscal year.

If at the time of the initial registration, the annual financial statements for the latest fiscal year are not available, annual statements for the previous fiscal year may be filed and similar financial information ~~((shall))~~ must be filed for any subsequent period to the extent such information is available. ~~((Such))~~ The financial statements may be prepared on either an individual basis, or unless the commissioner otherwise requires, on a consolidated basis if ~~((such))~~ the consolidated statements are prepared in the usual course of business.

Other than with respect to the foregoing, the financial statements must be filed in a standard form and format adopted by the National Association of Insurance Commissioners, unless an alternative form is accepted by the commissioner. Documentation and financial statements filed with the Securities and Exchange Commission or audited GAAP financial statements are an appropriate form and format.

Unless the commissioner otherwise permits, the annual financial statements ~~((shall))~~ must be accompanied by the certificate of an independent public accountant to the effect that ~~((such))~~ the statements present fairly the financial position of the ultimate controlling person and the results of its operations for the year then ended, in conformity with generally accepted accounting principles or with requirements of insurance or other accounting principles prescribed or permitted under law. If the ultimate controlling person is an insurer which is actively engaged in the business of insurance, the annual financial statements need not be certified, provided they are based on the annual statement of ~~((such insurer filed with the insurance department of))~~ the insurer's domiciliary state and are in accordance with requirements of insurance or other accounting principles prescribed or permitted under the law and regulations of ~~((such))~~ that state.

Any ultimate controlling person who is an individual may file personal financial statements that are reviewed rather than audited by an independent public accountant. The review must be conducted in accordance with standards for review of personal financial statements published in the personal financial statements guide by the American Institute of Certified Public Accountants. Personal financial statements must be accompanied by the independent public accountant's standard review report stating that the accountant is not aware of any material modifications that should be made to

the financial statements in order for the financial statements to be in conformity with generally accepted accounting principles.

(c) Exhibits ~~((shall))~~ must include copies of the latest annual reports to shareholders of the ultimate controlling person and proxy material used by the ultimate controlling person; and any additional documents or papers required by Form B or WAC 284-18-300 and 284-18-320.

**ITEM 9. FORM C REQUIRED**

A Form C, Summary of Changes to Registration Statement, must be prepared and filed with this Form B.

**ITEM 10. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

~~((Pursuant to))~~ Under the requirements of ~~((section 6, chapter 462, Laws of 1993))~~ RCW 48.31B.025, the registrant has caused this annual registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, ~~((+9))~~ 20 \_\_\_\_.

(SEAL) \_\_\_\_\_

Name of Registrant

By \_\_\_\_\_

(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached annual registration statement dated \_\_\_\_\_, ~~((+9))~~ 20 \_\_\_\_, for and on behalf of (Name of Company); that (s)he is the (Title of Officer) of ~~((such))~~ the company and that (s)he is authorized to execute and file ~~((such))~~ the instrument. Deponent further says that (s)he is familiar with ~~((such))~~ the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_

(Type or print name beneath) \_\_\_\_\_

**AMENDATORY SECTION** (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-930 Form C.**

FORM C

SUMMARY OF REGISTRATION STATEMENT

Filed with the Insurance Department of the State of

By

\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies

Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, ((19)) 20 \_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Furnish a brief description of all items in the current annual registration statement which represent changes from the prior year's annual registration statement. The description ((shall)) must be in a manner as to permit the proper evaluation thereof by the commissioner, and ((shall)) must include specific references to Item numbers in the annual registration statement and to the terms contained therein.

Changes occurring under Item 2 of Form B insofar as changes in the percentage of each class of voting securities held by each affiliate is concerned, need only be included where ((such)) the changes are ones which result in ownership or holdings of ten percent or more of voting securities, loss or transfer of control, or acquisition or loss of partnership interest.

Changes occurring under Item 4 of Form B need only be included where: An individual is, for the first time, made a director or executive officer of the ultimate controlling person; a director or executive officer terminates his or her responsibilities with the ultimate controlling person; or in the event an individual is named president of the ultimate controlling person.

If a transaction disclosed on the prior year's annual registration statement has been changed, the nature of ((such)) the change ((shall)) must be included. If a transaction disclosed on the prior year's annual registration statement has been effectuated, furnish the mode of completion and any flow of funds between affiliates resulting from the transaction.

The insurer ((shall)) must furnish a statement that transactions entered into since the filing of the prior year's annual registration statement are not part of a plan or series of like transactions whose purpose it is to avoid statutory threshold amounts and the review that might otherwise occur.

**SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

~~((Pursuant to))~~ Under the requirements of ~~((section 6, chapter 462, Laws of 1993))~~ RCW 48.31B.025, the registrant has caused this summary of registration statement to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_ on the \_\_ day of \_\_\_\_\_, ((19)) 20 \_\_\_\_.

(SEAL) \_\_\_\_\_  
Name of Registrant

BY \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached summary of registration statement dated \_\_\_\_\_, ((19)) 20 \_\_\_\_, for and on behalf of (Name of Company); that (s)he is the (Title of Officer) of ~~((such))~~ the company and that (s)he is authorized to execute and file ~~((such))~~ the instrument. Deponent further says that (s)he is familiar with such instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

AMENDATORY SECTION (Amending WSR 93-19-005, filed 9/1/93, effective 10/2/93)

**WAC 284-18-940 Form D.**

FORM D  
PRIOR NOTICE OF A TRANSACTION

Filed with the Insurance Department of the State of

\_\_\_\_\_  
By  
\_\_\_\_\_  
Name of Registrant

On Behalf of Following Insurance Companies



Name	Address
_____	_____
_____	_____
_____	_____

Date: \_\_\_\_\_, ((49)) 20 \_\_\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_

\_\_\_\_\_

**ITEM 1. IDENTITY OF PARTIES TO TRANSACTION**

Furnish the following information for each of the parties to the transaction:

- (a) Name.
- (b) Home office address.
- (c) Principal executive office address.
- (d) The organizational structure, i.e., corporation, partnership, individual, trust, etc.
- (e) A description of the nature of the parties' business operations.
- (f) Relationship, if any, of other parties to the transaction to the insurer filing the notice, including any ownership or debtor/creditor interest by any other parties to the transaction in the insurer seeking approval, or by the insurer filing the notice in the affiliated parties.

(g) Where the transaction is with a nonaffiliate, the name(s) of the affiliate(s) which will receive, in whole or in substantial part, the proceeds of the transaction.

**ITEM 2. DESCRIPTION OF THE TRANSACTION**

Furnish the following information for each transaction for which notice is being given:

- (a) A statement as to whether notice is being given under ~~((section 7 (1)(b)(i), (ii), (iii), (iv), or (v), chapter 462, Laws of 1993.))~~ RCW 48.31B.030 (1)(b)(i), (ii), (iii), (iv), or (v);
- (b) A statement of the nature of the transaction~~((:));~~
- (c) A statement of how the transaction meets the "fair and reasonable" standard of RCW 48.31B.030 (1)(a)(i); and
- (d) The proposed effective date of the transaction.

**ITEM 3. SALES, PURCHASES, EXCHANGES, LOANS, EXTENSIONS OF CREDIT, GUARANTEES, OR INVESTMENTS**

Furnish a brief description of the amount and source of funds, securities, property or other consideration for the sale, purchase, exchange, loan, extension of credit, guarantee, or investment, whether any provision exists for purchase by the insurer filing notice, by any party to the transaction, or by any affiliate of the insurer filing notice, a description of the terms of any securities being received, if any, and a description of any other agreements relating to the transaction such as contracts or agreements for services, consulting agreements and

the like. If the transaction involves other than cash, furnish a description of the consideration, its cost and its fair market value, together with an explanation of the basis for evaluation.

If the transaction involves a loan, extension of credit or a guarantee, furnish a description of the maximum amount which the insurer will be obligated to make available under ~~((such))~~ the loan, extension of credit or guarantee, the date on which the credit or guarantee will terminate, and any provisions for the accrual of or deferral of interest.

If the transaction involves an investment, guarantee or other arrangement, state the time period during which the investment, guarantee or other arrangement will remain in effect, together with any provisions for extensions or renewals of such investments, guarantees or arrangements. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the maximum amount which can at any time be outstanding or for which the insurer can be legally obligated under the loan, extension of credit or guarantee is less than, (a) in the case of nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders or, (b) in the case of life insurers, three percent of the insurer's admitted assets, each as of the ~~((31st day of December next))~~ preceding December 31st.

**ITEM 4. LOANS OR EXTENSIONS OF CREDIT TO A NONAFFILIATE**

If the transaction involves a loan or extension of credit to any person who is not an affiliate, furnish a brief description of the agreement or understanding whereby the proceeds of the proposed transaction, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase the assets of, or to make investments in, any affiliate of the insurer making ~~((such))~~ the loans or extensions of credit, and specify in what manner the proceeds are to be used to loan to, extend credit to, purchase assets, of or make investments in any affiliate. Describe the amount and source of funds, securities, property, or other consideration for the loan or extension of credit and, if the transaction is one involving consideration other than cash, a description of its cost and its fair market value together with an explanation of the basis for evaluation. Furnish a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given if the loan or extension of credit is one which equals less than, in the case of nonlife insurers, the lesser of three percent of the insurer's admitted assets or twenty-five percent of surplus as regards policyholders or, with respect to life insurers, three percent of the insurer's admitted assets, each as of the ~~((31st day of December next))~~ preceding December 31st.

**ITEM 5. REINSURANCE**

If the transaction is a reinsurance agreement or modification thereto, as described by ~~((section 7 (1)(b)(iii), chapter 462, Laws of 1993))~~ RCW 48.31B.030 (1)(b)(iii)(B), or a reinsurance pooling agreement or modification thereto as described in RCW 48.31B.030 (1)(b)(iii)(A). furnish a description of the known or estimated amount of liability to be ceded or assumed in each calendar year, the period of time

during which the agreement will be in effect, and a statement whether an agreement or understanding exists between the insurer and nonaffiliate to the effect that any portion of the assets constituting the consideration for the agreement will be transferred to one or more of the insurer's affiliates. Furnish a brief description of the consideration involved in the transaction, and a brief statement as to the effect of the transaction upon the insurer's surplus.

No notice need be given for reinsurance agreements or modifications thereto if the reinsurance premium or a change in the insurer's liabilities, or the projected reinsurance premium or change in the insurer's liabilities in any of the next three years, in connection with the reinsurance agreement or modification thereto is less than five percent of the insurer's surplus as regards policyholders, as of the ~~((31st day of December next))~~ preceding December 31st. Notice must be given for all reinsurance pooling agreements including modifications thereto.

**ITEM 6. MANAGEMENT AGREEMENTS, SERVICE AGREEMENTS, AND COST-SHARING ARRANGEMENTS.**

For management and service agreements, furnish:

(a) A brief description of the managerial responsibilities, or services to be performed.

(b) A brief description of the agreement, including a statement of its duration, together with brief descriptions of the basis for compensation and the terms under which payment or compensation is to be made.

For cost-sharing arrangements, furnish:

(a) A brief description of the purpose of the agreement(-);

(b) A description of the period of time during which the agreement is to be in effect(-);

(c) A brief description of each party's expenses or costs covered by the agreement(-);

(d) A brief description of the accounting basis to be used in calculating each party's costs under the agreement;

(e) A brief statement as to the effect of the transaction upon the insurer's policyholder surplus;

(f) A statement regarding the cost allocation methods that specifies whether the proposed charges are based on "cost or market." If market based, rationale for using market instead of cost, including justification for the company's determination that amounts are fair and reasonable; and

(g) A statement regarding compliance with NAIC practices and procedures manual regarding expense allocation.

**ITEM 7. SIGNATURE AND CERTIFICATION**

Signature and certification required as follows:

SIGNATURE

~~((Pursuant to))~~ Under the requirements of ~~((section 7, chapter 462, Laws of 1993))~~ RCW 48.31B.030, \_\_\_\_\_ has caused this notice to be duly signed on its behalf in the City of \_\_\_\_\_ and State of \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, ~~((19))~~ 20 \_\_\_\_.

(SEAL) \_\_\_\_\_

Name of Applicant

BY \_\_\_\_\_  
(Name) (Title)

Attest:

\_\_\_\_\_  
(Signature of Officer)

\_\_\_\_\_  
(Title)

CERTIFICATION

The undersigned deposes and says that (s)he has duly executed the attached notice dated \_\_\_\_\_, ~~((19))~~ 20 \_\_\_\_, for and on behalf of (Name of Applicant); that (s)he is the (Title of Officer) of ~~((such))~~ the company and that (s)he is authorized to execute and file ~~((such))~~ the instrument. Deponent further says that (s)he is familiar with ~~((such))~~ the instrument and the contents thereof, and that the facts therein set forth are true to the best of his/her knowledge, information and belief.

(Signature) \_\_\_\_\_  
(Type or print name beneath) \_\_\_\_\_

NEW SECTION

**WAC 284-18-950 Form E.**

FORM E  
PREACQUISITION NOTIFICATION FORM  
REGARDING THE POTENTIAL COMPETITIVE IMPACT  
OF A PROPOSED MERGER OR ACQUISITION BY A  
NONDOMICILIARY INSURER DOING BUSINESS IN THIS  
STATE OR BY A DOMESTIC INSURER

\_\_\_\_\_  
Name of Applicant

\_\_\_\_\_  
Name of Other Person  
Involved in Merger or  
Acquisition

Filed with the Insurance Department of the State of

\_\_\_\_\_  
(State of domicile of insurer being acquired)

\_\_\_\_\_  
Date: \_\_\_\_\_, 20 \_\_\_\_

Name, Title, Address, and Telephone Number of person completing this statement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. NAME AND ADDRESS**

State the name and address of the person who hereby provides notice of their involvement in a pending acquisition or change in corporate control.

**ITEM 2. NAME AND ADDRESSES OF AFFILIATED COMPANIES**

State the name and addresses of the persons affiliated with those listed in Item 1.

Describe their affiliations.

**ITEM 3. NATURE AND PURPOSE OF THE PROPOSED MERGER OR ACQUISITION**

State the nature and purpose of the proposed merger or acquisition.

**ITEM 4. NATURE OF BUSINESS**

State the nature of the business performed by each of the persons identified in respect to Item 1 and Item 2.

**ITEM 5. MARKET AND MARKET SHARE**

State specifically what market and market share in each relevant insurance market the persons identified in Item 1 and Item 2 currently enjoy in this state. Provide historical market and market share data for each person identified in Item 1 and Item 2 for the past five years and identify the source of the data. Provide a determination as to whether the proposed acquisition or merger, if consummated, would violate the competitive standards of this state as stated in RCW 48.31B.020(4). If the proposed acquisition or merger would violate the competitive standards, provide justification of why the acquisition or merger would not substantially lessen competition or create a monopoly in this state.

For purposes of this question, market means direct written premiums in this state for a line of business as contained in the annual statement required to be filed by insurers authorized to do business in this state.

NEW SECTION

**WAC 284-18-960 Form F.**

FORM F  
ENTERPRISE RISK REPORT

Filed with the Insurance Department of the State of

By

\_\_\_\_\_  
Name of Registrant/Applicant

On Behalf of/Related to Following Insurance Companies

Date: \_\_\_\_\_, 20\_\_

Name, Title, Address, and Telephone Number of Individual to Whom Notices and Correspondence Concerning This Statement Should Be Addressed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ITEM 1. ENTERPRISE RISK**

The registrant/applicant to the best of its knowledge and belief, must provide information regarding the following areas that could produce enterprise risk as defined in RCW 48.31B.005(4), provided the information is not disclosed in the insurance holding company system annual registration statement filed on behalf of itself or another insurer for which it is the ultimate controlling person:

- (a) Any material developments regarding strategy, internal audit findings, compliance or risk management affecting the insurance holding company system;
- (b) Acquisition or disposal of insurance entities and real-locating of existing financial or insurance entities within the insurance holding company system;
- (c) Any changes of shareholders of the insurance holding company system exceeding ten percent or more of voting securities;
- (d) Developments in various investigations, regulatory activities or litigation that may have a significant bearing or impact on the insurance holding company system;
- (e) Business plan of this insurance holding company system and summarized for next twelve months;
- (f) Identification of insurance holding company system capital resources and material distribution patterns;
- (g) Identification of any negative movement, or discussions with rating agencies which may have caused, or may cause, potential negative movement in the credit ratings and individual insurer financial strength ratings assessment of the insurance holding company system (including both the rating score and outlook);
- (h) Information on corporate or parental guarantees throughout the holding company and the expected source of liquidity should the guarantees be called upon; and
- (i) Identification of any material activity or development of the insurance holding company system that, in the opinion of senior management, could adversely affect the insurance holding company system.

The registrant/applicant may attach the appropriate form most recently filed with the United States Securities and Exchange Commission, provided the registrant/applicant includes specific references to those areas listed in Item 1 for

which the form provides responsive information. If the registrant/applicant is not domiciled in the United States, it may attach its most recent public audited financial statement filed in its country of domicile, provided the registrant/applicant includes specific references to those areas in Item 1 for which the financial statement provides responsive information.

#### ITEM 2. OBLIGATION REPORT

If the registrant/applicant has not disclosed any information under Item 1, the registrant/applicant must include a statement affirming that, to the best of its knowledge and belief, it has not identified enterprise risk subject to disclosure under Item 1.

#### REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 284-18A-300 Forms—General requirements.
- WAC 284-18A-310 Forms—Incorporation by reference, summaries, and omissions.
- WAC 284-18A-320 Forms—Information unknown or unavailable and extension of time to furnish.
- WAC 284-18A-330 Forms—Additional information and exhibits.
- WAC 284-18A-340 Definitions.
- WAC 284-18A-350 Acquisition of control—Form A Statement filing.
- WAC 284-18A-360 Amendments to Form A.
- WAC 284-18A-370 Annual registration of health carriers—Form B Statement filing.
- WAC 284-18A-380 Summary of registration—Form C Statement filing.
- WAC 284-18A-390 Amendments to Form B.
- WAC 284-18A-400 Alternative and consolidated registrations.
- WAC 284-18A-410 Disclaimers and termination of registration.
- WAC 284-18A-420 Transactions subject to prior approval—Form D Notice filing.
- WAC 284-18A-430 Extraordinary dividends and other distributions.
- WAC 284-18A-440 Confidential proprietary and trade secret information.
- WAC 284-18A-910 Form A.
- WAC 284-18A-920 Form B.
- WAC 284-18A-930 Form C.
- WAC 284-18A-940 Form D.
- WAC 284-18A-950 Form E.
- WAC 284-18A-960 Dividends and distributions.

**WSR 15-16-114**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**

[Filed August 4, 2015, 2:47 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-114.

Title of Rule and Other Identifying Information: WAC 415-111-310 Defined contribution account distribution (withdrawal).

Hearing Location(s): Department of Retirement Systems, Conference Room 115, 6835 Capitol Boulevard S.E., Tumwater, WA 98502, on Tuesday, September 8, 2015, at 11:00 a.m.

Date of Intended Adoption: September 8, 2015.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA 98504-8380, e-mail jilenes@drs.wa.gov, fax (360) 753-3166, by September 3, 2015, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jilene Siegel by September 3, 2015, TTY (866) 377-8895 or (360) 586-5450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Clarifies how the department will administer distributions from a Plan 3 defined contribution account in the event of a terminal illness or unforeseeable emergency.

Reasons Supporting Proposal: This rule change better defines the requirements for special exception distributions, and describes the timing of those distribution[s] from the WSIB Total Allocation Portfolio (monthly valued fund) and self-directed (daily valued funds) investments.

Statutory Authority for Adoption: RCW 41.50.050(5).

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

Name of Agency Personnel Responsible for Drafting: Ted Taylor, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7044; and Implementation: Dave Nelsen, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7304.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable. These rules do not impact small businesses and are not being submitted by the state board of education.

A cost-benefit analysis is not required under RCW 34.05.328. The department of retirement systems is not listed in RCW 34.05.328 as required to prepare a cost-benefit analysis.

August 4, 2015  
 Jilene Siegel  
 Rules Coordinator

AMENDATORY SECTION (Amending WSR 05-24-050, filed 12/1/05, effective 1/1/06)

**WAC 415-111-310 Defined contribution account distribution (withdrawal). (1) How do I request a distribution (withdrawal) of funds from my defined contribution account?**

(a) You must separate from all eligible employment;  
 (b) The department must receive the notice of separation from your employer(s) (~~through the retirement transmittal system~~); and

(c) (~~You must submit the appropriate, completed form requesting a defined contribution distribution to~~) The department's designated recordkeeper (~~as directed on the form~~) must receive a completed request for a defined contribution distribution from your account. See WAC 415-111-110.

**(2) Can I receive (~~an expedited~~) a special exception distribution?**

(a) If you are terminally ill and eligible, the (~~department~~) department's designated recordkeeper will arrange for payment to you within ten workdays. To be eligible for (~~an expedited~~) a special exception payment:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) (~~You or your beneficiaries must submit documentation to the department~~) The department's designated recordkeeper must receive documentation verifying your terminal illness; and

(iv) (~~You must submit the appropriate, completed form requesting a defined contribution distribution to~~) The department's designated recordkeeper (~~as directed on the form~~) must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(b) If you have an unforeseeable emergency, the (~~department~~) department's designated recordkeeper will consider your request for (~~expedited~~) a special exception payment and arrange for (~~expedited~~) payment to you whenever possible. To be eligible for consideration:

- (i) You must separate from all eligible employment;
- (ii) The department must receive the notice of separation from your employer(s);
- (iii) (~~You must submit the appropriate, completed form requesting a defined contribution distribution to the department's designated recordkeeper as directed on the form (see WAC 415-111-110); and~~

(iv) You or your beneficiaries must submit documentation to the department) The department's designated recordkeeper must receive documentation verifying and explaining your unforeseeable emergency. The (~~department~~) recordkeeper will consider only unforeseeable emergencies (~~or serious illnesses or death of you or a close family or household member.~~

(e) If you are invested in a self-directed option, the Plan 3 recordkeeper will distribute your entire self-directed account balance, less any applicable tax withholding.

(d) If you are invested in the Total Asset Portfolio (TAP), the Plan 3 recordkeeper will distribute 80% of your estimated TAP account balance, less any applicable tax withholding. You will be paid the balance of your account after the final valuation has been made). An unforeseeable emergency is defined as a severe financial hardship resulting from:

(A) An accident or serious illness of you or an immediate family member;

(B) The need to pay for medical expenses for you or a dependent;

(C) Imminent foreclosure or eviction from your primary residence;

(D) The need to pay for funeral expenses of a spouse or immediate family member; or

(E) Loss of property due to casualty.

(iv) The department's designated recordkeeper must receive a completed request for a defined contribution distribution from your account (see WAC 415-111-110).

(c) Depending on which program you are invested in, self-directed or WSIB Total Allocation Portfolio (TAP), the recordkeeper will distribute your special exception payment as specified in the table below, less any applicable tax withholding.

	<b><u>Terminal Illness</u></b>	<b><u>Unforeseeable Emergency</u></b>
<b><u>Self-Directed</u></b>	Up to 100% of the balance in the account within 10 days after approvals are completed.	Up to 100% of the balance in the account within 10 days after approvals are completed.
<b><u>WSIB Total Allocation Portfolio (TAP)</u></b>	Up to 100% of the balance in the account based on the most recent valuation within 10 days after approvals are completed.	Up to 80% of the balance in the account distributed as a lump sum payment through the normal month-end distribution process. If 100% liquidation is requested, the remaining balance in the account will be disbursed after the final valuation has been made.

(3) Can I still receive my defined contribution distribution if I have returned to work before receiving my funds? If you return to work in an eligible position after all the criteria in subsection (1) of this section are met, you may receive distribution from your defined contribution account.

(4) What are my options for distributing my defined contribution funds? You have the following options for distributions from your Plan 3 defined contribution account. Options for both the WSIB and the self-directed investment programs are combined where applicable.

(a) **Lump sum cash distribution. In either program,** you may request the entire amount of your funds in a single lump-sum payment.

(b) **Direct rollover. In either program,** you may have some or all of your funds rolled over to an eligible retirement plan or individual retirement account (IRA). If you choose a partial rollover, the remaining funds that were not rolled over will be distributed to you as a lump sum, unless you create a personal payment schedule under (d) of this subsection.

(c) **Scheduled payments. In either program**, subject to the distribution requirements of IRC section 401 (a)(9), you may request that your funds be distributed in equal payments over a specified period of time, or that a specific dollar amount be paid on a monthly basis until the account is exhausted. You may also request equal payments over your lifetime or the lifetimes of you and your beneficiary. Scheduled payments for the WSIB program are made monthly only. Scheduled payments for the self-directed program may be made monthly, quarterly, semiannually or annually. Both programs have a minimum payment requirement of one hundred dollars per month.

(d) **Personalized payment plan. In either program**, you may create a personalized payment plan using any part of one or more of the distribution options provided in (a), (b), and (c) of this subsection (see examples below).

(e) **Annuity purchase. In either program**, you may request to have your funds used to purchase an annuity that pays a benefit for your lifetime or the lifetimes of you and your joint annuitant. See WAC 415-111-320 for information about purchasing an annuity and descriptions of the various annuity contracts.

(5) **Market fluctuations.** Your defined contribution account is subject to actual investment earnings (both gains and losses). These gains or losses will be used to adjust the value of your account. The defined contribution payment plans are subject to the same market fluctuations. As a result, the funding of your selected payment plan may last longer than anticipated due to market gains, or end earlier than anticipated due to market losses.

**EXAMPLE (WSIB - Partial rollover with payments until account exhausted):**

Pat has \$10,000 in the WSIB investment program. Pat wants to rollover \$2,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Pat selects the personalized payment schedule option and requests to do a partial rollover of \$2,000 and receive the remaining \$8,000 in equal monthly payments of \$125 until the account is exhausted (approximately 64 months).

**EXAMPLE (Self - Partial rollover with payments for fixed period):**

Chris has \$10,000 in the self-directed investment program. Chris wants to rollover \$3,000 of the total to an IRA, but does not want to receive the remainder of the account in a lump sum payment as provided by the partial direct rollover option. Chris selects the personalized payment schedule option and requests to do a partial rollover of \$3,000 and receive the remaining \$7,000 in quarterly payments of \$250 over the next 7 years (28 quarters).

Summary of Distribution Options	
SELF	WSIB
- Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).	- Remaining funds can be distributed in a lump-sum payment or by a personalized payment schedule (see below).
<b>Scheduled Payments</b>	<b>Scheduled Payments</b>
- Equal payments - Monthly, quarterly, semi-annual or annual - Specified period of time, <b>or</b> - Until the account is exhausted - Payments can be combined life expectancy of you and a beneficiary.	- Equal payments - Monthly payments only - Specified period of time, <b>or</b> - Until the account is exhausted - Payments can be combined life expectancy of you and a beneficiary.
<b>Annuity Purchase</b>	<b>Annuity Purchase</b>
- Purchase an annuity from an insurance company  - Set up to pay benefits for - Your lifetime, or - Lifetimes of you and your joint annuitant.	- Purchase an annuity, administered by the state of Washington  - Set up to pay benefits for - Your lifetime, <b>or</b> - Lifetimes of you and your joint annuitant.
<b>In addition to the above, you may set up:</b>	<b>In addition to the above, you may set up:</b>
<b>Personalized Payment Plan</b>	<b>Personalized Payment Plan</b>
- Customized for your needs - Available for options above.	- Customized for your needs - Available for options above.

(6) **Minimum required distribution.** Beginning on April 1 of the calendar year following the year in which you turn age 70 1/2, you are required to withdraw a minimum amount from your defined contributions annually. If you are still working at age 70 1/2, distribution is required to begin immediately upon retirement.

(7) See RCW 41.34.070 for additional information.

Summary of Distribution Options	
SELF	WSIB
<b>Lump Sum Cash Distribution or Direct Rollover</b>	<b>Lump Sum Cash Distribution or Direct Rollover</b>
- Entire account - Partial amount	- Entire account - Partial amount

**WSR 15-16-115**  
**PROPOSED RULES**  
**DEPARTMENT OF REVENUE**

[Filed August 4, 2015, 2:56 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-11-100.

Title of Rule and Other Identifying Information: WAC 458-20-105 (Rule 105) Employees distinguished from persons engaging in business, explains the conditions that serve to indicate whether persons are engaging in business or are employees.

Hearing Location(s): Capital Plaza Building, 2nd Floor Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on September 9, 2015, at 10:00 a.m. Copies of draft rules are available for viewing and printing on our web site at Rules Agenda.

*Call-in option can be provided upon request no later than three days before the hearing date.*

Date of Intended Adoption: September 16, 2015.

Submit Written Comments to: Gayle Carlson, Department of Revenue, P.O. Box 47453, Olympia, WA 98504-7453, e-mail GayleC@dor.wa.gov, by September 9, 2015.

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

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department is proposing to revise Rule 105 to:

- Add the definition of "engaging in business" as found in RCW 82.04.150;
- Add that personal chefs are independent contractors;
- Add subsection headings where there were none; and
- Update the rule as needed.

Reasons Supporting Proposal: RCW 82.04.150 definitions updated and to address personal chefs.

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

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Gayle Carlson, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1576; Implementation: Dylan Waits, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1583; and Enforcement: Alan Lynn, 1025 Union Avenue S.E., Suite #544, Olympia, WA, (360) 534-1599.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The rules do not impose any new performance requirements or administrative burden on any small business not required by statute.

A cost-benefit analysis is not required under RCW 34.05.328. The proposed rules are not significant legislative rules as defined by RCW 34.05.328.

August 4, 2015  
Dylan Waits  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 92-06-082, filed 3/4/92, effective 4/4/92)

**WAC 458-20-105 Employees distinguished from persons engaging in and operating a business.** (1) **Introduct-**

**tion.** The Revenue Act imposes taxes (~~upon~~) on persons engaged in taxable business (~~but~~) activity, which does not (~~upon~~) include persons acting solely in the capacity of employees. This rule states the conditions that serve to indicate whether a person is engaging in and operating a business or is an employee.

(2) **Right to control.** While no one factor definitely determines employee status, the most important consideration is the employer's right to control the employee. The right to control is not limited to controlling the result of the work to be accomplished, but includes controlling the details and means by which the work is accomplished. In cases of doubt about employee status (~~and~~) the pertinent facts (~~should~~) may be submitted to the department of revenue for a specific ruling.

(3) **Persons engaging in and operating a business.** A person operating a business is a business entity that is engaging in business. The term "engaging in business" (~~means~~) includes commencing, conducting, or continuing in business and also the exercise of corporate or franchise powers as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business. RCW 82.04.150. Engaging in business also includes the act of transferring, selling or otherwise dealing in real or personal property, or the rendition of services, for consideration except as an employee. The following conditions will serve to indicate that a person is engaging in and operating a business.

If a person is:

(a) Holding oneself out to the public as engaging in business with respect to dealings in real or personal property, or in respect to the rendition of services;

(b) Entitled to receive the gross income of the business or any part thereof;

(c) Liable for business losses or the expense of conducting a business, even though such expenses may ultimately be reimbursed by a principal;

(d) Controlling and supervising others, and being personally liable for their payroll, as a part of engaging in business;

(e) Employing others to carry out duties and responsibilities related to the engaging in business and being personally liable for their pay;

(f) Filing a statement of business income and expenses (Schedule C) for federal income tax purposes;

(g) A party to a written contract, the intent of which establishes the person to be an independent contractor;

(h) Paid a gross amount for the work without deductions for employment taxes (such as Federal Insurance Contributions Act, Federal Unemployment Tax Act, and similar state taxes).

(4) **Employees.** The following conditions indicate that a person is an employee.

If the person:

(a) Receives compensation, which is fixed at a certain rate per day, week, month or year, or at a certain percentage of business obtained, payable in all events;

(b) Is employed to perform services in the affairs of another, subject to the other's control or right to control, and

includes hired household employees that may cook, clean, provide nanny-care, or grounds maintenance;

(c) Has no liability for the expenses of maintaining an office or other place of business, or any other overhead expenses or for compensation of employees;

(d) Has no liability for losses or indebtedness incurred in the conduct of the business;

(e) Is generally entitled to fringe benefits normally associated with an employer-employee relationship, e.g., paid vacation, sick leave, insurance, and pension benefits;

(f) Is treated as an employee for federal tax purposes;

(g) Is paid a net amount after deductions for employment taxes, such as those identified in subsection (3)(h) of this ~~(section)~~ rule.

(5) **Full-time life insurance salespersons.** ~~(Chapter 275, Laws of 1991, effective July 1, 1991,)~~ RCW 82.04.360 provides that individuals performing services as full-time life insurance salespersons, as provided in section 3121 (d)(3) ~~((B))~~ (ii) of the Internal Revenue Code, will be considered employees. Treatment as an employee under this subsection (5) applies only to persons engaged in the full-time sale of life insurance. The status of other persons, including others listed in section 3121(d) of the Internal Revenue Code, will be determined according to the provisions of subsections (1) ~~(and (2))~~ through (4) of this ~~(section (see WAC 458-20-164 for the proper tax treatment of insurance agents, brokers, and solicitors))~~ rule. For information on the taxability of insurance producers, adjusters, title insurance agents, and surplus line brokers refer to WAC 458-20-164.

(6) **Operators of rented or owned equipment.** Persons who furnish equipment on a rental or other basis for a charge and who also furnish the equipment operators, are engaging in and operating a business and are not employees of their customers. Likewise, persons who furnish materials and the labor necessary to install or apply the materials, or produce something from the materials, are presumed to be engaging in and operating a business and not to be employees of their customers.

(7) **Casual laborers.** Persons regularly performing odd job carpentry, painting or paperhanging, plumbing, bricklaying, electrical work, cleaning, yard work, etc., for the public generally are presumed to be engaging in and operating a business. The burden of proof is ~~(upon)~~ on such persons to show otherwise. ~~((However,))~~ For tax registration and tax reporting requirements refer to WAC 458-20-101 ((and 458-20-104 for registration and reporting requirements for such activities)). Readers may also want to contact the Washington state employment security department or the Internal Revenue Service for additional information.

(8) **Corporations, joint ventures, or individuals acting as a unit.** A corporation, joint venture, partnership, limited liability corporation, or any other group of individuals acting as a unit, is not an employee.

(9) **Booth renters.** For purposes of the business and occupation tax a "booth renter," as defined in RCW ~~((18.16-020(19))~~ 82.04.360, is considered ~~((engaged in))~~ to be engaging in and operating a business and not an employee.

(a) A "booth renter" is any person who:

~~((a))~~ (i) Performs cosmetology, barbering, esthetics, or manicuring services for which a license is required pursuant to chapter 18.16 RCW; and

~~((b))~~ (ii) Pays a fee for the use of salon or shop facilities and receives no compensation or other consideration from the owner of the salon or shop for the services performed.

~~((c) See WAC 458-20-118 for the proper treatment))~~ (b) For the taxability of amounts received for the rental or licensing of real estate ~~((and))~~ refer to WAC 458-20-118. Refer to WAC 458-20-200 for the ~~((proper treatment))~~ taxability of amounts received for leased departments.

**(10) Personal chefs.** Personal chefs are engaging in and operating a business as independent contractors. They prepare meals for consumption at their clients' homes. Personal chefs typically serve multiple clients, working with the clients to create personalized meal plans based on the client's specific dietary requirements or requests. The meals may be prepared in the client's home or in a commercial kitchen and delivered to the client's home. Personal chefs may also prepare meals for social events, such as dinner parties, cocktail parties, engagement parties, weddings, or receptions.

## WSR 15-16-119

### PROPOSED RULES

#### DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed August 4, 2015, 5:31 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-06-100.

Title of Rule and Other Identifying Information: WAC 246-851-545 Retired active credential, the board of optometry (board) is proposing adding a new rule creating a retired active status for licensed optometrists.

Hearing Location(s): Washington State Department of Health, Kent Regional Office, 20425 72nd Avenue South, Room 309, Kent, WA 98032, on September 21, 2015, at 11:30 a.m.

Date of Intended Adoption: September 21, 2015.

Submit Written Comments to: Lorelei Walker, 111 Israel Road S.E., P.O. Box 47852, Olympia, WA 98504-7852, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by September 17, 2015.

Assistance for Persons with Disabilities: Contact Lorelei Walker, program manager, by September 15, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule will create a retired active status and allow optometrists to maintain their credential and practice at a reduced renewal fee. An optometrist with a retired active license may not receive compensation for vision care services. An optometrist with a retired active credential must report fifty hours of continuing education every two years and must comply with chapter 246-12 WAC, Part 5. Separate rule making has been filed to establish a retired active fee.



Reasons Supporting Proposal: The board received a petition requesting a retired active status for licensed optometrists. The board determined that it would initiate rule making to consider implementation of a retired active status. Under RCW 18.130.250 and chapter 246-12 WAC, when authorized, a health care provider may apply for a retired active credential when he or she holds an active Washington state credential and is in good standing. The rule will allow an optometrist with a retired active license to provide vision care services on a limited basis at a reduced renewal fee.

Statutory Authority for Adoption: RCW 18.54.070(2).

Statute Being Implemented: RCW 18.130.250.

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

Name of Proponent: Department of health, board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

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

A cost-benefit analysis is not required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Judy Haenke, 111 Israel Road S.E., Tumwater, WA 98501, phone (360) 236-4947, fax (360) 236-2901, e-mail [judy.haenke@doh.wa.gov](mailto:judy.haenke@doh.wa.gov). RCW 34.05.328 (5)(b)(v) exempts rules the content of which is explicitly and specifically dictated by statute.

July 31, 2015  
Kathy Schmitt  
Deputy Director  
Office of Health  
Professions and Facilities

#### NEW SECTION

**WAC 246-851-545 Retired active credential.** (1) To obtain a retired active credential, an optometrist must comply with chapter 246-12 WAC, Part 5.

(2) An optometrist with a retired active license may not receive compensation for vision care services.

(3) An optometrist with a retired active license must renew the license every year on his or her birthday according to WAC 246-12-130 and 246-851-990 and report fifty hours of continuing education every two years.

**WSR 15-16-120**  
**WITHDRAWL OF PROPOSED RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Filed August 4, 2015, 5:52 p.m.]

The Washington department of fish and wildlife is withdrawing proposed new WAC 232-16-540 from WSR 15-04-

099, filed on February 2, 2015. The fish and wildlife commission did not adopt the proposed new WAC 232-16-540.

Joanna Eide  
Rules Coordinator

**WSR 15-16-121**  
**PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
(Public Employees Benefits Board)

[Admin # 2015-01—Filed August 5, 2015, 4:03 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-10-080.

Title of Rule and Other Identifying Information: The public employees benefits board (PEBB) rules related to enrollment in chapter 182-08 WAC; eligibility in chapter 182-12 WAC; and appeals in chapter 182-16 WAC.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Sue Crystal Conference Room 106A, 626 8th Avenue, Olympia, WA 98504 (metered public parking is available street side around building. A map is available at [http://www.hca.wa.gov/documents/directions\\_to\\_csp.pdf](http://www.hca.wa.gov/documents/directions_to_csp.pdf), or directions can be obtained by calling (360) 725-1000), on September 8, 2015, at 10:00 a.m.

Date of Intended Adoption: Not sooner than September 9, 2015.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 45504, Olympia, WA 98504-5504, delivery 626 8th Avenue, Olympia, WA 98504, e-mail [arc@hca.wa.gov](mailto:arc@hca.wa.gov), fax (360) 586-9727, by September 8, 2015.

Assistance for Persons with Disabilities: Contact Amber Loughheed by September 1, 2015, phone (360) 725-1309, e-mail [amber.loughheed@hca.wa.gov](mailto:amber.loughheed@hca.wa.gov), TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amends existing rules in Title 182 WAC specific to the PEBB program with the following effect:

1. Implement PEBB policy resolution to amend wellness incentive program requirements and TRICARE retiree waiver requirements.

2. Makes technical amendments to:

- Clarify that blind vendors have a sixty day notification requirement after a loss of group health or health insurance under HIPAA.
- Clarify what "employer-based group medical insurance," "pay status," and "employee" means.
- Clarify that new employees must either "enroll or waive" coverage within thirty-one days of eligibility.
- Clarify within WAC 182-12-205 what conditions a retiring employee must meet in order to defer coverage, the timeline to defer retiree health plan coverage for both new and existing retirees, and when coverage ends for retiring employees who are deferring coverage.
- Amend the definition of "PEBB program" to remove the reference to "disabled employees."

- Amending WAC 182-12-171 to account for retiring employee issues.
- Clarify within WAC 182-12-123 the notification process between employers who employ the same employee and need to change who is paying the employer contribution.
- Clarify within WAC 182-08-235 that the employer group actuarial evaluation will be conducted by a PEBB program designated actuary.
- Clarify within WAC 182-16-073 what the PEBB program's rescheduling and continuance processes are.
- Amend WAC 182-08-245 (1)(e) to replace the words "health plans" with "insurance coverages."
- Amend WAC 182-08-240 to include a timeframe, for all group sizes, on how long an employer group evaluation is valid and that like populations will be evaluated against each other during the application process.
- Amend WAC 182-08-185 to account for surcharge changes and issues.
- Amend WAC 182-12-260(3) so it says that coverage for children ends on the last day of the month in which they turn twenty-six years old.
- Amend WAC 182-08-187 to account for additional error correction issues that have been identified.
- Amend WAC 182-12-211 to include the ability to "defer" and that the references to WAC 182-12-171 are correct.
- Clarify within WAC 182-12-262 (2)(c) when coverage ends for dependents.
- Amend WAC 182-12-133 and 182-12-146 to include deadlines for COBRA/LWOP continuation coverage that mirror those requirements for COBRA.
- Amend WAC 182-12-200 to integrate provisions of Policy 21-1 that deal with retiree deferral form exemptions.
- Amend WAC 182-16-036(1) so that it also includes eligibility for benefits and add the process flow for FSA appeals.
- Amend WAC 182-16-040 to determine what must be included versus what may be included in a notice of appeal.
- Amend WAC 182-12-260 to state the PEBB program requires dependent verification documents.
- Amend WAC 182-12-263 to remove "court orders."
- Amending WAC 182-08-199 (3)(c)(vi) to update the IRS references.
- Amending WAC 182-12-123 to clarify that eligibility as an employee supersedes eligibility as a dependent in most situations.
- Amend WAC 182-16-080 to correct reference links.

3. In addition to these specific changes, HCA conducted a full review of these chapters and made some changes for readability.

Reasons Supporting Proposal: Compliance with federal regulation, state law.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160.

Statute Being Implemented: SB 5466.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Rob Parkman, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0883; Implementation: Barbara Scott, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0830; and Enforcement: Mary Fliss, Cherry Street Plaza, 626 8th Avenue S.E., Olympia, WA, (360) 725-0822.

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

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

August 5, 2015

Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-015 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates other meaning:

"Affordable Care Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, P.L. 111-152, or federal regulations or guidance issued under the Affordable Care Act.

"Annual open enrollment" means an annual event set aside for a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. Subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll in or waive enrollment in ((~~the~~)) PEBB medical ((~~plan~~)), or employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan.

"Authority" or "HCA" means the health care authority.

((~~"Benefits eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3)(a)(ii).)~~)

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuation coverage" means the temporary continuation of PEBB health plan coverage available to enrollees after a qualifying event occurs as administered under Title XXII of the Public Health Service (PHS) Act, 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in a PEBB health plan by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

~~("Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.)~~

"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage or government-sponsored programs such as medicare or medicaid.

"Employer group" means those ((employee organizations representing state civil service employees,)) counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, ((charter schools, and)) educational service districts ((participating in PEBB insurance coverage under contractual agreement)), and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Exchange" means the Washington health benefit exchange established in RCW 43.71.020, and any other health benefit exchange established under the Affordable Care Act.

"Exchange coverage" means coverage offered by a qualified health plan through an exchange.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission; as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

~~("Federal retiree plan" means the Federal Employees' Health Benefits Program (FEHB) and Tricare.)~~

"Health plan" means a plan offering medical or dental, or both developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA (~~which~~) that administers insurance and other benefits for eligible employees (as ~~(defined)~~ described in WAC 182-12-114), eligible retired (~~(and disabled)~~) employees (as ~~(defined)~~ described in WAC 182-12-171), eligible dependents (as ~~(defined)~~ described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Qualified health plan" means a medical plan that is certified to be offered through an exchange.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"School district" means public schools as defined in RCW 28A.150.010 which includes charter schools established under chapter 28A.710 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. Subscribers may change health plans and enroll or remove dependents from coverage. Additionally, employees may enroll in or

waive enrollment in ~~((a))~~ PEBB medical ~~((plan))~~, and may enroll in or change their election under the DCAP, medical FSA, or the premium payment plan. For special open enrollment events as they relate to specific PEBB benefits, see WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary, or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

~~("Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.)~~

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Administration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other employer-based group medical insurance, TRICARE, or medicare as allowed under WAC 182-12-128, or is on approved educational leave and obtains other employer-based group health insurance as allowed under WAC 182-12-136.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-185 What are the requirements regarding premium surcharges?** (1) A subscriber's account will incur a premium surcharge when any enrollee, thirteen years and older, engages in tobacco use.

(a) A subscriber must attest to whether any enrollee ~~((or))~~, thirteen years and older, enrolled in his or her public employees benefits board (PEBB) medical ~~((plan))~~ engages in tobacco use. The subscriber must attest ~~((during the following times))~~ as described in (a)(i) through (vii) of this subsection:

(i) ~~((When))~~ An employee who is newly eligible or regains eligibility for the employer contribution toward PEBB benefits ~~((submits an enrollment))~~ must complete the required form to ~~((add))~~ enroll in PEBB medical as described in WAC 182-08-197 (1) or (3). The employee must include his or her attestation on that form. The employee must submit the attestation to his or her employing agency. If the employee's attestation results in a premium surcharge, it will take effect the same ~~((time))~~ date as PEBB medical begins~~((;))~~.

(ii) ~~((When))~~ If there is a change in the tobacco use status of any enrollee, thirteen years and older on the subscriber's PEBB medical ~~((plan. If the change in status results in a surcharge being added or removed, the change to the surcharge will take effect the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day;))~~, the subscriber must update his or her attestation on the required form. An employee must submit the updated attestation to his or her employing agency. Any other subscriber must submit his or her updated attestation to the PEBB program.

- A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first of the month, the change to the surcharge begins on that day.

- A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day.

(iii) ~~((When))~~ If a subscriber submits ~~((an enrollment))~~ the required form to ~~((add))~~ enroll a dependent ~~((to his or her))~~, thirteen years and older, in PEBB medical as described in WAC 182-12-262~~((If enrolling the dependent))~~, the subscriber must update his or her attestation on the required form. An employee must submit the updated attestation to his or her employing agency. Any other subscriber must submit his or her updated attestation to the PEBB program. A change that results in a premium surcharge ~~((being added, it))~~ will take effect the same ~~((time))~~ date as PEBB medical begins~~((;))~~.

(iv) ~~((When))~~ An enrollee, thirteen years and older, who elects to continue ~~((health plan))~~ medical coverage as described in WAC 182-12-146~~((If the attestation results in a surcharge it))~~, must provide an attestation on the required form if he or she has not previously attested as described in (a) of this subsection. The enrollee must submit his or her updated attestation to the PEBB program. An attestation that results in a premium surcharge will take effect the same ~~((time))~~ date as PEBB medical begins. ~~((This action is required only if the enrollee has not previously attested as described in (a) of this subsection;))~~

(v) ~~((When))~~ An employee or retiree ~~((submits an enrollment form to))~~ who enrolls in PEBB medical as described in WAC 182-12-171 (1)(a), 182-12-200 ~~((2))~~ (3)(a) and (b), or 182-12-205 ~~((4))~~ (6)(a), (b), (c), (d), and ~~((d. If the))~~ (e), must provide an attestation on the required form if he or she has not previously attested as described in (a) of this subsection. The employee or retiree must submit his or her updated attestation to the PEBB program. An attestation that results in a premium surcharge ~~((it))~~ will take effect the same ~~((time))~~

date as PEBB medical begins. ~~((This action is required only if the retiree has not previously attested as described in (a) of this subsection; and))~~

(vi) ~~((When a survivor))~~ A surviving spouse, registered domestic partner, or dependent child ~~((submits an enrollment form to enroll))~~, thirteen years and older, who enrolls in PEBB medical as described in WAC 182-12-250(5) or 182-12-265~~((If the))~~, must provide an attestation on the required form to the PEBB program if he or she has not previously attested as described in (a) of this subsection. An attestation that results in a premium surcharge ~~((it))~~ will take effect the same ~~((time))~~ date as PEBB medical begins. ~~((This action is required only if the survivor has not previously attested as described in (a) of this subsection;))~~

(vii) An employee who previously waived PEBB medical must complete the required form to enroll in PEBB medical as described in WAC 182-12-128(3). The employee must include his or her attestation on that form. An employee must submit the attestation to his or her employing agency. An attestation that results in a premium surcharge will take effect the same date as PEBB medical begins.

Exception:

(1) A subscriber enrolled in both Medicare parts A and B and in the Medicare risk pool is not required to provide an attestation and no premium surcharge will be imposed on the subscriber's account.

(2) An employee who waives PEBB medical ~~((enrollment))~~ according to WAC 182-12-128 is not required to provide an attestation and no premium surcharge will be applied to his or her account ~~((until the employee enrolls in a PEBB medical plan))~~ as long as the employee enrollment remains in waived status.

(b) A subscriber's account will incur a premium surcharge when a subscriber fails to attest to the tobacco use status of all enrollees as described in subsection (1)(a) of this section.

(c) The PEBB program will provide a reasonable alternative for enrollees who use tobacco products ~~((so a))~~. A subscriber can avoid the tobacco use premium surcharge if the subscriber attests on the required form that all enrollees who use tobacco products enrolled in or accessed the applicable reasonable alternative offered below:

(i) ~~((All enrollees have))~~ An enrollee who is eighteen years and older and uses tobacco products has access to a free tobacco cessation program through ~~((their))~~ his or her PEBB medical ~~((plan. A subscriber can avoid the surcharge if enrollees who use tobacco products are enrolled in their plan's tobacco cessation program))~~.

(ii) An enrollee who is thirteen through seventeen years old and uses tobacco products may access the information and resources aimed at teens on the Washington state department of health's web site at <http://teen.smokefree.gov>.

(iii) A subscriber may contact the PEBB program to accommodate a physician's recommendation that addresses an enrollee's use of tobacco products or for information on how to avoid the tobacco use premium surcharge.

(2) A ~~((subscriber's account))~~ subscriber will incur a premium surcharge if an enrolled spouse or registered domestic partner ~~((those))~~ elected not to enroll in employer-based group medical insurance that has premiums less than ninety-five percent of the UMP Classic's premiums and benefits

with an actuarial value of at least ninety-five percent of the actuarial value of the UMP Classic's benefits.

(a) A subscriber (~~((with))~~) who enrolled a spouse or registered domestic partner ((enrolled)) under his or her PEBB medical ((must)) may only attest during the following times:

(i) ~~When ((an employee who is newly eligible or regains eligibility for the employer contribution toward PEBB benefits submits an enrollment form to add PEBB medical as described in WAC 182-08-197 (1) or (3)-))~~ a subscriber becomes eligible to enroll a spouse or registered domestic partner to his or her PEBB medical as described in WAC 182-12-262 (1)(a). A subscriber must complete the required form to enroll his or her spouse or registered domestic partner. The subscriber must include his or her attestation on that form. The employee must submit the attestation to his or her employing agency. Any other subscriber must submit an attestation to the PEBB program. If the subscriber's attestation results in a premium surcharge it will take effect the same ~~((time))~~ date as PEBB medical begins;

(ii) ~~When a special open enrollment (SOE) event occurs as described in WAC 182-12-262 (1)(c). A subscriber must submit((s an enrollment)) the required form to ((add)) enroll a spouse or registered domestic partner ((to his or her)) in PEBB medical ((as described in WAC 182-12-262. If enrolling the spouse or registered domestic partner)).~~ The subscriber must include his or her updated attestation on that form. An employee must submit an updated attestation to his or her employing agency. Any other subscriber must submit an updated attestation to the PEBB program. If the subscriber's attestation results in a premium surcharge ((being added, the surcharge)) it will take effect the first day of the month following receipt of the attestation. If that day is the first day of the month, the change to the surcharge begins on that day;

(iii) ~~During the annual open enrollment. ((If attesting))~~ A subscriber must update his or her attestation on the required form. An employee must submit an updated attestation to his or her employing agency. Any other subscriber must submit an updated attestation to the PEBB program. The subscriber's attestation or any correction to a subscriber's attestation must be received no later than December 31st of the year in which the annual open enrollment occurs. If the subscriber's attestation results in a premium surcharge, being added or removed, the change to the surcharge ((begins)) will take effect January 1st of the following year; and

(iv) ~~When there is a change in the spouse's or registered domestic partner's employer-based group medical insurance. ((If attesting results in a surcharge being added or removed, the change to the surcharge will take effect the first day of the month following receipt of the attestation. If that day is the first of the month, the change to the surcharge begins on that day-))~~ An employee must submit an updated attestation to his or her employing agency within sixty days of when the spouse's or registered domestic partner's employer-based group medical insurance status changes. Any other subscriber must submit an updated attestation to the PEBB program within sixty days of when the spouse's or registered domestic partner's employer-based group medical insurance changes.

• A change that results in a premium surcharge will begin the first day of the month following the status change. If that day is the first day of the month, the change to the premium surcharge begins on that day.

• A change that results in removing the premium surcharge will begin the first day of the month following receipt of the attestation. If that day is the first day of the month, the change to the premium surcharge begins on that day.

- Exception:
- (1) A subscriber enrolled in both medicare parts A and B and in the medicare risk pool is not required to provide an attestation and no premium surcharge will be imposed on the subscriber's account.
  - (2) An employee who waives PEBB medical (~~((enrollment))~~) according to WAC 182-12-128 is not required to provide an attestation and no premium surcharge will be applied to his or her account (~~((until the employee enrolls in a PEBB medical plan))~~) as long as the employee remains in waived status.
  - (3) An employee who covers his or her spouse or registered domestic partner who has waived his or her own PEBB medical must attest, but a premium surcharge will not be applied.
  - (4) A subscriber who covers his or her spouse or registered domestic partner who elected not to enroll in TRICARE must attest, but a premium surcharge will not be applied.

(b) A premium surcharge will be applied to ~~((the account of))~~ a subscriber((s)) who ((doe)) does not attest as described in (a) of this subsection.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-187 How do employing agencies correct enrollment errors and is there a limit on retroactive enrollment?** ~~((H))~~ An employing agency that fails to timely enroll an employee, or his or her dependent, in public employees benefits board (PEBB) benefits must correct the error as described in this section. An agency must correct a failure to notify an employee timely of his or her eligibility for ((public employees benefits board (-))PEBB((+)) benefits and the employer contribution ((as required in WAC 182-12-113 or the employer group contract, or fails)); or a failure to accurately enroll insurance coverage((-, the agency is authorized and required to correct the error as described in this section)); or a failure to accurately enroll insurance coverage as required by WAC 182-08-197 (1)(b); or a failure to accurately reflect premium surcharge status.

The employing agency or the PEBB program's designee must enroll the employee and the employee's dependent, as elected, in PEBB benefits as described in subsection (1) of this section, reconcile premium payments and premium surcharges as described in subsection (2) of this section, and provide recourse as described in subsection (3) of this section.

Note: If the employing agency failed to provide the notice required in WAC 182-12-113 or the employer group contract before the end of the employee's thirty-one day enrollment period described in WAC 182-08-197 (1)(a), the employing agency must provide the employee a written notice of eligibility for PEBB benefits and offer a new enrollment period. Employees who do not return the required enrollment forms default to enrollment according to WAC 182-08-197 (1)(b).

**(1) Enrollment.**

(a) PEBB medical and dental enrollment is effective the first day of the month following the date the enrollment error is identified, unless the authority determines additional recourse is warranted, as described in subsection (3) of this section. If the enrollment error is identified on the first day of the month, the enrollment correction is effective that day;

(b) Basic life and basic long-term disability (LTD) insurance enrollment is retroactive to the first day of the month following the day the employee became newly eligible, or the first day of the month the employee regained eligibility, as described in WAC 182-08-197. If the employee became newly eligible on the first working day of a month, basic life and basic LTD insurance coverage begins on that date;

(c) Optional life and optional LTD insurance is retroactive to the first day of the month following the day the employee became newly eligible if the employee elects to enroll in this coverage (or if previously elected, the first of the month following the signature date of the employee's application for this coverage). If an employing agency enrollment error occurred when the employee regained eligibility for the employer contribution following a period of leave as described in WAC 182-08-197(3):

(i) Optional insurance coverage is enrolled the first day of the month the employee regained eligibility, at the same level of coverage the employee continued during the period of leave, without evidence of insurability.

(ii) If the employee was not eligible to continue optional LTD insurance coverage during the period of leave, optional LTD insurance coverage is reinstated the first day of the month the employee regained eligibility, to the level of coverage the employee was enrolled in prior to the period of leave, without evidence of insurability.

(iii) If the employee was eligible to continue optional insurance coverage under the period of leave but did not, the employee must provide evidence of insurability and receive approval from the contracted vendor.

(d) If the employee is eligible and elects (or elected) to enroll in the medical flexible spending (~~(account)~~) arrangement (FSA) or dependent care assistance program (DCAP), enrollment is limited to three months prior to the date enrollment is processed, but not earlier than the current plan year. If an employee was not enrolled in an FSA or DCAP as elected, the employee may adjust his or her election. The employee may either participate at the amount originally elected with a corresponding increase in contributions for the balance of the plan year, or participate at a reduced amount for the plan year by maintaining the per-pay period contribution in effect.

**(2) Premium payments.**

(a) The employing agency must remit to the authority the employer contribution and the employee contribution for health plan premiums, premium surcharges, basic life, and basic LTD from the date insurance coverage begins as described in subsections (1) and (3)(a)(i) of this section. If a state agency failed to notify a newly eligible employee of his or her eligibility for PEBB benefits, the state agency may only collect the employee contribution for health plan premiums and premium surcharges for coverage for months following notification of a new enrollment period.

(b) When an employing agency fails to correctly enroll the amount of optional life insurance or optional LTD insurance coverage elected by the employee, premiums will be corrected as follows:

(i) When additional premiums are due to the authority, the employee is responsible for premiums for the most recent twenty-four months of coverage. The employing agency is responsible for additional months of premiums.

(ii) When premium refunds are due to the employee, the optional life insurance or optional LTD insurance vendor is responsible for premium refunds for the most recent twenty-four months of coverage. The employing agency is responsible for additional months of premium refunds.

**(3) Recourse.**

(a) Employee eligibility for PEBB benefits begins on the first day of the month following the date eligibility is established as described in WAC 182-12-114. Dependent eligibility is described in WAC 182-12-260, and dependent enrollment is described in WAC 182-12-262. When retroactive correction of an enrollment error is limited as described in subsection (1) of this section, the employing agency must work with the employee, and the authority, to implement retroactive insurance coverage within the following parameters:

(i) Retroactive enrollment in a PEBB health plan;

(ii) Reimbursement of claims paid;

(iii) Reimbursement of amounts paid for medical and dental premiums; or

(iv) Other recourse, upon approval by the authority.

(b) Recourse must not contradict a specific provision of federal law or statute and does not apply to requests for non-covered services or in the case of an individual who is not eligible for PEBB benefits.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-190 The employer contribution is set by the health care authority (HCA) and paid to the HCA for all eligible employees.** State agencies and employer groups that participate in the public employees benefits board (PEBB) program under contract with the health care authority (HCA) must pay premium contributions to the HCA for insurance coverage for all eligible employees and their dependents.

(1) Employer contributions for state agencies set by the HCA are subject to the approval of the governor for availability of funds as specifically appropriated by the legislature for that purpose. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(2) Employer contributions must include an amount determined by the HCA to pay administrative costs to administer insurance coverage for employees of these groups.

(3) Each employee of a state agency eligible under WAC 182-12-131 or each eligible employee of a state agency on leave under the federal Family and Medical Leave Act (FMLA) is eligible for the employer contribution as described in WAC 182-12-138. The entire employer contribution is due and payable to HCA even if PEBB medical is waived as described in WAC 182-12-128.

(4) Employees of employer groups eligible under criteria stipulated under contract with the HCA are eligible for the employer contribution. The entire employer contribution is due and payable to the HCA even if PEBB medical is waived as described in WAC 182-12-128.

(5) Washington state patrol officers disabled while performing their duties as determined by the chief of the Washington state patrol are eligible for the employer contribution for PEBB medical (~~(insurance)~~) as authorized in RCW 43.43.040. No other retiree or disabled employee is eligible for the employer contribution for PEBB benefits unless they are an eligible employee as (~~(defined)~~) described in WAC 182-12-114 or 182-12-131.

(6) The terms of payment to HCA for employer groups shall be stipulated under contract with the HCA.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-197 When must a newly eligible employee, or an employee who regains eligibility for the employer contribution, select public employees benefits board (PEBB) benefits and complete ~~(enrollment)~~ required forms?** An employee who is newly eligible or who regains eligibility for the employer contribution toward public employees benefits board (PEBB) benefits enrolls as described in this section.

(1) When an employee is newly eligible for PEBB benefits:

(a) An employee must complete the required forms indicating his or her enrollment elections (~~(and return the forms to his or her)~~), including an election to waive PEBB medical if the employee chooses to waive PEBB medical as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency. Forms must be received by (~~(the)~~) his or her employing agency no later than thirty-one days (sixty days for life insurance) after the employee becomes eligible for PEBB benefits under WAC 182-12-114.

(i) An employee may enroll in optional life and optional long-term disability (LTD) insurance up to the guaranteed issue without evidence of insurability if (~~(enrollment)~~) the required forms are returned to the employee's employing agency as required. An employee may apply for enrollment in optional life and LTD insurance coverage over the guaranteed issue at any time during the calendar year by submitting the (~~(evidence of insurability)~~) required form to the vendor for approval.

(ii) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee will automatically enroll in the premium payment plan upon enrollment in PEBB medical so employee medical premiums are taken on a pretax basis. To opt out of the premium payment plan, a new employee must complete the required form and return it to his or her state agency. The form must be received by his or her state agency no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(iii) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee may enroll in the state's medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP) or

both, except as limited by subsection (4) of this section. To enroll in these optional PEBB benefits, the employee must return the required (~~(enrollment)~~) form to his or her state agency or the PEBB program's designee. The form must be received by the state agency or the PEBB program's designee no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(b) If a newly eligible employee's employing agency does not receive the employee's required forms indicating medical, dental, and LTD (~~(choice)~~) elections and the employee's tobacco use status attestation within thirty-one days and life insurance (~~(choice)~~) elections within sixty days of the employee becoming eligible, his or her (~~(coverage)~~) enrollment will be (~~(enrolled)~~) as follows:

(i) (~~(Medical enrollment will be)~~) Uniform Medical Plan Classic;

(ii) (~~(Dental enrollment will be)~~) Uniform Dental Plan;

(iii) Basic life insurance;

(iv) Basic long-term disability insurance; (~~(and)~~)

(v) Dependents will not be enrolled; and

(vi) A tobacco use surcharge will be incurred as described in WAC 182-08-185 (1)(b).

(2) The employer contribution toward insurance coverage ends according to WAC 182-12-131. When an employee's employment ends, participation in the state's salary reduction plan ends.

(3) When an employee loses and later regains eligibility for the employer contribution toward insurance coverage following a period of leave described in WAC 182-12-133(1) and 182-12-142 (1) and (2):

(a) The employee must complete (~~(and return)~~) the required forms indicating his or her enrollment elections (~~(to his or her)~~), including an election to waive PEBB medical if the employee chooses to waive PEBB medical as described in WAC 182-12-128. The required forms must be returned to the employee's employing agency except as described in (d) of this subsection. Forms must be received by the employing agency no later than thirty-one days after the employee regains eligibility, except as described in subsection (3)(b) of this section:

(i) An employee who self-paid for optional life insurance coverage after losing eligibility will have that level of coverage reinstated without evidence of insurability;

(ii) An employee who was eligible to continue optional life under continuation coverage but discontinued that insurance coverage must submit evidence of insurability;

(iii) An employee who was eligible to continue optional LTD under continuation coverage but discontinued that insurance coverage must submit evidence of insurability for optional LTD insurance when he or she regains eligibility for the employer contribution.

(b) An employee in any of the following circumstances does not have to return (~~(and)~~) a form indicating optional LTD insurance elections (~~(form)~~). His or her optional LTD insurance will be automatically reinstated:

(i) The employee continued to self-pay for his or her optional LTD insurance after losing eligibility for the employer contribution;



(ii) The employee was not eligible to continue optional LTD insurance after losing eligibility for the employer contribution.

~~((Exception: An employee's insurance coverage elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB coverage. This includes movement of employees between any entities described in WAC 182-12-111 and participating in PEBB benefits. Insurance coverage elections also remain the same when employees have a break in employment that does not interrupt his or her employer contribution toward PEBB insurance coverage.))~~

(c) If an employee's employing agency does not receive the required forms within thirty-one days of the employee regaining eligibility, medical, dental, life, tobacco use surcharge, and LTD enrollment will be as described in subsection (1)(b) of this section, except as described in (b) of this subsection.

(d) If an employee is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) the employee may enroll in the state's medical FSA or DCAP or both, except as limited by subsection (4) of this section. To enroll in these optional PEBB benefits, the employee must return the required ~~((enrollment))~~ form to his or her state agency or the PEBB program's designee. The form must be received by the employee's state agency or the PEBB program's designee no later than thirty-one days after the employee becomes eligible for PEBB benefits.

(4) If an employee who is eligible to participate in the state's salary reduction plan (see WAC 182-12-116) is hired into a new position that is eligible for PEBB benefits in the same year, the employee may not resume participation in DCAP or medical FSA until the beginning of the next plan year, unless the time between employments is less than thirty days and the employee notifies the new state agency and the DCAP or FSA administrator of his or her employment transfer within the current plan year.

(5) An employee's insurance coverage elections remain the same when an employee transfers from one employing agency to another employing agency without a break in PEBB coverage. This includes movement of an employee between any entities described in WAC 182-12-111 and participating in PEBB benefits. Insurance coverage elections also remain the same when an employee has a break in employment that does not interrupt his or her employer contribution toward insurance coverage.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-199 When may an employee enroll in or change his or her election under the premium payment plan, medical flexible spending arrangement (FSA) or dependent care assistance program (DCAP)?** An employee who is eligible to participate in the state's salary reduction plan as described in WAC 182-12-116 may enroll in or change his or her election under the premium payment plan, medical flexible spending arrangement (FSA), or dependent care assistance program (DCAP) at the following times:

(1) When newly eligible under WAC 182-12-114, as described in WAC 182-08-197(1).

(2) **During annual open enrollment:** An eligible employee may enroll in or change his or her election under the state's premium payment plan, medical FSA or DCAP during the annual open enrollment. For the state's premium payment plan, the required ~~((enrollment))~~ form must be submitted to his or her employing agency. To enroll or reenroll in medical FSA or DCAP the employee must submit the required ~~((enrollment))~~ form to his or her employing agency or the public employees benefits board (PEBB) program's designee. All required forms must be received no later than the last day of the annual open enrollment. The enrollment or new election will be effective January 1st of the following year.

(3) **During a special open enrollment:** An employee may enroll or change his or her election under the state's premium payment plan, medical FSA or DCAP outside of the annual open enrollment if a special open enrollment event occurs. The enrollment or change in election must be allowable under Internal Revenue Code (IRC) and correspond to and be consistent with the event that creates the special open enrollment. To make a change or enroll, the employee must submit the required ~~((enrollment))~~ forms as instructed on the forms. The required ~~((enrollment))~~ forms must be received no later than sixty days after the event occurs. The employee must provide evidence of the event that created the special open enrollment.

For purposes of this section, an eligible dependent includes any person who qualifies as a dependent of the employee for tax purposes under IRC Section 152 without regard to the income limitations of that section. It does not include a registered domestic partner unless the domestic partner otherwise qualifies as a dependent for tax purposes under IRC Section 152.

(a) **Premium payment plan.** An employee may enroll or change his or her election under the premium payment plan when any of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership when the dependent is a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
- A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
- A child becoming eligible as a dependent with a disability(ies).

(ii) Employee's dependent no longer meets PEBB eligibility criteria because:

- Employee has a change in marital status;
- Employee's domestic partnership with a registered domestic partner who is a tax dependent is dissolved or terminated;
- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iv) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for their employer contribution toward employer-based group health insurance;

(v) Employee or an employee's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(vi) Employee or an employee's dependent has a change in residence that affects health plan availability;

(vii) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(viii) A court order or national medical support notice (see also WAC 182-12-263) requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(ix) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(x) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP);

(xi) Employee or an employee's dependent becomes entitled to coverage under medicare, or the employee or an employee's dependent loses eligibility for coverage under medicare, or enrolls in or (~~enrolls~~) terminates enrollment in a medicare Part D plan;

(xii) Employee or an employee's dependent's current health plan becomes unavailable because the employee or enrolled dependent is no longer eligible for a health savings account (HSA). The health care authority (HCA) may require evidence that the employee or employee's dependent is no longer eligible for an HSA;

(xiii) Employee or an employee's dependent experiences a disruption of care that could function as a reduction in benefits for the employee or the employee's dependent for a specific condition or ongoing course of treatment. The employee may not change their health plan election if the employee's or dependent's physician stops participation with the employee's

health plan unless the PEBB program determines that a continuity of care issue exists. The PEBB program will consider but not limit its consideration to the following:

- Active cancer treatment such as chemotherapy or radiation therapy for up to ninety days or until medically stable; or
- Transplant within the last twelve months; or
- Scheduled surgery within the next sixty days (elective procedures within the next sixty days do not qualify for continuity of care); or
- Recent major surgery still within the postoperative period of up to eight weeks; or
- Third trimester of pregnancy.

(xiv) Employee or employee's dependent becomes eligible and enrolls in TRICARE, or loses eligibility for TRICARE.

If the employee is having premiums taken from payroll on a pretax basis, a plan change will not be approved if it would conflict with provisions of the salary reduction plan authorized under RCW 41.05.300.

(b) **Medical flexible spending ((~~account~~) arrangement (FSA))**. An employee may enroll or change his or her election under the medical FSA when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership if the domestic partner qualifies as a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
  - A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
  - A child becoming eligible as a dependent with a disability.

(ii) Employee's dependent no longer meets PEBB eligibility criteria because:

- Employee has a change in marital status;
- Employee's domestic partnership with a registered domestic partner who qualifies as a tax dependent is dissolved or terminated;
- An eligible dependent child turns age twenty-six or otherwise does not meet dependent child eligibility criteria;
- An eligible dependent ceases to be eligible as an extended dependent or as a dependent with a disability; or
- An eligible dependent dies.

(iii) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(iv) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for the FSA;

(v) A court order or national medical support notice requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(vi) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

(vii) Employee or an employee's dependent becomes entitled to coverage under medicare.

(c) **Dependent care assistance program (DCAP).** An employee may enroll or change his or her election under the DCAP when any one of the following special open enrollment events occur, if the requested change corresponds to and is consistent with the event. The enrollment or change in election will be effective the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the enrollment or change in election begins on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, the enrollment or change in election will begin the first of the month in which the event occurs.

(i) Employee acquires a new dependent due to:

- Marriage;
- Registering a domestic partnership if the domestic partner qualifies as a tax dependent of the subscriber;
- Birth, adoption, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;
- A child becoming eligible as an extended dependent through legal custody or legal guardianship; or
- A child becoming eligible as a dependent with a disability.

(ii) Employee or an employee's dependent has a change in employment status that affects the employee's or a dependent's eligibility for DCAP;

(iii) Employee or an employee's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(iv) Employee changes dependent care provider; the change to DCAP can reflect the cost of the new provider;

(v) Employee or the employee's spouse experiences a change in the number of qualifying individuals as defined in IRC Section 21 (b)(1);

(vi) Employee's dependent care provider imposes a change in the cost of dependent care; employee may make a change in the DCAP to reflect the new cost if the dependent care provider is not a qualifying relative of the employee as defined in Internal Revenue Code Section 152 ((+)(1) through (5), incorporating the rules of Section 152 (b)(1) through (3) of the IRC).

AMENDATORY SECTION (Amending WSR 07-20-129, filed 10/3/07, effective 11/3/07)

**WAC 182-08-220 Advertising or promotion of public employees benefits board (PEBB) benefit plans.** (1) In order to assure equal and unbiased representation of public employees benefits board (PEBB) benefits, contracted vendors must comply with all of the following:

(a) All materials describing PEBB benefits must be prepared by or approved by the health care authority (HCA) before use.

(b) Distribution or mailing of all benefit descriptions must be performed by or under the direction of the HCA.

(c) All media announcements or advertising by a contracted vendor which include any mention of the "public employees benefits board," "PEBB," "health care authority," "~~(HCA)~~" "HCA," any reference to benefits for "state employees," or "retirees," or any group of employees covered by PEBB benefits, must receive the advance written approval of the HCA.

(2) Failure to comply with any or all of these requirements by a PEBB contracted vendor or subcontractor may result in contract termination by the HCA, refusal to continue or renew a contract with the noncomplying party, or both.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-235 Employer group application process.** This section applies to employer groups as defined in WAC 182-08-015. An employer group may apply to obtain insurance coverage through a contract with the health care authority (HCA). With the exception of school districts and educational service districts, the authority will approve or deny applications through the evaluation criteria described in WAC 182-08-240. To apply, employer groups must submit the documents and information described in this rule to the public employees benefits board (PEBB) program at least sixty days before the requested coverage effective date. School districts and educational service districts are only required to provide the documents described in subsections (1), (2), and (3) of this section. If school districts or educational service districts are required by the superintendent of public instruction to purchase insurance coverage provided by the authority, they are required to submit documents and information described in subsections (1)(c), (2), and (3) of this section.

(1) A letter of application that includes the information described in (a) through (d) of this subsection:

(a) A reference to the employer group's authorizing statute;

(b) A description of the organizational structure of the employer group and a description of the employee bargaining ~~((unit(s)))~~ unit or group of nonrepresented employees for which the employer group is applying;

(c) Employer tax ID number (TIN); and

(d) A statement of whether the employer group is requesting only medical or medical, dental, life, and long-term disability (LTD) insurance. School districts and educational service districts must purchase medical, dental, life, and LTD insurance.

(2) A resolution from the employer group's governing body authorizing the purchase of PEBB insurance coverage.

(3) A signed governmental function attestation document that attests to the fact that employees for whom the employer group is applying are governmental employees whose services are substantially all in the performance of essential governmental functions.

(4) A member level census file for all of the employees for whom the employer group is applying. The file must be provided in the format required by the authority and contain the following demographic data, by member, with each member classified as employee, spouse or registered domestic partner, or child:

(a) Employee ID (any identifier which uniquely identifies the employee; for dependents the employee's unique identifier must be used);

(b) Age;

(c) Gender;

(d) First three digits of the member's zip code based on residence;

(e) Indicator of whether the employee is active or retired, if the employer group is requesting to include retirees; and

(f) Indicator of whether the member is enrolled in coverage.

(5) If the application is for a subset of the employer group's employees (e.g., bargaining unit), the employer group must provide a member level census file of all employees eligible under their current health plan who are not included on the member level census file in subsection (4) of this section. This includes retired employees participating under the employer group's current health plan. The file must include the same demographic data by member.

(6) In addition to the requirements of subsections (1) through (5) of this section, additional information is required based upon the total number of employees that the employer group employs who are eligible under their current health plan:

(a) Employer groups with fewer than eleven eligible employees must provide proof of current coverage or proof of prior coverage within the last twelve months.

(b) Employer groups with three hundred one to two thousand five hundred eligible employees must provide the following:

(i) Large claims history for twenty-four months, by quarter that excludes the most recent three months; and

(ii) Ongoing large claims management report for the most recent quarter provided in the large claims history.

(c) Employer groups with greater than two thousand five hundred eligible employees must submit to an actuarial evaluation of the group by an actuary designated by the PEBB program. The employer group must pay for the cost of the evaluation. This cost is nonrefundable. An employer group that is approved will not have to pay for an additional actuarial evaluation if it applies to add another bargaining unit within two years of the evaluation. Employer groups of this size must provide the following:

(i) Large claims history for twenty-four months, by quarter that excludes the most recent three months;

(ii) Ongoing large claims management report for the most recent quarter provided in the large claims history;

(iii) Executive summary of benefits;

(iv) Summary of benefits and certificate of coverage; and

(v) Summary of historical plan costs.

(d) The following definitions apply for purposes of this section:

(i) "Large claim" is defined as a member that received more than twenty-five thousand dollars in allowed cost for services in a quarter; and

(ii) An "ongoing large claim" is a claim where the patient is expected to need ongoing case management into the next quarter for which the expected allowed cost is greater than twenty-five thousand dollars in the quarter.

(e) If the current health plan does not have a case management program then the primary diagnosis code designated by the authority must be reported for each large claimant and if the code indicates a condition which is expected to continue into the next quarter, the claim is counted as an ongoing large claim.

AMENDATORY SECTION (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

**WAC 182-08-240 How will the health care authority (HCA) decide to approve or deny an employer group application?** Employer group applications for participation in insurance coverage provided through the public employees benefits board (PEBB) program are approved or denied by the health care authority (HCA) based upon the information and documents submitted by the employer group and the employer group evaluation (EGE) criteria described in this rule. The authority may automatically deny an employer group application if the employer group fails to provide the required information and documents described in WAC 182-08-235.

(1) Employer groups are evaluated as a single unit. To support this requirement the employer group must provide a census (~~data~~) file, as described in WAC 182-08-235 (1) through (5), and additional information as described in WAC 182-08-235(6) for all employees eligible to participate under the employer group's current health plan. ((This includes retired employees participating under the employer group's current health plan.)) If the employer group's application is for both employees and retirees, the census file data and additional information for retired employees participating under the employer group's current health plan must also be included.

(a) If the employer group's application is only for participation of its employees, the PEBB enrollment data used to evaluate the employer group will be state agency employee data.

(b) If an employer group's application is for participation of both its employees and retirees, the PEBB enrollment data used to evaluate the employer group will include data from the PEBB nonmedicare risk pool which includes retiree enrollment data and state agency employee data.

(2) An employer group must pass the EGE criteria or the actuarial evaluation required in subsection (3) of this section as a single unit before the application can be approved. For purposes of this section a single unit includes all employees eligible under the employer group's current health plan. If the

application is only for a bargaining unit, then the bargaining unit must be evaluated using the EGE criteria in addition to all eligible employees of employer group as a single unit. If the employer group passes the EGE criteria as a single unit, but an individual bargaining unit does not, the employer group may only participate if all eligible employees of the entity participate.

(3) The authority will determine which of the criteria in (a) through (d) of this subsection is used to evaluate the employer group based upon the total number of eligible employees in the single unit.

(a) **Micro groups** (a single unit of one to ten employees) must meet the following criteria in order to pass the EGE evaluation:

(i) Provide proof of current coverage or proof of prior coverage within the last twelve months; and

(ii) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ((determined by the authority)) described in subsection (1) of this section.

(b) **Small and medium groups** (a single unit of eleven to three hundred employees) must meet the following criterion in order to pass the EGE evaluation: The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ((determined by the authority)) described in subsection (1) of this section.

(c) **Large groups** (a single unit of three hundred one to two thousand five hundred employees) must meet the following criteria in order to pass the EGE evaluation:

(i) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ((determined by the authority)) described in subsection (1) of this section;

(ii) One of the following two conditions must be met:

- The frequency of large claims must be less than or equal to the historical benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section; and

- The ongoing large claims management report must demonstrate that the frequency of ongoing large claims is less than or equal to the recurring benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section.

(d) **Jumbo groups** (a single unit of two thousand five hundred one or more employees) must meet the following criteria in order to pass the actuarial evaluation:

(i) The member level census file demographic data must indicate a relative underwriting factor that is equal to or better than the relative underwriting factor as determined by the authority for the like population within the nonmedicare PEBB risk pool as ((determined by the authority)) described in subsection (1) of this section;

(ii) One of the following two conditions must be met:

- The frequency of large claims must be less than or equal to the PEBB historical benchmark frequency for the PEBB like population within the nonmedicare population as described in subsection (1) of this section;

- The ongoing large claims management report must demonstrate that the frequency of ongoing large claims is less than or equal to the recurring benchmark frequency for the PEBB like population within the nonmedicare population((;)) as described in subsection (1) of this section.

(iii) Provide an executive summary of benefits;

(iv) Provide a summary of benefits and certificate of coverage;

(v) Provide a summary of historical plan costs; and

(vi) The evaluation of criteria in (d)(iii), (iv) and (v) of this subsection must indicate that the historical cost of benefits for the employer group is equal to or less than the historical cost of the PEBB like population within the nonmedicare population as described in subsection (1) of this section for a comparable plan design.

(4) ~~((The group evaluation for a jumbo group))~~ An approved group application is valid for ((two years after approval)) three hundred sixty-five calendar days after the date the application is approved by the authority. If an employer group applies to add additional bargaining units after ~~((two years))~~ the three hundred sixty-five calendar day period has ended, the group must be reevaluated.

(5) An entity whose employer group application is denied may appeal the authority's decision to the PEBB appeals committee through the process described in WAC 182-16-038.

(6) An entity whose employer group application is approved may purchase insurance for its employees under the participation requirements described in WAC 182-08-245.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-08-245 Employer group participation requirements.** This section applies to an employer group as defined in WAC 182-08-015 that is approved to purchase insurance for its employees through a contract with the health care authority (HCA).

(1) Prior to enrollment of employees in public employees benefits board (PEBB) insurance coverage, the employer group must:

(a) Remit to the authority the required start-up fee in the amount publicized by the PEBB program;

(b) Sign a contract with the authority;

(c) Determine employee and dependent eligibility and terms of enrollment for insurance coverage ~~((in accordance with))~~ by the criteria outlined in the employer group's contract with the authority;

(d) Determine eligibility in order to ensure the PEBB program's continued status as a governmental plan under Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA) as amended. This means ~~((that only))~~ the employer group may only consider employees whose services are substantially all in the performance of essential governmental functions, but not in the performance of commercial activities, whether or not those activities qualify as essen-

tial governmental functions (~~(may be considered eligible by the employer group)~~) to be eligible; and

(e) Ensure PEBB (~~(health plans are)~~) insurance coverage is the only employer-sponsored ((health plans)) coverage available to groups of employees eligible for PEBB insurance coverage under the contract.

(2) Pay premiums (~~(in accordance with)~~) under its contract with the authority based on the following premium structure:

(a) The premium rate structure for school districts and educational service districts will be a composite rate equal to the rate charged to state agencies plus an amount equal to the employee premium based on health plan (~~(choice)~~) election and family enrollment. School districts and educational service districts must collect an amount equal to the premium surcharge(s) applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

Exception: The authority will allow districts that enrolled prior to September 1, 2002, to continue participation based on a tiered rate structure. The authority may require the district to change to a composite rate structure with ninety days advance written notice.

(b) The premium rate structure for employer groups other than districts described in (a) of this subsection will be a tiered rate based on health plan (~~(choice)~~) election and family enrollment. Employer groups must collect an amount equal to the premium surcharge(s) applied to an employee's account by the authority from their employees and include the funds in their payment to the authority.

Exception: The authority will allow employer groups that enrolled prior to January 1, 1996, to continue to participate based on a composite rate structure. The authority may require the employer group to change to a tiered rate structure with ninety days advance written notice.

(3) If an employer group wants to make subsequent changes to the contract, the changes must be submitted to the authority for approval.

(4) The employer group must maintain participation in PEBB insurance coverage for at least one full year. An employer group may only end participation at the end of a plan year unless the authority approves a mid-year termination. To end participation, an employer group must provide written notice to the PEBB program at least sixty days before the requested termination date.

(5) Upon approval to purchase insurance through a contract with the authority, the employer group must provide a list of employees and dependents that are enrolled in (~~(COBRA benefits)~~) Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage and the remaining number of months available to them based on their qualifying event. These employees and dependents may enroll in PEBB medical and dental as COBRA enrollees for the remainder of the months available to them based on their qualifying event.

(6) Enrollees in PEBB insurance coverage under one of the continuation of coverage provisions allowed under chapter 182-12 WAC or retirees included in the transfer unit as allowed under WAC 182-08-237 cease to be eligible as of the last day of the contract and may not continue enrollment beyond the end of the month in which the contract is terminated.

Exception: If an employer group, other than a school district or educational service district, ends participation, retired and disabled employees who began participation before September 15, 1991, are eligible to continue enrollment in PEBB insurance coverage if the employee continues to meet the procedural and eligibility requirements of WAC 182-12-171. Employees who enrolled after September 15, 1991, who are enrolled in PEBB retiree insurance coverage cease to be eligible under WAC 182-12-171, but may continue health plan enrollment under COBRA (see WAC 182-12-146).

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-109 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates another meaning:

"Affordable Care Act" means the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended by the federal Health Care and Education Reconciliation Act of 2010, P.L. 111-152, or federal regulations or guidance issued under the Affordable Care Act.

"Annual open enrollment" means an annual event set aside for a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections for the following plan year. Subscribers may transfer from one health plan to another, enroll or remove dependents from coverage, enroll or waive enrollment in (~~(a))~~) PEBB medical ((plan)), or employees may enroll in or change their election under the DCAP, the medical FSA, or the premium payment plan.

"Authority" or "HCA" means the health care authority.

(~~"Benefits eligible position" means any position held by an employee who is eligible for benefits under WAC 182-12-114, with the exception of employees who establish eligibility under WAC 182-12-114 (2) or (3)(a)(ii).~~) "Blind vendor" means a "licensee" as defined in RCW 74.18.200.

"Board" means the public employees benefits board established under provisions of RCW 41.05.055.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuation coverage" means the temporary continuation of PEBB health plan coverage available to enrollees after a qualifying event occurs as administered under Title XXII of the Public Health Service (PHS) Act, 42 U.S.C. Secs. 300bb-1 through 300bb-8.

"Creditable coverage" means coverage that meets the definition of "creditable coverage" under RCW 48.66.020 (13)(a) and includes payment of medical and hospital benefits.

"Defer" means to postpone enrollment or interrupt enrollment in a PEBB health plan by a retiree or eligible survivor.

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay

for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

"Effective date of enrollment" means the first date when an enrollee is entitled to receive covered benefits.

"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage, or government-sponsored programs such as medicare or medicaid.

"Employer group" means those (~~employee organizations representing state civil service employees;~~) counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, (~~char-~~

ter schools, and) educational service districts (~~(participating in PEBB insurance coverage under contractual agreement)~~), and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Exchange" means the Washington health benefit exchange established in RCW 43.71.020, and any other health benefit exchange established under the Affordable Care Act.

"Exchange coverage" means coverage offered by a qualified health plan through an exchange.

"Faculty" means an academic employee of an institution of higher education whose workload is not defined by work hours but whose appointment, workload, and duties directly serve the institution's academic mission, as determined under the authority of its enabling statutes, its governing body, and any applicable collective bargaining agreement.

"Federal (~~Retiree Plan~~) retiree medical plan" means the Federal Employees Health Benefits program (FEHB) (~~and TriCare~~) or TRICARE which are not employer-based group medical insurance.

"Health plan" means a plan offering medical or dental, or both, developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"Layoff," for purposes of this chapter, means a change in employment status due to an employer's lack of funds or an employer's organizational change.

"Life insurance" includes basic life insurance paid for by the employing agency, life insurance offered to employees on an optional basis, and retiree life insurance.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Pay status" means all hours for which an employee receives pay.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB benefits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA (~~(which)~~ that administers insurance and other benefits for eligible employees (as ~~((defined))~~ described in WAC 182-12-114), eligible retired (~~(and disabled))~~ employees (as ~~((defined))~~ described in WAC 182-12-171), eligible dependents (as ~~((defined))~~ described in WAC 182-12-250 and 182-12-260) and others as defined in RCW 41.05.011.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Qualified health plan" means a medical plan that is certified to be offered through an exchange.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"School district" means public schools as defined in RCW 28A.150.010 which includes charter schools established under chapter 28A.710 RCW.

"Seasonal employee" means an employee hired to work during a recurring, annual season with a duration of three months or more, and anticipated to return each season to perform similar work.

"Special open enrollment" means a period of time when subscribers may make changes to their health plan enrollment and salary reduction elections outside of the annual open enrollment period when specific life events occur. Subscribers may change health plans and enroll or remove dependents from coverage. Additionally, employees may enroll in or waive enrollment in ~~((a))~~ PEBB medical ~~((plan))~~, and may enroll in or change their election under the DCAP, medical FSA, or the premium payment plan. For special open enrollment events as they relate to specific PEBB benefits, see

WAC 182-08-198, 182-08-199, 182-12-128, and 182-12-262.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary, or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

~~("Termination of the employment relationship" means that an employee resigns or an employee is terminated and the employing agency has no anticipation that the employee will be rehired.)~~

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Administration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

"Waive" means to interrupt an eligible employee's enrollment in a PEBB health plan because the employee is enrolled in other employer-based group medical insurance, TRICARE, or medicare as allowed under WAC 182-12-128, or is on approved educational leave and obtains other employer-based group health insurance as allowed under WAC 182-12-136.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

~~WAC 182-12-111 ((Eligible entities and individuals.))~~ Which entities and individuals are eligible for public employees benefits board (PEBB) benefits? The following entities and individuals shall be eligible for public employees benefits board (PEBB) benefits subject to the terms and conditions set forth below:

(1) **State agencies.** State agencies, as defined in WAC 182-12-109, are required to participate in all PEBB benefits. Insurance and health care contributions for ferry employees shall be governed by RCW 47.64.270.

(2) **Employer groups.** Employer groups may apply to participate in insurance coverage for groups of employees described in ~~((subsection))~~ (a) of this ~~((section))~~ subsection at the option of each employer group:



(a) All eligible employees of the entity must transfer as a unit with the following exceptions:

(\*) (i) Bargaining units may elect to participate separately from the whole group;

(\*) (ii) Nonrepresented employees may elect to participate separately from the whole group provided all nonrepresented employees join as a group; and

(\*) (iii) Members of the employer group's governing authority may participate as described in the employer group's governing statutes and RCW 41.04.205.

(b) ~~(The)~~ Employer groups must apply through the process described in WAC 182-08-235. School district and educational service district applications must provide the documents described in WAC 182-08-235 (1), (2), and (3). If a school district or educational service district is required by the superintendent of public instruction to purchase insurance coverage provided by the authority, the school district or educational service district is required to submit documents and information described in WAC 182-08-235 (1)(c), (2), and (3). Employer group applications are subject to review and approval by the health care authority (HCA). With the exception of a school district or educational service district, the authority will approve or deny an employer group's application based on the employer group evaluation criteria described in WAC 182-08-240.

(c) Employer groups participate through a contract with the authority as described in WAC 182-08-245.

(3) **School districts and educational service districts.** In addition to subsection (2) of this section, the following applies to school districts and educational service districts:

(a) The HCA will collect an amount equal to the composite rate charged to state agencies, plus an amount equal to the employee premium by health plan and family size and an amount equal to any applicable premium surcharge as would be charged to state employees for each participating school district or educational service district.

(b) The HCA may collect these amounts in accordance with the district fiscal year, as described in RCW 28A.505.030.

(4) **The Washington health benefit exchange.** In addition to subsection (2) of this section, the following provisions apply:

(a) The Washington health benefit exchange is subject to the same rules as an employing agency in chapters 182-08, 182-12 and 182-16 WAC.

(b) ~~(An)~~ Employees of the Washington health benefit exchange ~~(is)~~ are subject to the same rules as ~~(an)~~ employees of an employing agency in chapters 182-08, 182-12 and 182-16 WAC.

(5) **Eligible nonemployees.**

(a) Blind vendors ~~(means a "licensee" as defined in RCW 74.18.200: Vendors)~~ actively operating a business enterprise program facility in the state of Washington and deemed eligible by the department of services for the blind (DSB) may voluntarily participate in PEBB medical. Dependents of blind vendors are eligible as described in WAC 182-12-260. Eligible blind vendors and their dependents may enroll during the following times:

(i) ~~(Vendors that do not enroll when first eligible may enroll only during the annual open enrollment period offered~~

~~by the HCA or the first day of the month following loss of other insurance coverage.~~

~~(ii) Department of services for the blind)~~ When newly eligible: The DSB will notify eligible blind vendors of their eligibility in advance of the date (that) they are eligible (to apply) for enrollment in PEBB medical.

~~((iii) The eligibility requirements for dependents of blind vendors shall be the same as the requirements for dependents of the state employees in WAC 182-12-260.~~

~~(iv) An individual licensee or)~~ To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than thirty-one days after the blind vendor becomes eligible for PEBB medical.

(ii) During the annual open enrollment: Blind vendors may enroll during the annual open enrollment. The required form must be received by the DSB before the end of the annual open enrollment. Enrollment will begin January 1st of the following year.

(iii) Following loss of other medical insurance coverage: Blind vendors may enroll following loss of other medical insurance coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA). To enroll, blind vendors must submit the required forms to the DSB. The forms must be received by the DSB no later than sixty days after the loss of other medical insurance coverage. In addition to the required forms, the DSB will require blind vendors to provide evidence of loss of other medical insurance coverage.

(iv) Blind vendors who cease(s) to actively operate a facility become(s) ineligible to participate in PEBB medical as described in (a) of this subsection. (Individuals losing) Enrollees who lose eligibility for coverage may continue enrollment in PEBB medical on a self-pay basis under COBRA coverage as described in WAC 182-12-146(5).

~~(v) (An individual licensee or vendor is))~~ Blind vendors are not eligible for PEBB retiree insurance coverage.

(b) Dislocated forest products workers enrolled in the employment and career orientation program pursuant to chapter 50.70 RCW shall be eligible for PEBB health plans while enrolled in that program.

(c) School board members or students eligible to participate under RCW 28A.400.350 may participate in insurance coverage as long as they remain eligible under that section.

(6) **Individuals and entities not eligible as employees include:**

(a) Adult family home providers as defined in RCW 70.128.010;

(b) Unpaid volunteers;

(c) Patients of state hospitals;

(d) Inmates in work programs offered by the Washington state department of corrections as described in RCW 72.09.100 or an equivalent program administered by a local government;

(e) Employees of the Washington state convention and trade center as provided in RCW 41.05.110;

(f) Students of institutions of higher education as determined by their institutions; and

(g) Any others not expressly defined as an employee(s) ~~under RCW 41.05.011).~~

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-123 Dual enrollment is prohibited.** Public employees benefits board (PEBB) health plan coverage is limited to a single enrollment per individual.

(1) Effective January 1, 2002, an individual((s)) who ((have)) has more than one source of eligibility for enrollment in PEBB health plan coverage (called "dual eligibility") ((are)) is limited to one enrollment.

(2) An eligible employee may waive PEBB medical and enroll as a dependent under the health plan of his or her spouse, registered domestic partner, or parent as stated in WAC 182-12-128.

(3) A dependent enrolled in a PEBB health plan who becomes eligible for PEBB benefits as an employee must elect to enroll in PEBB benefits as described in WAC 182-08-197 (1) or (3). This includes making an election to enroll in or waive enrollment in PEBB medical as described in WAC 182-12-128 (1)(a).

(a) If the employee does not waive enrollment in PEBB medical, the employee is not eligible to remain enrolled in his or her spouse's, registered domestic partner's, or parent's PEBB health plan as a dependent. If the employee's spouse, registered domestic partner, or parent does not remove the employee (who is enrolled as a dependent) from his or her subscriber account, the PEBB program will terminate the employee's enrollment as a dependent the last day of the month before the employee's employer-paid coverage begins.

**Exception:** An enrolled dependent who becomes newly eligible for PEBB benefits as an employee ~~((as described in WAC 182-12-114))~~ may be dual-enrolled in PEBB coverage for one month. This exception is only allowed for the first month the dependent is enrolled as an employee, and only if the dependent becomes enrolled as an employee on the first working day of a month that is not the first day of the month.

~~((2) An eligible employee may waive medical and enroll as a dependent on the coverage of his or her eligible spouse, eligible registered domestic partner, or eligible parent as stated in WAC 182-12-128.~~

~~(3) Children)) (b) If the employee elects to waive his or her enrollment in PEBB medical, the employee will remain enrolled in PEBB medical under his or her spouse's, registered domestic partner's, or parent's PEBB health plan as a dependent.~~

(4) A child who is eligible for medical and dental under two subscribers may be enrolled as a dependent under the health plan of only one subscriber.

~~((4)) (5) When an employee ((who)) is eligible for the employer contribution towards insurance coverage due to employment in more than one PEBB-participating employing agency the following provisions apply:~~

(a) The employee must choose to enroll under only one employing agency.

**Exception:** Faculty who seek to establish or maintain eligibility under WAC 182-12-114(3) with two or more state institutions of higher education will be enrolled under the employing agency responsible to pay the employer contribution according to WAC 182-08-200(2).

(b) If the employee loses eligibility under the employing agency he or she chose to enroll under as described in subsection

(5)(a) of this section, the employee must notify his or her other employing agency no later than sixty days from the date PEBB coverage ends through the employing agency described in (a) of this subsection to transfer coverage.

(c) The employee's insurance coverage elections remain the same when an employee transfers from enrollment under one employing agency to another employing agency without a break in PEBB coverage, as described in (b) of this subsection.

(6) A retiree who defers enrollment in a PEBB health plan as described in WAC 182-12-200 by enrolling as an eligible dependent in a health plan sponsored by PEBB, a Washington state school district, or a Washington state education service district and who loses the employer contribution for such coverage must enroll in PEBB retiree insurance coverage as described in WAC 182-12-171 or defer enrollment as described in WAC 182-12-205.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-128 When may an employee((s)) waive ((or enroll)) enrollment in public employees benefits board (PEBB) medical and when may he or she enroll in PEBB medical after having waived enrollment?** ~~((Employees)) An employee may waive enrollment in public employees benefits board (PEBB) medical if he or she is enrolled in other employer-based group medical insurance, TRICARE, or medicare. An employee who waives enrollment in PEBB medical must enroll in dental, basic life, and basic long-term disability insurance (unless the employing agency does not participate in these ((public employees benefits board-))PEBB((s)) insurance coverages). ((However, employees may waive PEBB medical if they are enrolled in other employer-based group medical insurance.))~~

~~(1) ((Employees may)) To waive enrollment in PEBB medical ((by submitting)), the employee must submit the required ((enrollment)) form to ((their)) his or her employing agency ((during)) at one of the following times:~~

(a) When the employee becomes eligible: An employee((s)) may waive PEBB medical when ((they)) he or she becomes eligible for PEBB benefits. The employee((s)) must indicate ((they are waiving)) his or her election to waive enrollment in PEBB medical on the required ((enrollment form they submit to their)) form and submit the form to his or her employing agency. The ((enrollment)) form must be received by the employing agency no later than thirty-one days after the date ((they)) the employee becomes eligible (see WAC 182-08-197). PEBB medical will be waived as of the date the employee becomes eligible for PEBB benefits.

(b) During the annual open enrollment: An employee((s)) may waive PEBB medical during the annual open enrollment ((period)). The required ((enrollment)) form must be received by ((their)) the employee's employing agency before the end of the annual open enrollment. PEBB medical will be waived beginning January 1st of the following year.

(c) During a special open enrollment: An employee((s)) may waive PEBB medical during a special open enrollment as described in subsection (4) of this section.

The employee must submit the required form to his or her employing agency. The form must be received no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the employee must provide evidence of the event that creates the special open enrollment.

PEBB medical will be waived the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, PEBB medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical will be waived the last day of the previous month.

(2) If an employee waives PEBB medical, the employee's eligible dependents may not be enrolled in medical.

(3) Once PEBB medical is waived, ~~((enrollment))~~ the employee is only allowed ((during)) to enroll in PEBB medical at the following times:

(a) During the annual open enrollment((:)). The required form must be received by the employee's employing agency before the end of the annual open enrollment. PEBB medical will begin January 1st of the following year.

~~(b) During a special open enrollment ((created by an event that allows for enrollment outside of the annual open enrollment as described in subsection (4) of this section. In addition to the required forms, the PEBB program will require the employee to provide evidence of eligibility and evidence of the event that creates a special open enrollment)). A special open enrollment allows an employee to change his or her enrollment outside of the annual open enrollment. A special open enrollment may be created when one of the events described in subsection (4) of this section occurs.~~

The employee must submit the required form to his or her employing agency. The form must be received no later than sixty days after the event that creates the special open enrollment. In addition to the required form, the employee must provide evidence of the event that creates the special open enrollment.

PEBB medical will begin the first day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, PEBB medical will begin the first of the month in which the event occurs.

(4) **Special open enrollment:** ~~((Employees may waive enrollment in medical or enroll in medical if a special open enrollment event occurs. The change in enrollment must be allowable under the Internal Revenue Code (IRC) and correspond to and be consistent with the event that creates the special open enrollment for the employee, the employee's dependent, or both. Employees must provide evidence of the event that created the special open enrollment.)) Any one of the ((following)) events in (a) through (j) of this subsection may create a special open enrollment((:)). The change in enrollment must be allowable under the Internal Revenue Code (IRC) and correspond to and be consistent with the event that~~

creates the special open enrollment for the employee, the employee's dependent, or both.

(a) Employee acquires a new dependent due to:

(i) Marriage or registering a domestic partnership;

(ii) Birth, adoption or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship; or

(iv) A child becoming eligible as a dependent with a disability;

(b) Employee or an employee's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Employee or an employee's dependent has a change in employment status that affects the employee's or employee's dependent's eligibility for their employer contribution toward employer-based group medical insurance;

(d) Employee or an employee's dependent has a change in enrollment under another employer-based group medical insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(e) Employee's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(f) A court order or national medical support notice (see also WAC 182-12-263) requires the employee or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(g) Employee or an employee's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the employee or an employee's dependent loses eligibility for coverage under medicaid or CHIP;

(h) Employee or an employee's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP)((-)

~~To waive or enroll during a special open enrollment, the employee must submit the required forms to his or her employing agency. The forms must be received by the employing agency no later than sixty days after the event that creates the special open enrollment.~~

~~Medical will be waived the end of the month following the later of the event date or the date the form is received. If the later day is the first of the month, medical will be waived the last day of the previous month. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child, medical will be waived the first of the month in which the event occurs.~~

~~Enrollment in medical will begin the first day of the month following the later of the event date or the date the form is received. If that day is the first of the month, coverage is effective on that day. If the special open enrollment is due to the birth, adoption or assumption of legal obligation for total or partial support in anticipation of adoption of a child,~~

enrollment in medical will begin the first of the month in which the event occurs:);

(i) Employee or employee's dependent becomes eligible and enrolls in TRICARE, or loses eligibility for TRICARE;

(j) Employee becomes eligible and enrolls in medicare, or loses eligibility for medicare.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-131 How do eligible employees maintain the employer contribution toward insurance coverage?** The employer contribution toward insurance coverage begins on the day that public employees benefits board (PEBB) benefits begin under WAC 182-12-114. This section describes under what circumstances employees maintain eligibility for the employer contribution toward insurance coverage.

(1) **Maintaining the employer contribution.** Except as described in subsections (2), (3), and (4) of this section, employees who have established eligibility for benefits under WAC 182-12-114 are eligible for the employer contribution each month in which they are in pay status eight or more hours per month.

(2) **Maintaining the employer contribution - Benefits-eligible seasonal employees.**

(a) Benefits-eligible seasonal employees (eligible under WAC 182-12-114(2)) who work a season of less than nine months are eligible for the employer contribution in any month of the season in which they are in pay status eight or more hours during that month. The employer contribution toward insurance coverage for seasonal employees returning after their off season begins on the first day of the first month of the season in which they are in pay status eight hours or more.

(b) Benefits-eligible seasonal employees (eligible under WAC 182-12-114(2)) who work a season of nine months or more are eligible for the employer contribution:

(i) In any month of the season in which they are in pay status eight or more hours during that month; and

(ii) Through the off season following each season worked.

(3) **Maintaining the employer contribution - Eligible faculty.**

(a) Benefits-eligible faculty anticipated to work half time or more the entire instructional year or equivalent nine-month period (eligible under WAC 182-12-114 (3)(a)(i)) are eligible for the employer contribution each month of the instructional year, except as described in subsection (7) of this section.

(b) Benefits-eligible faculty who are hired on a quarter/semester to quarter/semester basis (eligible under WAC 182-12-114 (3)(a)(ii)) are eligible for the employer contribution each quarter or semester in which employees work half-time or more.

(c) Summer or off-quarter/semester coverage: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who work an average of half-time or more throughout the entire instructional year or equivalent nine-month period and work each quarter/semester of the instructional year or equivalent nine-month period are eligible for the employer contri-

bution toward summer or off-quarter/semester insurance coverage.

**Exception:** Eligibility for the employer contribution toward summer or off-quarter/semester insurance coverage ends on the end date specified in an employing agency's termination notice or an employee's resignation letter, whichever is earlier, if the employing agency has no anticipation that the employee will be returning as faculty at any institution of higher education where the employee has employment. If the employing agency deducted the employee's premium for insurance coverage after the employee was no longer eligible for the employer contribution, insurance coverage ends the last day of the month for which employee premiums were deducted.

(d) Two-year averaging: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who worked an average of half-time or more in each of the two preceding academic years are potentially eligible to receive uninterrupted employer contribution to insurance coverage. "Academic year" means summer, fall, winter, and spring quarters or summer, fall, and spring semesters and begins with summer quarter/semester. In order to be eligible for the employer contribution through two-year averaging, the faculty must provide written notification of his or her potential eligibility to his or her employing agency or agencies within the deadlines established by the employing agency or agencies. Faculty continue to receive uninterrupted employer contribution for each academic year in which they:

(i) Are employed on a quarter/semester to quarter/semester basis and work at least two quarters or two semesters; and

(ii) Have an average workload of half-time or more for three quarters or two semesters.

Eligibility for the employer contribution under two-year averaging ceases immediately if the eligibility criteria is not met or if the eligibility criteria becomes impossible to meet.

(e) Faculty who lose eligibility for the employer contribution: All benefits-eligible faculty (eligible under WAC 182-12-114(3)) who lose eligibility for the employer contribution will regain it if they return to a faculty position where it is anticipated that they will work half-time or more for the quarter/semester no later than the twelfth month after the month in which they lost eligibility for the employer contribution. The employer contribution begins on the first day of the month in which the quarter/semester begins.

(4) **Maintaining the employer contribution - Employees on leave and under the special circumstances listed below.**

(a) Employees who are on approved leave under the federal Family and Medical Leave Act (FMLA) continue to receive the employer contribution as long as they are approved under the act.

(b) Unless otherwise indicated in this section, employees in the following circumstances receive the employer contribution only for the months they are in pay status eight hours or more:

(i) Employees on authorized leave without pay;

(ii) Employees on approved educational leave;

(iii) Employees receiving time-loss benefits under workers' compensation;

(iv) Employees called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA); or

(v) Employees applying for disability retirement.

(5) **Maintaining the employer contribution - Employees who move from an eligible to an otherwise ineligible position due to a layoff** maintain the employer contribution toward insurance coverage under the criteria in WAC 182-12-129.

(6) **Employees who are in pay status less than eight hours in a month.** Unless otherwise indicated in this section, when there is a month in which employees are not in pay status for at least eight hours, employees:

(a) Lose eligibility for the employer contribution for that month; and

(b) Must reestablish eligibility for PEBB benefits under WAC 182-12-114 in order to be eligible for the employer contribution again.

(7) **The employer contribution toward insurance coverage ends** in any one of these circumstances for all employees:

(a) When employees fail to maintain eligibility for the employer contribution as indicated in the criteria in subsection (1) through (6) of this section.

(b) When the employment relationship is terminated. As long as the employing agency has no anticipation that the employee will be rehired, the employment relationship is terminated:

(i) On the date specified in an employee's letter of resignation; or

(ii) On the date specified in any contract or hire letter or on the effective date of an employer-initiated termination notice.

(c) When employees move to a position that is not anticipated to be eligible for benefits under WAC 182-12-114, not including changes in position due to a layoff.

The employer contribution toward PEBB benefits cease for employees and their enrolled dependents the last day of the month in which employees are eligible for the employer contribution under this section.

**Exception:** If the employing agency deducted the employee's premium for insurance coverage after the employee was no longer eligible for the employer contribution, insurance coverage ends the last day of the month for which employee premiums were deducted.

(8) **Options for continuation coverage by self-paying.** During temporary or permanent loss of the employer contribution toward insurance coverage, employees have options for providing continuation coverage for themselves and their dependents by self-paying the full premium set by the health care authority (HCA). These options are available according to WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, 182-12-148, and 182-12-270.

**AMENDATORY SECTION** (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

**WAC 182-12-133 What options for continuation coverage are available to employees ~~((an))~~ and their dependents during certain types of leave or ~~((whose work))~~ when employment ends due to a layoff?** Employees who have established eligibility for public employees benefits board (PEBB) benefits under WAC 182-12-114 ~~((have options for providing continuation))~~ may continue coverage

for themselves and their dependents ~~((by self-paying the full premium set by the health care authority (HCA) during temporary or permanent loss of the employer contribution toward insurance coverage))~~ during certain types of leave or when their employment ends due to a layoff.

(1) ~~((When an employee is))~~ Employees who are no longer eligible for the employer contribution toward insurance coverage due to an event described in ~~((a) through (f))~~ (c)(i) through (vi) of this subsection ~~((insurance coverage may be continued))~~ may continue insurance coverage by self-paying the full premium set by the ~~((HCA, with no contribution from the employer.))~~ health care authority (HCA) from the date the employer contribution is lost.

(a) Employees may self-pay for a maximum of twenty-nine months. The employee must pay the premium amounts for insurance coverage as premiums become due. If premiums are more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

(b) Employees may continue any combination of medical, dental and life insurance; however, only employees on approved educational leave or called in to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA) may continue either basic or both basic and optional long-term disability insurance.

(c) Employees in the following circumstances qualify to continue coverage under this subsection:

~~((a) The employee is))~~ (i) Employees who are on authorized leave without pay;

~~((b) The employee is))~~ (ii) Employees who are on approved educational leave;

~~((c) The employee is))~~ (iii) Employees who are receiving time-loss benefits under workers' compensation;

~~((d) The employee is))~~ (iv) Employees who are called to active duty in the uniformed services as defined under the Uniformed Services Employment and Reemployment Rights Act (USERRA);

~~((e) The employee's))~~ (v) Employees whose employment ends due to a layoff as defined in WAC 182-12-109; or

~~((f) The employee is))~~ (vi) Employees who are applying for disability retirement.

(2) The number of months that ~~((an))~~ employees self-pay ~~((s))~~ the premium while eligible ~~((under))~~ as described in subsection (1) of this section will count toward the total months of continuation coverage allowed under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA). ~~((An employee who is))~~ Employees who are no longer eligible for continuation coverage as described in subsection (1) of this section but who ~~((has))~~ have not used the maximum number of months allowed under COBRA coverage may continue medical and dental for the remaining difference in months by self-paying the premium ~~((under COBRA))~~ as described in WAC 182-12-146.

**AMENDATORY SECTION** (Amending WSR 12-20-022, filed 9/25/12, effective 11/1/12)

**WAC 182-12-138 What options are available if an employee is approved for the federal Family and Medical**

**Leave Act (FMLA)?** (1) An employee((s)) on approved leave under the federal Family and Medical Leave Act (FMLA) may continue to receive the employer contribution toward insurance coverage in accordance with the federal FMLA. ~~((These))~~ The employee((s)) may also continue current optional life and optional long-term disability. The employee's employing agency is responsible for determining if the employee is eligible for leave under FMLA and the duration of such leave.

(2) If ~~((the))~~ an employee's contribution toward premiums is more than sixty days delinquent, insurance coverage will end as of the last day of the month for which a full premium was paid.

~~((2))~~ (3) If an employee exhausts the period of leave approved under FMLA, insurance coverage may be continued by self-paying the full premium set by the HCA, with no contribution from the employer, under WAC 182-12-133(1) while on approved leave.

AMENDATORY SECTION (Amending WSR 13-22-019, filed 10/28/13, effective 1/1/14)

**WAC 182-12-146** ~~((What options for continuation coverage are available to subscribers and dependents who become eligible under COBRA?))~~ When is an enrollee eligible to continue public employee's benefits board (PEBB) health plan coverage under Consolidated Omnibus Budget Reconciliation Act (COBRA)? An enrollee ~~((can))~~ may continue public employee's benefits board (PEBB) health plan coverage under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA) by self-paying the full premium set by the health care authority (HCA) ~~((in accordance with Consolidated Omnibus Budget Reconciliation Act (COBRA) regulations in the following circumstances:))~~. Premiums must be paid as described in WAC 182-08-180(b).

(1) An employee or an employee's dependent who loses eligibility for the employer contribution toward insurance coverage and who qualifies for continuation coverage under COBRA may continue medical, dental, or both.

(2) An employee or an employee's dependent who loses eligibility for continuation coverage described in WAC 182-12-133, 182-12-138, 182-12-141, 182-12-142, or 182-12-148 but who has not used the maximum number of months allowed under COBRA may continue medical, dental, or both for the remaining difference in months.

(3) A retired ~~((or disabled))~~ employee who loses eligibility for PEBB retiree insurance because an employer group, with the exception of school districts and educational service districts, ceases participation in PEBB insurance coverage may continue medical, dental, or both.

(4) A retired ~~((or disabled))~~ employee, or a dependent of a retired ~~((or disabled))~~ employee, who is no longer eligible to continue coverage under WAC 182-12-171 may continue medical, dental, or both.

(5) ~~((An individual licensee or))~~ A blind vendor who ceases to actively operate a facility as described in WAC 182-12-111 (5)(a) may continue enrollment in public employees benefits board (PEBB) medical for the maximum number of months allowed under COBRA as described in this section.

~~((An individual licensee or))~~ A blind vendor is not eligible for PEBB retiree insurance coverage.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-171** When ~~((are))~~ is a retiring employee((s)) eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage? A retiring employee is eligible to continue enrollment or defer enrollment in public employees benefits board (PEBB) insurance coverage as a retiree if he or she meets procedural and substantive eligibility requirements as described in subsections (1) and (2) of this section.

(1) **Procedural requirements.** A retiring employee((s)) must ~~((meet these procedural requirements to))~~ enroll or defer enrollment in ~~((public employees benefits board (PEBB)))~~ retiree insurance coverage ~~((as well as have substantive eligibility under subsection (2) or (3)))~~ as described in (a) and (b) of this ~~((section))~~ subsection:

(a) ~~((The employee's form to enroll or defer enrollment))~~ To enroll in PEBB retiree insurance coverage, the required form must be received by the PEBB program no later than sixty days after the employee's employer-paid ~~((or))~~ coverage. Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage, or continuation coverage ends. The effective date of ~~((health plan enrollment will be))~~ PEBB retiree insurance coverage is the first day of the month ~~((following the loss of))~~ after the employee's employer-paid ~~((or))~~ coverage. COBRA coverage, or continuation coverage ends.

**(Exception:** The effective dates of health plan enrollment for retirees who defer enrollment in a PEBB health plan at or after retirement are identified in WAC 182-12-200 and 182-12-205.

~~Employees who do not enroll in a PEBB health plan at retirement are only eligible to enroll at a later date if they have deferred enrollment and maintained continuous enrollment in other coverage))~~ (b) To defer enrollment in a PEBB health plan, the employee must defer enrollment as described in WAC 182-12-200 or 182-12-205.

~~((b) Employees and))~~ (c) A retiring employee and his or her enrolled dependents who are entitled to medicare must enroll and maintain enrollment in both medicare parts A and B if the employee retired after July 1, 1991. If ~~((the employee))~~ a retiree or an enrolled dependent becomes entitled to medicare after enrollment in PEBB retiree insurance coverage, he or she must enroll and maintain enrollment in medicare parts A and B to remain enrolled in PEBB retiree insurance coverage.

**Note:** If an enrollee who is entitled to medicare does not meet this procedural requirement, the enrollee is no longer eligible for enrollment in PEBB retiree insurance coverage. The enrollee may continue PEBB health plan enrollment ~~((under COBRA-see))~~ as described in WAC 182-12-146(3).

(2) **Substantive eligibility requirements.** ~~((Eligible employees (as described in WAC 182-12-114 and 182-12-131) who end))~~

(a) An employee as defined in WAC 182-12-109 who is enrolled in PEBB benefits or an employee who is enrolled in basic benefits through a Washington state school district or educational service district as defined in RCW 28A.400.270

and ends public employment after becoming vested in a Washington state-sponsored retirement plan ~~((as described in subsection (4) of this section) are eligible to continue))~~ may enroll or defer enrollment in PEBB retiree insurance coverage ~~((as a retiree if they))~~ if he or she meets procedural and substantive eligibility requirements.

(i) To be eligible to continue enrollment or defer enrollment insurance coverage as a retiree, the employee must be eligible to retire under a Washington state-sponsored retirement plan when the employee's employer-paid ~~((or))~~ coverage, COBRA coverage, or continuation coverage ends.

(ii) A retiring employee(s) who ~~((do))~~ does not meet ~~((their))~~ his or her Washington state-sponsored retirement plan's age requirement when ~~((their employer paid))~~ his or her employer-paid coverage or COBRA coverage, or continuation coverage ends, but who meets the age requirement within sixty days of coverage ending, may request ~~((that their))~~ an appeal as described in WAC 182-16-032. His or her eligibility will be reviewed by the PEBB appeals committee ~~((to determine eligibility (see WAC 182-16-032)))~~. An employee(s) must meet PEBB retiree insurance coverage ~~((election))~~ procedural requirements as described in subsection (1) of this section.

~~((Employees))~~ (b) A retiring employee of a state agency must immediately begin to receive a monthly retirement plan payment, with exceptions described below:

~~((\*)~~ (i) A retiring employee(s) who receives a lump-sum payment instead of a monthly retirement plan payment ~~((are))~~ is only eligible if the department of retirement systems offered the employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan; or

~~((\*)~~ (ii) A retiring employee(s) who ~~((are))~~ is a member(s) of a Plan 3 retirement plan, also called a separated employee(s) (defined in RCW 41.05.011(20)), ~~((are eligible if they meet their))~~ must meet his or her Plan 3 retirement ~~((plan's))~~ eligibility criteria. ~~((They do))~~ The employee does not have to receive a retirement plan payment to enroll in retiree insurance coverage;

~~((Employees who are members))~~ (c) A retiring employee of a Washington higher education institution who is a member of a higher education retirement plan ~~((are eligible if they))~~ (HERP) must immediately begin to receive a monthly retirement plan payment, or meet ~~((their))~~ his or her HERP plan's retirement eligibility criteria, or ~~((are))~~ be at least age fifty-five with ten years of state service;

~~((Employees not retiring under a))~~ (d) A retiring employee of an employer group participating in PEBB insurance coverage under contractual agreement with the authority must be eligible to retire as described in (i) or (ii) of this subsection to be eligible to continue PEBB insurance coverage as a retiree, except for a school district or educational service district employee who must meet the requirements as described in subsection (2)(e) of this section.

(i) A retiring employee who is eligible to retire under a retirement plan sponsored by an employer group or tribal government that is not a Washington state-sponsored retirement plan must meet the same age and years of service requirements as if ~~((the person had been employed as))~~ he or she was a member of ~~((either))~~ public employees retirement

system Plan 1 or Plan 2 ~~((for the same period of employment; or~~

~~Employees who retire from a local government or tribal government that participates in PEBB insurance coverage for their employees are eligible to continue PEBB insurance coverage as retirees if the employees meet the procedural and eligibility requirements under this section.~~

~~((a) Local government employees. If the local government))~~ during his or her employment.

(ii) A retiring employee who is eligible to retire under a Washington state-sponsored retirement plan must immediately begin to receive a monthly retirement plan payment, with exceptions described in subsection (2)(b)(i) and (ii) of this section.

(iii) A retired employee of an employer group, except a Washington state school district or educational service district, that ends participation in PEBB insurance coverage ~~((employees who enrolled after September 15, 1991, are))~~ is no longer eligible ~~((for))~~ to continue enrollment in PEBB retiree insurance coverage ~~((These employees may continue health plan coverage under COBRA (see WAC 182-12-146).~~

~~((b) Tribal government employees. If))~~ if he or she enrolled after September 15, 1991. Any retiree who loses eligibility for this reason may continue health plan enrollment as described in WAC 182-12-146.

(iv) A retired employee of a tribal government employer that ends participation in PEBB insurance coverage ~~((its employees are))~~ is no longer eligible ~~((for))~~ to continue enrollment in PEBB retiree insurance coverage. ~~((These employees))~~ Any retiree who loses eligibility for this reason may continue health plan ~~((coverage under COBRA (see))~~ enrollment as described in WAC 182-12-146~~((i))~~.

~~((e))~~ (e) A retiring employee of a Washington state school district ~~((and))~~ or educational service district ~~((employees for districts that do not participate in PEBB insurance coverage. Employees of Washington state school districts and educational service districts who separate from employment after becoming vested in a Washington state-sponsored retirement system are eligible to enroll in PEBB health plans as a retiree when retired or permanently and totally disabled.~~

Except for employees who are members of a retirement Plan 3, employees who separate on or after October 1, 1993, must immediately begin to receive a monthly retirement plan payment from a Washington state sponsored retirement system)) must immediately begin to receive a monthly retirement plan payment, with exceptions described below:

(i) A retiring employee who ends employment before October 1, 1993; or

(ii) A retiring employee(s) who receives a lump-sum payment instead of a monthly retirement plan payment ~~((are))~~ is only eligible if the department of retirement systems offered the employee the choice between a lump sum actuarially equivalent payment and the ongoing monthly payment, as allowed by the plan, or the employee enrolled before 1995~~((-))~~; or

(iii) A retiring employee(s) who ~~((are))~~ is a member(s) of a Plan 3 retirement system, also called a separated employee(s) (defined in RCW 41.05.011(20)), ~~((are eligible if they meet their Plan 3 retirement plan's eligibility criteria.~~

They do not have to receive a retirement plan payment to enroll in PEBB retiree insurance coverage.) must meet his or her Plan 3 retirement eligibility criteria; or

(iv) An employee(s) who retired as of September 30, 1993, and began receiving a monthly retirement (allowance) plan payment from a Washington state-sponsored retirement system (as defined in chapters 41.32, 41.35 or 41.40 RCW) (are) is eligible if (they) he or she enrolled in a PEBB health plan (not) no later than the (HCA's) health care authority's (HCA's) annual open enrollment period for the year beginning January 1, 1995.

(3) ~~((Substantive eligibility for))~~ An elected (and) or a full-time appointed state official(s) of the legislative (and executive branches. Employees who are elected and full-time appointed state officials (as defined under WAC 182-12-114(4))) or executive branch of state government who voluntarily or involuntarily leave public office (are) is eligible to continue insurance coverage as a retiree if (they) he or she meets procedural requirements of subsection (1) of this section.

(4) Washington state-sponsored retirement (systems) plans include:

- (\*) (a) Higher education retirement plans;
- (\*) (b) Law enforcement officers' and firefighters' retirement system;
- (\*) (c) Public employees' retirement system;
- (\*) (d) Public safety employees' retirement system;
- (\*) (e) School employees' retirement system;
- (\*) (f) State judges/judicial retirement system;
- (\*) (g) Teachers' retirement system; and
- (\*) (h) State patrol retirement system.

(i) The two federal retirement systems, Civil Service Retirement System and Federal Employees' Retirement System, are considered (a) Washington state-sponsored retirement systems for Washington State University Extension for an employee(s) covered under PEBB insurance coverage at the time of retirement (or disability).

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-200 ((May)) How does a retiree(s) who (are) is enrolled as a dependent in a health plan sponsored by public employees benefits board (PEBB), a Washington state school district, or a Washington state educational service district ((sponsored health plan)) defer enrollment under PEBB retiree insurance coverage?** ~~((The following provisions apply when retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage when enrolled as a dependent in a PEBB, Washington state school district, or Washington state education service district sponsored health plan:~~

(1) ~~Retirees who are enrolled in a PEBB, Washington state school district, or Washington state educational service district sponsored medical plan as a dependent may defer enrollment in a PEBB health plan. Retirees who defer enrollment in medical cannot remain enrolled in dental.~~

(2) ~~Retirees who defer may later enroll themselves and their dependents in medical, or medical and dental, if they provide evidence of continuous enrollment in a PEBB, Wash-~~

~~ington state school district, or Washington state educational service district sponsored medical plan. Continuous enrollment must be from the date the retiree deferred enrollment in PEBB retiree insurance coverage. Retirees may enroll:~~

~~(a) During the PEBB annual open enrollment period. The required enrollment form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or~~

~~(b) When enrollment in the PEBB, Washington state school district, or Washington state educational service district sponsored medical plan ends or such coverage under COBRA ends. The required enrollment form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the PEBB, Washington state school district, or Washington state educational service district sponsored medical plan ends.)~~ (1) A retiree may defer enrollment in a public employees benefits board (PEBB) health plan during the period of time he or she is enrolled as a dependent in a health plan sponsored by PEBB, a Washington state school district, or a Washington state education service district, including such coverage under Consolidated Omnibus Budget Reconciliation Act (COBRA) or continuation coverage.

(2) A retiree who defers enrollment in medical must defer enrollment in dental. Retirees must be enrolled in medical to enroll in dental.

(3) A retiree who defers coverage may later enroll in a PEBB health plan if he or she provides evidence of continuous enrollment in a health plan sponsored by PEBB, a Washington state school district, or a Washington state educational service district and submits the required form as described in (a) and (b) of this subsection:

(a) During the PEBB annual open enrollment period. The required form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(b) When enrollment in a health plan sponsored by PEBB, a Washington state school district, or a Washington state educational service district ends, or such coverage under COBRA or continuation coverage ends. The retiree must submit the required form to enroll or defer enrollment as described in WAC 182-12-171 (1)(a). The required form must be received by the PEBB program no later than sixty days after coverage ends. PEBB health plan coverage begins the first day of the month following the date the other coverage ends.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-205 May retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage at or after retirement?** The following provisions apply when retirees defer enrollment under public employees benefits board (PEBB) retiree insurance coverage when enrolled in other coverage:



(1) Retirees who defer enrollment in a PEBB health plan also defer enrollment for all eligible dependents, except as ~~(stated)~~ described in subsection (2)(c) of this section.

(2) Retirees may defer enrollment in a PEBB health plan at or after retirement if continuously enrolled in other medical as described in this ~~(subsection)~~ section or WAC 182-12-200. Retirees who defer enrollment in medical ~~((automatically))~~ must defer enrollment in dental. Retirees must ~~((enroll))~~ be enrolled in medical to enroll in dental.

(a) Beginning January 1, 2001, retirees may defer enrollment in a PEBB health plan if they are enrolled in employer-based group medical insurance as an employee or the dependent of an employee, or such medical insurance continued under ~~((COBRA))~~ Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage or continuation coverage.

(b) Beginning January 1, 2001, retirees may defer enrollment in a PEBB health plan if they are enrolled ~~((in medical))~~ as a retiree or the dependent of a retiree ~~((enrolled))~~ in a federal retiree medical plan.

(c) Beginning January 1, 2006, retirees may defer enrollment in a PEBB health plan if they are enrolled in Medicare Parts A and B and a Medicaid program that provides creditable coverage as described in this chapter. The retiree's dependents may continue their PEBB health plan enrollment if they meet PEBB eligibility criteria and are not eligible for creditable coverage under a Medicaid program.

(d) Beginning January 1, 2014, retirees who are not eligible for Parts A and B of Medicare may defer enrollment in a PEBB health plan if they are enrolled in exchange coverage.

(3) To defer PEBB health plan enrollment, retiring employees or enrolled subscribers must submit the required forms to the PEBB program ~~((requesting to defer))~~.

(a) If retiring employees submit the required forms to defer enrollment in a PEBB health plan after their employer-paid ~~((or))~~ coverage, COBRA coverage, or continuation coverage ends as described in WAC 182-12-171 (1)~~((or))~~ (b), enrollment will be deferred the first of the month following the date their employer-paid ~~((or))~~ coverage, COBRA coverage, or continuation coverage ends. The forms must be received by the PEBB program no later than sixty days after the employer-paid ~~((or))~~ coverage, COBRA coverage, or continuation coverage ends.

(b) If enrolled subscribers submit the required forms to defer enrollment in a PEBB health plan, enrollment will be deferred effective the first of the month following the date ~~((their deferral))~~ the required form is received by the PEBB program. If the form is received on the first day of the month, coverage will end on the last day of the previous month.

(4) Retirees who defer enrollment while enrolled in coverage described in subsection (2)(a) through (d) of this section and lose such coverage must enroll in a PEBB retiree health plan as described in WAC 182-12-171 or defer enrollment as described in this section or WAC 182-12-200.

(5) Retirees who meet substantive eligibility requirements in WAC 182-12-171(2) and whose employer-paid coverage, COBRA coverage, or continuation coverage ended between January 1, 2001, and December 31, 2001, was not required to submit the deferral form at that time, but must

have met all procedural requirements as stated in this section, WAC 182-12-171, and 182-12-200.

~~((4))~~ (6) Retirees who defer may later enroll themselves and their dependents in a PEBB health plan as follows:

(a) Retirees who defer enrollment while enrolled in employer-based group medical insurance, or such medical insurance continued under COBRA coverage or continuation coverage may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their employer-based group medical insurance or such coverage under COBRA coverage or continuation coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the employer-based group medical insurance ~~((or))~~ coverage, COBRA coverage, or continuation coverage ends.

(b) Retirees who defer enrollment while enrolled as a retiree or dependent of a retiree in a federal retiree medical plan will have a one-time opportunity to enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When the federal retiree medical plan coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after coverage under the federal retiree medical plan ends.

(c) Retirees who defer enrollment while enrolled in Medicare Parts A and B and a Medicaid program that provides creditable coverage as described in this chapter may enroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in ~~((creditable))~~ such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When their Medicaid coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after the Medicaid coverage ends; or

(iii) No later than the end of the calendar year when their Medicaid coverage ends if the retiree was also determined eli-

gible under 42 U.S.C. § 1395w-114 and subsequently enrolled in a medicare Part D plan. Enrollment in the PEBB health plan will begin January 1st following the end of the calendar year when the medicaid coverage ends. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the calendar year ~~((when))~~ in which the retiree's medicaid coverage ends.

(d) Retirees who defer enrollment while enrolled in exchange coverage will have a one-time opportunity to enroll or reenroll in a PEBB health plan by submitting the required forms and evidence of continuous enrollment in such coverage to the PEBB program:

(i) During the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB health plan coverage begins January 1st of the following year; or

(ii) When exchange coverage ends. The required ~~((enrollment))~~ form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends. PEBB health plan coverage begins the first day of the month after exchange coverage ends.

(e) Retirees who defer enrollment may enroll in a PEBB health plan if the retiree receives formal notice that the authority has determined it is more cost-effective to enroll the retiree or the retiree's eligible ~~((dependent(s)))~~ dependents in PEBB medical than a medical assistance program.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-208 What are the requirements regarding enrollment in dental under public employees benefits board (PEBB) retiree insurance coverage?** The following provisions apply to a subscriber and his or her dependents enrolled under public employees benefits board (PEBB) retiree insurance coverage:

(1) A subscriber and his or her dependents enrolling in dental must meet procedural requirements (as described in WAC 182-12-171(1) and 182-12-262) and eligibility requirements (as described in WAC 182-12-171(2) and 182-12-260).

(2) A subscriber and his or her dependents must be enrolled in medical to enroll in dental.

(3) A subscriber enrolling in dental must stay enrolled for at least two years before dental can be dropped unless he or she defers medical and dental coverage as described in WAC 182-12-200 or 182-12-205, or drops dental as described in subsection (4) of this section.

(4) A subscriber enrolled in PEBB dental who becomes eligible for, and enrolls in, employer-based group dental insurance as an employee or the dependent of an employee, or such coverage ~~((continued))~~ under ~~((COBRA,))~~ Consolidated Omnibus Budget Reconciliation Act (COBRA) or continuation coverage may drop PEBB dental, before completing the two-year enrollment requirement. ~~((The subscriber and enrolled dependents will be removed from PEBB dental))~~ Coverage will end on the last day of the month ~~((following the date))~~ in which the required ~~((enrollment))~~ form is

received by the PEBB program. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(a) A subscriber may enroll in PEBB dental during the PEBB annual open enrollment period. The required ~~((enrollment))~~ form must be received by the PEBB program no later than the last day of the open enrollment period. PEBB dental begins January 1st of the following year.

(b) A subscriber may enroll in PEBB dental after his or her employer-based group dental insurance or such coverage under COBRA coverage or continuation coverage ends. The required ~~((enrollment))~~ form must be received by the PEBB program no later than sixty days after such coverage ends. PEBB dental begins the first day of the month after the employer-based group dental insurance or coverage under COBRA ends.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-211 May an employee who is determined to be retroactively eligible for disability retirement enroll in public employees benefits board (PEBB) retiree insurance coverage?** (1) An employee who is determined to be retroactively eligible for a disability retirement is eligible to enroll or defer enrollment (as described in WAC 182-12-200 or 182-12-205) in public employees benefits board (PEBB) retiree insurance coverage if:

(a) The employee submits the required form and a copy of the formal determination letter he or she received from the Washington state department of retirement systems (DRS) or the appropriate higher education authority;

(b) The employee's ~~((enrollment))~~ form and a copy of his or her Washington state-sponsored retirement system's formal determination letter are received by the PEBB program no later than sixty days after the date on the determination letter; and

(c) The employee immediately begins to receive a monthly pension benefit or a supplemental retirement plan benefit under his or her higher education retirement plan (HERP), with exceptions described in WAC 182-12-171(2)(b).

(2) Premiums are due from the effective date of enrollment in PEBB retiree insurance coverage. The employee, at his or her option, must indicate the effective date of PEBB retiree insurance coverage on the ~~((enrollment))~~ form. The employee may choose from the following dates:

(a) The employee's retirement date as stated in the formal determination letter; or

(b) The first day of the month following the date the formal determination letter was written.

(3) The director may make an exception to the date PEBB retiree insurance coverage begins; however, such request must demonstrate extraordinary circumstances beyond the control of the retiree.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-250 Insurance coverage eligibility for survivors of emergency service personnel killed in the line**

**of duty.** Surviving spouses, state registered domestic partners, and dependent children of emergency service personnel who are killed in the line of duty are eligible to enroll in public employees benefits board (PEBB) retiree insurance coverage.

(1) This section applies to the surviving spouse, the surviving state registered domestic partner, and dependent children of emergency service personnel "killed in the line of duty" as determined by the Washington state department of labor and industries.

(2) "Emergency service personnel" means law enforcement officers and firefighters as defined in RCW 41.26.030, members of the Washington state patrol retirement fund as defined in RCW 43.43.120, and reserve officers and firefighters as defined in RCW 41.24.010.

(3) "Surviving spouse, state registered domestic partner, and dependent children" means:

(a) A lawful spouse;

(b) An ex-spouse as defined in RCW 41.26.162;

(c) A state registered domestic partner as defined in RCW 26.60.020(1); and

(d) Children. The term "children" includes children of the emergency service worker up to age twenty-six. Children with disabilities as defined in RCW 41.26.030(6) are eligible at any age. "Children" is defined as:

(i) Biological children (including the emergency service worker's posthumous children);

(ii) Stepchildren or children of a state registered domestic partner;

(iii) Legally adopted children;

(iv) Children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child;

(v) Children specified in a court order or divorce decree; or

(vi) Children as defined in RCW 26.26.101.

(4) Surviving spouses, state registered domestic partners, and children who are entitled to medicare must enroll in both parts A and B of medicare.

(5) The survivor (or agent acting on his or her behalf) must submit the required forms to the PEBB program to either enroll or defer enrollment in retiree insurance coverage as described in subsection (7) of this section. The forms must be received by the PEBB program no later than one hundred eighty days after the later of:

(a) The death of the emergency service worker;

(b) The date on the letter from the department of retirement systems or the board for volunteer firefighters and reserve officers that informs the survivor that he or she is determined to be an eligible survivor;

(c) The last day the surviving spouse, state registered domestic partner, or child was covered under any health plan through the emergency service worker's employer; or

(d) The last day the surviving spouse, state registered domestic partner, or child was covered under the Consolidated Omnibus Budget Reconciliation Act (COBRA) coverage from the emergency service worker's employer.

(6) Survivors who do not choose to defer enrollment in retiree insurance coverage may choose among the following

options for when their enrollment in a PEBB health plan will begin:

(a) June 1, 2006, for survivors whose required forms are received by the PEBB program no later than September 1, 2006;

(b) The first of the month that is not earlier than sixty days before the date that the PEBB program receives the required forms (for example, if the PEBB program receives the required forms on August 29, the survivor may request health plan enrollment to begin on July 1); or

(c) The first of the month after the date that the PEBB program receives the required forms.

For surviving spouses, state registered domestic partners, and children who enroll, monthly health plan premiums must be paid by the survivor except as provided in RCW 41.26.510(5) and 43.43.285 (2)(b).

(7) Survivors must choose one of the following two options to maintain eligibility for retiree insurance coverage:

(a) Enroll in a PEBB health plan:

(i) Enroll in medical; or

(ii) Enroll in medical and dental.

(iii) Survivors enrolling in dental must stay enrolled for at least two years before dental can be dropped, unless they defer medical and dental coverage as described in WAC 182-12-205, or drop dental as described in WAC 182-12-208(4).

(iv) Dental only is not an option.

(b) Defer enrollment:

(i) Survivors may defer enrollment in a PEBB health plan if continuously enrolled in other coverage as described in WAC 182-12-205 (2).

(ii) Survivors may enroll in a PEBB health plan as described in WAC 182-12-205(4) when they lose other coverage. Survivors must provide evidence that they were continuously enrolled in other such coverage when enrolling in a PEBB health plan. The required (~~enrollment~~) form and evidence of continuous enrollment must be received by the PEBB program no later than sixty days after such coverage ends.

(iii) PEBB health plan enrollment and premiums will begin the first day of the month following the day that the other coverage ended for eligible spouses and children who enroll.

(8) Survivors may change their health plan during annual open enrollment. In addition to annual open enrollment, survivors may change health plans as described in WAC 182-08-198.

(9) Survivors will lose their right to enroll in retiree insurance coverage if they:

(a) Do not apply to enroll or defer PEBB health plan enrollment within the timelines (~~stated~~) as described in subsection (5) of this section; or

(b) Do not maintain continuous enrollment in other coverage during the deferral period, as (~~provided~~) described in subsection (7)(b)(i) of this section.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-260 Who are eligible dependents?** To be enrolled in a health plan, a dependent must be eligible

under this section and the subscriber must comply with enrollment procedures outlined in WAC 182-12-262.

The public employees benefits board (PEBB) program verifies the eligibility of all dependents and ~~((reserves the right to))~~ will request documents from subscribers that provide evidence of a dependent's eligibility. The PEBB program will remove a subscriber's enrolled dependents from health plan enrollment if the PEBB program is unable to verify a dependent's eligibility. The PEBB program will not enroll or reenroll dependents into a health plan if the PEBB program is unable to verify a dependent's eligibility.

The subscriber must notify the PEBB program, in writing, when his or her dependent is not eligible under this section. The notification must be received by the PEBB program no later than sixty days after the date his or her dependent is no longer eligible under this section. See WAC 182-12-262 (2)(a) for the consequences of not removing an ineligible dependent from insurance coverage.

The following are eligible as dependents:

(1) Lawful spouse. Former spouses are not eligible dependents upon finalization of a divorce or annulment, even if a court order requires the subscriber to provide health insurance for the former spouse.

(2) Registered domestic partner is defined to include the following:

(a) Effective January 1, 2010, a state registered domestic partner, as defined in RCW 26.60.020(1);

(b) A domestic partner who was qualified under PEBB eligibility criteria as a domestic partner before January 1, 2010, and was continuously enrolled under the subscriber in a PEBB health plan or life insurance; and

(c) Former registered domestic partners are not eligible dependents upon dissolution or termination of a partnership, even if a court order requires the subscriber to provide health insurance for the former partner.

(3) Children. Children are eligible up to ~~((age twenty-six))~~ the last day of the month in which their twenty-sixth birthday occurred except as described in (i) of this subsection. Children are defined as the subscriber's:

(a) Children as defined in RCW 26.26.101 establishment of parent-child relationship;

(b) Biological children, where parental rights have not been terminated;

(c) Stepchildren. The stepchild's relationship to a subscriber (and eligibility as a PEBB dependent) ends, for purposes of this rule, on the same date the subscriber's legal relationship with the spouse or registered domestic partner ends through divorce, annulment, dissolution, termination, or death;

(d) Legally adopted children;

(e) Children for whom the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of the child;

(f) Children of the subscriber's registered domestic partner;

(g) Children specified in a court order or divorce decree;

(h) Extended dependents in the legal custody or legal guardianship of the subscriber, the subscriber's spouse, or subscriber's registered domestic partner. The legal responsibility is demonstrated by a valid court order and the child's

official residence with the custodian or guardian. "Children" does not include foster children for whom support payments are made to the subscriber through the state department of social and health services foster care program; and

(i) Children of any age with a developmental disability or physical handicap that renders the child incapable of self-sustaining employment and chiefly dependent upon the subscriber for support and maintenance provided such condition occurs before the age twenty-six:

(i) The subscriber must provide evidence of the disability and evidence that the condition occurred before age twenty-six;

(ii) The subscriber must notify the PEBB program, in writing, when his or her dependent is not eligible under this section. The notification must be received by the PEBB program no later than sixty days after the date that a child age twenty-six or older no longer qualifies under this subsection;

(iii) A child with a developmental disability or physical handicap who becomes self-supporting is not eligible under this subsection as of the last day of the month in which he or she becomes capable of self-support;

(iv) A child with a developmental disability or physical handicap age twenty-six and older who becomes capable of self-support does not regain eligibility under (i) of this subsection if he or she later becomes incapable of self-support;

(v) The PEBB program will periodically certify the eligibility of a dependent child with a disability beginning at age twenty-six, but no more frequently than annually after the two-year period following the child's twenty-sixth birthday.

(4) Parents.

(a) Parents covered under PEBB medical before July 1, 1990, may continue enrollment on a self-pay basis as long as:

(i) The parent maintains continuous enrollment in PEBB medical;

(ii) The parent qualifies under the Internal Revenue Code as a dependent of the subscriber;

(iii) The subscriber continues enrollment in insurance coverage; and

(iv) The parent is not covered by any other group medical plan.

(b) Parents eligible under this subsection may be enrolled with a different health plan than that selected by the subscriber. Parents may not add additional dependents to their insurance coverage.

**AMENDATORY SECTION** (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-262 When may subscribers enroll or remove eligible dependents?** (1) **Enrolling dependents in public employees benefits board (PEBB) benefits.** A dependent must be enrolled in the same health plan coverage as the subscriber, and the subscriber must be enrolled to enroll his or her dependent except as provided in WAC 182-12-205 (2)(c). Subscribers may enroll eligible dependents at the following times:

(a) **When the subscriber becomes eligible** and enrolls in public employees benefits board (PEBB) benefits. If eligibility is verified and the dependent is enrolled, the depen-

dent's effective date will be the same as the subscriber's effective date.

(b) **During the annual open enrollment.** PEBB health plan coverage begins January 1st of the following year.

(c) **During special open enrollment.** Subscribers may enroll dependents during a special open enrollment as described in subsection (3) of this section. The subscriber must satisfy the enrollment requirements as described in subsection (4) of this section.

**(2) Removing dependents from a subscriber's health plan coverage.**

(a) **A dependent's eligibility for enrollment in health plan coverage ends the last day of the month the dependent** meets the eligibility criteria in WAC 182-12-250 or 182-12-260. Employees must notify their employing agency when a dependent is no longer eligible. All other subscribers must notify the PEBB program when a dependent is no longer eligible. Consequences for not submitting notice within sixty days of the last day of the month the dependent loses eligibility for health plan coverage may include, but are not limited to:

(i) The dependent may lose eligibility to continue health plan coverage under one of the continuation coverage options described in WAC 182-12-270;

(ii) The subscriber may be billed for claims paid by the health plan for services that were rendered after the dependent lost eligibility;

(iii) The subscriber may not be able to recover subscriber-paid insurance premiums for dependents that lost their eligibility; and

(iv) The subscriber may be responsible for premiums paid by the state for the dependent's health plan coverage after the dependent lost eligibility.

**(b) Employees have the opportunity to remove dependents:**

(i) During the annual open enrollment. The dependent will be removed the last day of December; or

(ii) During a special open enrollment as described in subsections (3) and (4)(f) of this section.

(c) **Retirees, survivors, and enrollees with PEBB continuation coverage under WAC 182-12-133, 182-12-141, 182-12-142, 182-12-146, or 182-12-148 may remove dependents** from their insurance coverage outside of the annual open enrollment or a special open enrollment by providing written notice to the PEBB program. Unless otherwise approved by the PEBB program, the dependent will be removed from the subscriber's insurance coverage prospectively. Insurance coverage will end on the last day of the month in which the written notice is received by the PEBB program. If the written notice is received on the first day of the month, coverage will end on the last day of the previous month.

(3) **Special open enrollment.** Subscribers may enroll or remove their dependents outside of the annual open enrollment if a special open enrollment event occurs. The change in enrollment must correspond to and be consistent with the event that creates the special open enrollment for the subscriber, the subscriber's dependents, or both.

• Health plan coverage will begin the first of the month following the later of the event date or the date the required

form is received. If that day is the first of the month, the change in enrollment begins on that day.

• Enrollment of an extended dependent((s)) or a dependent((s)) with a disability will be the first day of the month following eligibility certification.

• The dependent((s)) will be removed from the subscriber's health plan coverage the last day of the month following the later of the event date or the date the required form is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

• If the special open enrollment is due to the birth or adoption of a child, or when the subscriber has assumed a legal obligation for total or partial support in anticipation of adoption of a child, health plan coverage will begin or end the month in which the event occurs.

Any one of the following events may create a special open enrollment:

(a) Subscriber acquires a new dependent due to:

(i) Marriage or registering a domestic partnership;

(ii) Birth, adoption, or when a subscriber has assumed a legal obligation for total or partial support in anticipation of adoption;

(iii) A child becoming eligible as an extended dependent through legal custody or legal guardianship; or

(iv) A child becoming eligible as a dependent with a disability;

(b) Subscriber or a subscriber's dependent loses other coverage under a group health plan or through health insurance coverage, as defined by the Health Insurance Portability and Accountability Act (HIPAA);

(c) Subscriber or a subscriber's dependent has a change in employment status that affects the subscriber's or the subscriber's dependent's eligibility for their employer contribution toward employer-based group health insurance;

(d) Subscriber or a subscriber's dependent has a change in enrollment under another employer-based group health insurance plan during its annual open enrollment that does not align with the PEBB program's annual open enrollment;

(e) Subscriber's dependent has a change in residence from outside of the United States to within the United States, or from within the United States to outside of the United States;

(f) A court order or national medical support notice (see also WAC 182-12-263) requires the subscriber or any other individual to provide insurance coverage for an eligible dependent of the subscriber (a former spouse or former registered domestic partner is not an eligible dependent);

(g) Subscriber or a subscriber's dependent becomes entitled to coverage under medicaid or a state children's health insurance program (CHIP), or the subscriber or a subscriber's dependent loses eligibility for coverage under medicaid or CHIP;

(h) Subscriber or a subscriber's dependent becomes eligible for state premium assistance subsidy for PEBB health plan coverage from medicaid or a state children's health insurance program (CHIP).

(4) **Enrollment requirements. A subscriber((s)) must submit the required ((enrollment)) forms within the time frames described in this subsection.** Employees submit the required forms to their employing agency. All other subscrib-

ers submit the required forms to the PEBB program. In addition to the required forms indicating dependent enrollment, the subscriber must provide the required documents as evidence of the dependent's eligibility; or as evidence of the event that created the special open enrollment.

(a) If a subscriber wants to enroll his or her eligible ~~((dependent(s)))~~ dependents when the subscriber becomes eligible to enroll in PEBB benefits, the subscriber must include the dependent's enrollment information on the required forms that the subscriber submits within the relevant time frame described in WAC 182-08-197, 182-08-187, 182-12-171, or 182-12-250.

(b) If a subscriber wants to enroll eligible dependents during the PEBB annual open enrollment period, the required forms must be received no later than the last day of the annual open enrollment.

(c) If a subscriber wants to enroll newly eligible dependents, the required ~~((enrollment))~~ forms must be received no later than sixty days after the dependent becomes eligible except as provided in (d) of this subsection.

(d) If a subscriber wants to enroll a newborn or child whom the subscriber has adopted or has assumed a legal obligation for total or partial support in anticipation of adoption, the subscriber should notify the PEBB program by submitting ~~((an enrollment))~~ the required form as soon as possible to ensure timely payment of claims. If adding the child increases the premium, the required ~~((enrollment))~~ form must be received no later than twelve months after the date of the birth, adoption, or the date the legal obligation is assumed for total or partial support in anticipation of adoption.

(e) If the subscriber wants to enroll a child age twenty-six or older as a child with a disability, the required ~~((form(s)))~~ forms must be received no later than sixty days after the last day of the month in which the child reaches age twenty-six or within the relevant time frame described in WAC 182-12-262 (4)(a), (b), and (f).

(f) If the subscriber wants to change a dependent's enrollment status during a special open enrollment, required forms must be received no later than sixty days after the event that creates the special open enrollment.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-12-263 National Medical Support Notice (NMSN) ~~((or court order))~~.** When a National Medical Support Notice (NMSN) ~~((or court order))~~ requires a subscriber to provide health plan coverage for a dependent child the following provisions apply:

(1) The subscriber may enroll his or her dependent child and request changes to his or her health plan coverage as described under subsection (3) of this section. Employees submit the required forms to their employing agency. All other subscribers submit the required forms to the public employees benefits board (PEBB) program.

(2) If the subscriber fails to request enrollment or health plan coverage changes as directed by the NMSN ~~((or court order))~~, the employing agency or the PEBB program may make enrollment or health plan coverage changes according to subsection (3) of this section upon request of:

- (a) The child's other parent; or
- (b) Child support enforcement program.
- (3) Changes to health plan coverage or enrollment are allowed as directed by the NMSN ~~((or court order))~~:

(a) The dependent will be enrolled under the subscriber's health plan coverage as directed by the NMSN ~~((or court order))~~;

(b) An employee who has waived PEBB medical under WAC 182-12-128 will be enrolled in medical as directed by the NMSN ~~((or court order))~~, in order to enroll the dependent;

(c) The subscriber's selected health plan will be changed if directed by the NMSN ~~((or court order))~~;

(d) If the dependent is already enrolled under another PEBB subscriber, the dependent will be removed from the other health plan coverage and enrolled as directed by the NMSN ~~((or court order))~~.

(4) Changes to health plan coverage or enrollment as described in subsection (3)(a) through (c) of this section will begin the first day of the month following receipt of the NMSN ~~((or court order))~~. If the NMSN ~~((or court order))~~ is received on the first day of the month, the change to health plan coverage or enrollment begins on that day. A dependent will be removed from the subscriber's health plan coverage as described in subsection (3)(d) of this section the last day of the month the NMSN ~~((or court order))~~ is received. If that day is the first of the month, the change in enrollment will be made the last day of the previous month.

(5) The subscriber may be eligible to make changes to his or her health plan enrollment and salary reduction elections during a special open enrollment related to the NMSN as described in WAC 182-08-198(2), 182-08-199(3), 182-12-128(4), or 182-12-262(3).

AMENDATORY SECTION (Amending WSR 14-08-040, filed 3/26/14, effective 4/26/14)

**WAC 182-12-300 Public employees benefits board (PEBB) wellness incentive program eligibility and procedural requirements.** The public employees benefits board (PEBB) annually determines the design of the PEBB wellness incentive program.

(1) All subscribers, except PEBB subscribers who are enrolled in both medicare parts A and B, and in the medicare risk pool, are eligible to participate in the PEBB wellness incentive program.

(2) To receive a PEBB wellness incentive for the ~~((following))~~ 2016 plan year, eligible subscribers must complete PEBB wellness incentive program requirements during 2015 by the latest date below:

(a) For subscribers continuing enrollment in PEBB medical and subscribers enrolling in PEBB medical with an effective date in January, February, or March, the deadline is June 30th; or

(b) ~~((Within sixty days after their effective date of PEBB medical, but no later than December 31st.~~

~~((3))~~ For subscribers enrolling in PEBB medical with an effective date in April, May, June, July, or August, the deadline is one hundred twenty days from the subscriber's PEBB medical effective date; or

(c) For subscribers enrolling in PEBB medical with an effective date in September, October, November, or December, the deadline is December 31st.

(3) Effective January 1, 2016, to receive a PEBB wellness incentive for the following plan year, eligible subscribers must complete PEBB wellness incentive program requirements during the current plan year by the latest date below:

(a) For subscribers continuing enrollment in PEBB medical and subscribers enrolling in PEBB medical with an effective date in January, February, March, April, May, or June the deadline is September 30th; or

(b) For subscribers enrolling in PEBB medical with an effective date in July or August, the deadline is one hundred twenty days from the subscriber's PEBB medical effective date; or

(c) For subscribers enrolling in PEBB medical with an effective date in September, October, November, or December, the deadline is December 31st.

(4) Subscribers who do not complete the requirements ((øf)) according to subsection (2) or (3) of this section, except as noted, within the time frame described are not eligible to receive a PEBB wellness incentive the following plan year.

**Note:** All eligible subscribers can earn a wellness incentive. Subscribers who cannot complete the wellness incentive program requirements may be able to earn the same incentive by different means. The PEBB program will work with enrollees (and their physician, if they wish) to define an individual wellness program that provides the opportunity to qualify for the same incentive in light of the enrollee's health status.

((4)) (5) A PEBB wellness incentive will be provided only if:

(a) The subscriber is still eligible for the PEBB wellness incentive program in the year the incentive applies;

(b) The funding rate provided by the legislature is designed to provide a PEBB wellness incentive program or a PEBB wellness incentive, or both; or

((b)) (c) Specific appropriations are provided for wellness incentives.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-16-020 Definitions.** As used in this chapter the term:

"Authority" or "HCA" means the health care authority.

"Business days" means all days except Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Calendar days" or "days" means all days including Saturdays, Sundays, and all legal holidays as set forth in RCW 1.16.050.

"Continuance" means a change in the date or time of a hearing.

"Denial" or "denial notice" means an action by, or communication from, either an employing agency, or the PEBB program that aggrieves an employee, or his or her dependent, with regard to PEBB benefits including, but not limited to, actions or communications expressly designated as a "denial," "denial notice," or "cancellation notice."

"Dependent" means a person who meets eligibility requirements in WAC 182-12-260, except that "surviving

spouses, state registered domestic partners, and dependent children" of emergency service personnel who are killed in the line of duty is defined in WAC 182-12-250.

"Dependent care assistance program" or "DCAP" means a benefit plan whereby state and public employees may pay for certain employment related dependent care with pretax dollars as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"Director" means the director of the authority.

"Documents" means papers, letters, writings, e-mails, electronic files, or other printed or written items.

"Employee" includes all employees of the state, whether or not covered by civil service; elected and appointed officials of the executive branch of government, including full-time members of boards, commissions, or committees; justices of the supreme court and judges of the court of appeals and the superior courts; and members of the state legislature. Pursuant to contractual agreement with the authority, "employee" may also include: (a) Employees of a county, municipality, or other political subdivision of the state and members of the legislative authority of any county, city, or town who are elected to office after February 20, 1970, if the legislative authority of the county, municipality, or other political subdivision of the state seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.04.205 and 41.05.021 (1)(g); (b) employees of employee organizations representing state civil service employees, at the option of each such employee organization, and, effective October 1, 1995, employees of employee organizations currently pooled with employees of school districts for the purpose of purchasing insurance benefits, at the option of each such employee organization; (c) employees of a school district if the authority agrees to provide any of the school districts' insurance programs by contract with the authority as provided in RCW 28A.400.350; (d) employees of a tribal government, if the governing body of the tribal government seeks and receives the approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(f) and (g); (e) employees of the Washington health benefit exchange if the governing board of the exchange established in RCW 43.71.020 seeks and receives approval of the authority to provide any of its insurance programs by contract with the authority, as provided in RCW 41.05.021 (1)(g) and (n); and (f) employees of a charter school established under chapter 28A.710 RCW. "Employee" does not include: Adult family home providers; unpaid volunteers; patients of state hospitals; inmates; employees of the Washington state convention and trade center as provided in RCW 41.05.110; students of institutions of higher education as determined by their institution; and any others not expressly defined as employees under this chapter or by the authority under this chapter.

"Employer-based group medical insurance" means group medical insurance coverage related to a current employment relationship. It does not include medical insurance coverage available to retired employees, individual market medical insurance coverage, or government-sponsored programs such as medicare or medicaid.

"Employer group" means those ~~((employee organizations representing state civil service employees,))~~ counties, municipalities, political subdivisions, the Washington health benefit exchange, tribal governments, school districts, ~~((charter schools, and))~~ educational service districts ~~((participating in PEBB insurance coverage under contractual agreement)),~~ and employee organizations representing state civil service employees, obtaining employee benefits through a contractual agreement with the authority as described in WAC 182-08-245.

"Employing agency" means a division, department, or separate agency of state government, including an institution of higher education; a county, municipality, school district, educational service district, or other political subdivision; charter school; or a tribal government covered by chapter 41.05 RCW.

"Enrollee" means a person who meets all eligibility requirements defined in chapter 182-12 WAC, who is enrolled in PEBB benefits, and for whom applicable premium payments have been made.

"Final order" means an order that is the final PEBB program decision.

"Health plan" means a plan offering medical or dental, or both, developed by the public employees benefits board and provided by a contracted vendor or self-insured plans administered by the HCA.

"Hearing" means a proceeding before a presiding officer that gives a party an opportunity to be heard in a dispute about a decision made by the PEBB appeals committee, including prehearing conferences, dispositive motion hearings, status conferences, and evidentiary hearings.

"Hearing representative" means a person who is authorized to represent the PEBB program in an administrative hearing. The person may be an assistant attorney general, a licensed attorney, or authorized HCA employee.

"Institutions of higher education" means the state public research universities, the public regional universities, The Evergreen State College, the community and technical colleges, and the state board for community and technical colleges.

"Insurance coverage" means any health plan, life insurance, long-term care insurance, long-term disability (LTD) insurance, or property and casualty insurance administered as a PEBB benefit.

"LTD insurance" includes basic long-term disability insurance paid for by the employing agency and long-term disability insurance offered to employees on an optional basis.

"Mail" or "mailing" means placing a document in the United States Postal system, commercial delivery service, or Washington state consolidated mail services properly addressed.

"Medical flexible spending arrangement" or "medical FSA" means a benefit plan whereby state and public employees may reduce their salary before taxes to pay for medical expenses not reimbursed by insurance as provided in the salary reduction plan authorized in chapter 41.05 RCW.

"PEBB" means the public employees benefits board.

"PEBB appeals committee" means the committee that considers appeals relating to the administration of PEBB ben-

efits by the PEBB program. The director has delegated the authority to hear appeals at the level below an administrative hearing to the PEBB appeals committee.

"PEBB benefits" means one or more insurance coverages or other employee benefits administered by the PEBB program within the health care authority.

"PEBB program" means the program within the HCA ~~((which))~~ that administers insurance and other benefits for eligible employees (as ~~((defined))~~ described in WAC 182-12-114), eligible retired and disabled employees (as ~~((defined))~~ described in WAC 182-12-171), eligible dependents (as ~~((defined))~~ described in WAC 182-12-250 and 182-12-260), and others as defined in RCW 41.05.011.

"Prehearing conference" means a proceeding scheduled and conducted by a presiding officer to address issues in preparation for a hearing.

"Premium payment plan" means a benefit plan whereby state and public employees may pay their share of group health plan premiums with pretax dollars as provided in the salary reduction plan.

"Premium surcharge" means a payment required from a subscriber, in addition to the subscriber's premium contribution, due to an enrollee's tobacco use or a subscriber's spouse or registered domestic partner choosing not to enroll in his or her employer-based group medical insurance when:

- Premiums are less than ninety-five percent of Uniform Medical Plan (UMP) Classic premiums; and
- The actuarial value of benefits is at least ninety-five percent of the actuarial value of UMP Classic benefits.

"Presiding officer" means an impartial decision maker who is an attorney, presides at an administrative hearing, and is either a director designated HCA employee or an administrative law judge employed by the office of administrative hearings.

"Record" means the official documentation of the hearing process. The record includes recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

"Salary reduction plan" means a benefit plan whereby state and public employees may agree to a reduction of salary on a pretax basis to participate in the DCAP, medical FSA, or premium payment plan as authorized in chapter 41.05 RCW.

"State agency" means an office, department, board, commission, institution, or other separate unit or division, however designated, of the state government and all personnel thereof. It includes the legislature, executive branch, and agencies or courts within the judicial branch, as well as institutions of higher education and any unit of state government established by law.

"Subscriber" means the employee, retiree, COBRA beneficiary or eligible survivor who has been designated by the HCA as the individual to whom the HCA and contracted vendors will issue all notices, information, requests and premium bills on behalf of enrollees.

"Tobacco products" means any product made with or derived from tobacco that is intended for human consumption, including any component, part, or accessory of a tobacco product. This includes, but is not limited to, cigars, cigarettes, chewing tobacco, snuff, and other tobacco products. It does not include United States Food and Drug Admin-



istration (FDA) approved quit aids or e-cigarettes until their tobacco related status is determined by the FDA.

"Tobacco use" means any use of tobacco products within the past two months. Tobacco use, however, does not include the religious or ceremonial use of tobacco.

"Tribal government" means an Indian tribal government as defined in Section 3(32) of the Employee Retirement Income Security Act of 1974 (ERISA), as amended, or an agency or instrumentality of the tribal government, that has government offices principally located in this state.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-16-036 How can an employee who is eligible to participate in the state's salary reduction plan appeal a decision regarding the administration of benefits offered under the state's salary reduction plan?** (1) Any employee who is eligible to participate in the state's salary reduction plan who disagrees with a decision that denies eligibility for or enrollment in a benefit offered under the state's salary reduction plan may appeal that decision ~~((to the public employees benefits board (PEBB) appeals committee. The PEBB appeals manager))~~ by submitting a written request for review to his or her state agency. The state agency must receive the ((notice of appeal)) request for review no later than thirty days after the date of the initial denial notice ((by the PEBB program)). The contents of the ((notice of appeal)) request for review are to be provided ((in accordance with)) as described in WAC 182-16-040.

(a) Upon receiving the request for review, the state agency shall make a complete review of the initial denial by one or more staff who did not take part in the initial denial. As part of the review, the state agency may hold a formal meeting or hearing, but is not required to do so.

(b) The state agency shall render a written decision within thirty days of receiving the request for review. The written decision shall be sent to the employee.

(c) A copy of the state agency's written decision shall be sent to the state agency's administrator or designee and to the public employees benefits board (PEBB) appeals manager. The state agency's written decision shall become the state agency's final decision effective fifteen days after the date it is rendered.

(d) Any employee who disagrees with the state agency's decision in response to a request for review, as described in subsection (1) of this section, may appeal that decision by submitting a notice of appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the state agency's written decision on the request for review.

The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(e) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

~~((b))~~ (f) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon

issuing a written finding of a good reason explaining the cause for the delay.

~~((e))~~ (g) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

(2) Any employee who is eligible to participate in the state's salary reduction plan aggrieved by a decision regarding a claim for benefits under the medical flexible spending arrangement (FSA) and dependent care assistance program (DCAP) offered under the state's salary reduction plan may appeal that decision to the third-party administrator contracted to administer the plan by following the appeal process of the third-party administrator.

Any employee who is eligible to participate in the state's salary reduction plan who disagrees with a decision in response to an appeal filed with the third-party administrator that administers the medical FSA and DCAP under the state's salary reduction plan may appeal to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the appeal decision by the third-party administrator that administers the medical FSA and DCAP. The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(a) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

(b) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon issuing a written finding of a good reason explaining the cause for the delay.

(c) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

(3) Any employee who is eligible to participate in the state's salary reduction plan aggrieved by a decision regarding the administration of the premium payment plan offered under the state's salary reduction plan may appeal that decision to the PEBB appeals committee. The PEBB appeals manager must receive the notice of appeal no later than thirty days after the date of the denial notice by the PEBB program. The contents of the notice of appeal are to be provided in accordance with WAC 182-16-040.

(a) The PEBB appeals manager shall notify the appellant in writing when the notice of appeal has been received.

(b) The PEBB appeals committee shall render a written decision to the appellant within thirty days of receiving the notice of appeal. The committee may extend the thirty-day time requirement for rendering a decision upon issuing a written finding of a good reason explaining the cause for the delay.

(c) Any appellant who disagrees with the decision of the PEBB appeals committee may request an administrative hearing, as described in WAC 182-16-050.

AMENDATORY SECTION (Amending WSR 08-20-128, filed 10/1/08, effective 1/1/09)

**WAC 182-16-040 What should the request for review or notice of appeal contain?** A request for review or notice of appeal ~~((is to))~~ should contain all of the following:

- (1) The name and mailing address of the appealing party;
- (2) The name and mailing address of the appealing party's representative, if any;
- (3) Documentation, or reference to documentation, of decisions previously rendered through the appeal process, if any;
- (4) A statement identifying the specific portion of the decision being appealed and clarifying what is believed to be unlawful or in error;
- (5) A statement of facts in support of the appealing party's position;
- (6) Any information or documentation that the appealing party would like considered and substantiates why the decision should be reversed. Information or documentation submitted at a later date, unless specifically requested by the PEBB appeals manager, may not be considered in the appeal decision;
- (7) The type of relief sought;
- (8) A statement that the appealing party has read the notice of appeal and believes the contents to be true and correct; and
- (9) The signature of the appealing party or the appealing party's representative.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-16-073 Rescheduling and continuances.**

(1) Any party may request the presiding officer to reschedule a hearing if a rule requires notice of a hearing and the amount of notice required was not provided.

(a) The presiding officer must reschedule the hearing under circumstances identified in this subsection (1) if requested by any party.

(b) The parties may agree to shorten the amount of notice required by any rule.

(2) Any party may request a continuance of a hearing either orally or in writing.

~~(a) ((Before contacting the presiding officer to request a continuance, the party seeking a continuance must contact the other parties, if possible, to find out if they will agree to a continuance.~~

~~(b) The party making the request for a continuance must let the presiding officer know whether the other parties agreed to the continuance. If the parties agree to a continuance, the presiding officer must grant the continuance. If the parties do not agree to a continuance, the presiding officer must schedule a prehearing conference in accordance with the requirements of WAC 182-16-071 to decide whether to grant the continuance.)~~ In each administrative hearing, the presiding officer must grant each party's first request for a continuance. The continuance may be up to thirty calendar days.

(b) The presiding officer may grant each party up to one additional continuance of up to thirty calendar days because of extraordinary circumstances.

~~(c) After granting a continuance, the presiding ((officer must mail a new hearing notice at least fourteen calendar days before the new hearing date unless the parties agree to a shorter time period.~~

~~(d) If the presiding officer denies the continuance request after a prehearing conference is held pursuant to (b) of this subsection, the presiding officer must mail a written order setting forth the basis for denying the continuance request and may proceed with the hearing on the originally scheduled hearing date))~~ officer's office must:

(i) Immediately telephone all other parties to inform them the hearing was continued; and

(ii) Serve an order of continuance on the parties no later than fourteen days before the new hearing date. All orders of continuance must provide a new deadline for mailing documents to the presiding officer. The new mailing deadline can be no less than ten calendar days prior to the new hearing date. If the continuance is granted pursuant to (b) of this subsection, then the order of continuance must also include findings of fact that state with specificity the extraordinary circumstances for which the presiding officer granted the continuance.

(3) Regardless of whether a party has been granted a continuance as described in subsection (1) of this section, the presiding officer must grant a continuance if a new issue is raised during the hearing and a party requests a continuance.

AMENDATORY SECTION (Amending WSR 14-20-058, filed 9/25/14, effective 1/1/15)

**WAC 182-16-080 Determining if an administrative hearing right exists.**

(1) A party has a right to a hearing only if a law or program rule gives that right. If the party is not sure whether a hearing right exists, they may request a hearing to protect their rights.

(2) The right to a hearing does not exist unless:

(a) The public employees benefits board (PEBB) appeals committee has issued a written decision under WAC 182-16-030 (2)(b), 182-16-032(7), 182-16-035(4), 182-16-036 (1)((b), (3)(b), (4)) ~~(f), (2)(b), (3)(b),~~ or 182-16-038(2); and

(b) A hearing of the PEBB appeals committee's written decision has been timely requested pursuant to WAC 182-16-050.

(3) If the hearing representative or the presiding officer questions the right to a hearing, the presiding officer must decide whether a hearing right exists, in a written ruling, prior to reviewing and ruling on any other issues.

(4) If the presiding officer decides a person or entity does not have a right to a hearing, the matter must be dismissed.

**WSR 15-16-122**  
**PROPOSED RULES**  
**OFFICE OF**  
**INSURANCE COMMISSIONER**

[Insurance Commissioner Matter No. R 2015-02—Filed August 5, 2015,  
8:16 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-11-083.

Title of Rule and Other Identifying Information: Essential health benefits designation and supplementation for 2017.

Hearing Location(s): 5000 Capitol Boulevard, Training Room, T-120, Tumwater, WA 98504, on September 9, 2015, at 1:00 p.m.

Date of Intended Adoption: September 14, 2015.

Submit Written Comments to: Bianca Stoner, e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov), fax (360) 586-3109, by September 9, 2015.

Assistance for Persons with Disabilities: Contact Lori [Lorie] Villaflores by September 9, 2015, TTY (360) 586-0241 or (360) 725-7087.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The United States Department of Health and Human Services (HHS) has decided to extend the base-benchmark approach for establishing essential health benefit coverage levels through at least plan year 2017. To comply with HHS requirements, the office of the insurance commissioner (OIC) identified a new base-benchmark plan in June through emergency rule making.

This rule finalizes the new base-benchmark plan selection and makes necessary changes to the essential health benefits rule to bring the rule into compliance regarding changes that have occurred since the OIC adopted the original rule in 2013.

The rule establishes the *Regence Direct Gold +* as the new base-benchmark plan as required by federal regulations. It also updates the definition of habilitative services, providing specific examples of the types of benefits that individual and small group health plans must cover regarding these services.

In addition, the rule incorporates guidance from the federal government that says that if preventive and wellness services are not available within an issuer's network, the issuer must cover such services at an out-of-network provider without cost sharing.

The rule says that individual and small group health plans must cover sex-specific recommended preventive services without cost sharing regardless of the individual's gender at birth, and clarifies that an individual or small group health plan cannot impose cost sharing for preventive services that are spread over multiple office visits.

Finally, the rule removes the age restriction for neurodevelopmental therapy and identifies a new base-benchmark standard for both pediatric oral services and pediatric vision services.

Reasons Supporting Proposal: HHS required each state to select a new base-benchmark plan and to update its essential health benefits rule in conjunction with the new base-

benchmark plan, so the actions that the OIC took regarding this rule were in response to this requirement.

In addition, since the OIC originally adopted this rule, the federal government has issued guidance and additional regulations regarding various health reform related topics. Some state requirements have changed too as result of bills, court decisions and other factors. The updated rule captures many of these changes and puts them all in one place.

Statutory Authority for Adoption: RCW 48.21.241, 48.21.320, 48.44.460, 48.44.341, 48.46.291, 48.46.530, and 48.43.715.

Statute Being Implemented: RCW 48.43.715.

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

Name of Proponent: Mike Kreidler, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Bianca Stoner, P.O. Box 40258, Olympia, WA 98504-0258, (360) 725-7041; Implementation: Molly Nollette, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7117; and Enforcement: AnnaLisa Gellerman, P.O. Box 40255, Olympia, WA 98504-0255, (360) 725-7050.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The entities that must comply with the proposed rule are not small businesses, pursuant to chapter 19.85 RCW.

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Bianca Stoner, P.O. Box 40258, Olympia, WA 98504-0258, phone (360) 725-7041, fax (360) 586-3535, e-mail [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov).

August 5, 2015

Mike Kreidler

Insurance Commissioner

AMENDATORY SECTION (Amending WSR 12-19-099, filed 9/19/12, effective 10/20/12)

**WAC 284-43-865 Essential health benefits package benchmark reference plan.** A not grandfathered individual or small group health benefit plan offered, issued, amended or renewed on or after January 1, 2014, must, at a minimum, include coverage for essential health benefits. "Essential health benefits" means all of the following:

(1) The benefits and services covered by health care service contractor Regence Blue Shield as the *Innova* small group plan policy form, policy form number WW0711 CCONMS, and certificate form number WW0112BINNS, offered during the first quarter of 2012. The SERFF filing number is RGWA-127372701.

(2) The services and items covered by a health benefit plan that are within the categories identified in Section 1302(b) of PPACA including, but not limited to, ambulatory patient services, emergency services, hospitalization, maternity and newborn care, mental health and substance use disorder services, including behavioral health treatment, prescription drugs, rehabilitative and habilitative services and devices, laboratory services, preventive and wellness services and chronic disease management, and pediatric services, including oral and vision care, and as supplemented by

the commissioner or required by the secretary of the U.S. Department of Health and Human Services.

(3) Mandated benefits pursuant to Title 48 RCW enacted before December 31, 2011.

(4) This section expires on December 31, 2016.

#### NEW SECTION

**WAC 284-43-8651 Essential health benefits package benchmark reference plan.** A nongrandfathered individual or small group health benefit plan offered, issued, amended or renewed on or after January 1, 2017, must, at a minimum, include coverage for essential health benefits. "Essential health benefits" means all of the following:

(1) The benefits and services covered by health care service contractor Regence Blue Shield as the *Regence Direct Gold* + small group plan, policy form number WW0114CCONMSD and certificate form number WW0114BPPO1SD, offered during the first quarter of 2014. The SERFF form filing number is RGWA-128968362.

(2) The services and items covered by a health benefit plan that are within the categories identified in Section 1302(b) of PPACA including, but not limited to:

- (a) Ambulatory patient services;
- (b) Emergency services;
- (c) Hospitalization;
- (d) Maternity and newborn care;
- (e) Mental health and substance use disorder services, including behavioral health treatment;
- (f) Prescription drugs;
- (g) Rehabilitative and habilitative services and devices;
- (h) Laboratory services;
- (i) Preventive and wellness services and chronic disease management;
- (j) Pediatric services, including oral and vision care; and
- (k) Other services as supplemented by the commissioner or required by the secretary of the U.S. Department of Health and Human Services.

(3) Mandated benefits pursuant to Title 48 RCW enacted before December 31, 2011.

(4) This section applies to health plans that have an effective date of January 1, 2017, or later.

**AMENDATORY SECTION** (Amending WSR 14-06-069, filed 3/3/14, effective 4/3/14)

**WAC 284-43-877 Plan design.** (1) A nongrandfathered individual or small group health benefit plan offered, issued, or renewed, on or after January 1, 2014, must provide coverage that is substantially equal to the EHB-benchmark plan, as described in WAC 284-43-878, 284-43-879, and 284-43-880.

(a) For plans offered, issued, or renewed for a plan or policy year beginning on or after January 1, 2014, until December 31, 2016, an issuer must offer the EHB-benchmark plan without substituting benefits for the benefits specifically identified in the EHB-benchmark plan.

(b) For plan or policy years beginning on or after January 1, 2017, an issuer may substitute benefits to the extent that the actuarial value of the benefits in the category to which the substituted benefit is classified remains substantially equal to the EHB-benchmark plan.

(c) "Substantially equal" means that:

(i) The scope and level of benefits offered within each essential health benefit category supports a determination by the commissioner that the benefit is a meaningful health benefit;

(ii) The aggregate actuarial value of the benefits across all essential health benefit categories does not vary more than a de minimis amount from the aggregate actuarial value of the EHB-benchmark base plan; and

(iii) Within each essential health benefit category, the actuarial value of the category must not vary more than a de minimis amount from the actuarial value of the category for the EHB-benchmark plan.

(2) An issuer must classify covered services to an essential health benefits category consistent with WAC 284-43-878, 284-43-879, and 284-43-880 for purposes of determining actuarial value. An issuer may not use classification of services to an essential health benefits category for purposes of determining actuarial value as the basis for denying coverage under a health benefit plan.

(3) The base-benchmark plan does not specifically list all types of services, settings and supplies that can be classified to each essential health benefits category. The base-benchmark plan design does not specifically list each covered service, supply or treatment. Coverage for benefits not specifically identified as covered or excluded is determined based on medical necessity. An issuer may use this plan design, provided that each of the essential health benefit categories is specifically covered in a manner substantially equal to the EHB-benchmark plan.

(4) An issuer is not required to exclude services that are specifically excluded by the base-benchmark plan. If an issuer elects to cover a benefit excluded in the base-benchmark plan, the issuer must not include the benefit in its essential health benefits package for purposes of determining actuarial value. A health benefit plan must not exclude a benefit that is specifically included in the base-benchmark plan.

(5) An issuer must not apply visit limitations or limit the scope of the benefit category based on the type of provider delivering the service, other than requiring that the service must be within the provider's scope of license for purposes of coverage. This obligation does not require an issuer to contract with any willing provider, nor is an issuer restricted from establishing reasonable requirements for credentialing of, and access to, providers within its network.

(6) Telemedicine or telehealth services are considered provider-type services, and not a benefit for purposes of the essential health benefits package.

(7) Consistent with state and federal law, a health benefit plan must not contain an exclusion that unreasonably restricts access to medically necessary services for populations with special needs including, but not limited to, a chronic condition caused by illness or injury, either acquired or congenital.

(8) Unless an age based reference limitation is specifically included in the base-benchmark plan or a supplemental base-benchmark plan for a category set forth in WAC 284-43-878, 284-43-879, or 284-443-880, an issuer's scope of coverage for those categories of benefits must cover both pediatric and adult populations.

(9) A health benefit plan must not be offered if the commissioner determines that:

(a) It creates a risk of biased selection based on health status;

(b) The benefits within an essential health benefit category are limited so that the coverage for the category is not a meaningful health benefit; or

(c) The benefit has a discriminatory effect in practice, outcome or purpose in relation to age, present or predicted disability, and expected length of life, degree of medical dependency, quality of life or other health conditions, race, gender, national origin, sexual orientation and gender identity or in the application of Section 511 of Public Law 110-343 (the federal Mental Health Parity and Addiction Equity Act of 2008).

(10) An issuer must not impose annual or lifetime dollar limits on an essential health benefit, other than those permitted as reference based limitations pursuant to WAC 284-43-878, 284-43-879, and 284-43-880.

(11) This section expires on December 31, 2016.

#### NEW SECTION

**WAC 284-43-8771 Plan design.** (1) A nongrandfathered individual or small group health benefit plan offered, issued, or renewed, on or after January 1, 2017, must provide coverage that is substantially equal to the EHB-benchmark plan, as described in WAC 284-43-8781, 284-43-8791, and 284-43-8801.

(a) For plans offered, issued, or renewed for a plan or policy year beginning on or after January 1, 2017, an issuer must offer the EHB-benchmark plan without substituting benefits for the benefits specifically identified in the EHB-benchmark plan.

(b) "Substantially equal" means that:

(i) The scope and level of benefits offered within each essential health benefit category supports a determination by the commissioner that the benefit is a meaningful health benefit;

(ii) The aggregate actuarial value of the benefits across all essential health benefit categories does not vary more than a de minimis amount from the aggregate actuarial value of the EHB-benchmark base plan; and

(iii) Within each essential health benefit category, the actuarial value of the category must not vary more than a de minimis amount from the actuarial value of the category for the EHB-benchmark plan.

(2) An issuer must classify covered services to an essential health benefits category consistent with WAC 284-43-8781, 284-43-8791, and 284-43-8801 for purposes of determining actuarial value. An issuer may not use classification of services to an essential health benefits category for purposes of determining actuarial value as the basis for denying coverage under a health benefit plan.

(3) The base-benchmark plan does not specifically list all types of services, settings and supplies that can be classified to each essential health benefits category. The base-benchmark plan design does not specifically list each covered service, supply or treatment. Coverage for benefits not specifically identified as covered or excluded is determined based

on medical necessity. An issuer may use this plan design, provided that each of the essential health benefit categories is specifically covered in a manner substantially equal to the EHB-benchmark plan.

(4) An issuer is not required to exclude services that are specifically excluded by the base-benchmark plan. If an issuer elects to cover a benefit excluded in the base-benchmark plan, the issuer must not include the benefit in its essential health benefits package for purposes of determining actuarial value. A health benefit plan must not exclude a benefit that is specifically included in the base-benchmark plan.

(5) An issuer must not apply visit limitations or limit the scope of the benefit category based on the type of provider delivering the service, other than requiring that the service must be within the provider's scope of license for purposes of coverage. This obligation does not require an issuer to contract with any willing provider, nor is an issuer restricted from establishing reasonable requirements for credentialing of and access to providers within its network.

(6) Telemedicine or telehealth services are considered a method of accessing services, and are not a separate benefit for purposes of the essential health benefits package. Issuers must provide essential health benefits consistent with the requirements of (add RCW citation for SSB 5175 when it becomes available).

(7) Consistent with state and federal law, a health benefit plan must not contain an exclusion that unreasonably restricts access to medically necessary services for populations with special needs including, but not limited to, a chronic condition caused by illness or injury, either acquired or congenital.

(8) Benefits under each category set forth in WAC 284-43-8781, 284-43-8791, or 284-43-8801 must be covered for both pediatric and adult populations unless:

(a) A benefit is specifically limited to a particular age group in the base-benchmark plan and such limitation is consistent with state and federal law; or

(b) The category of essential health benefits is specifically stated to be applicable only to the pediatric population, such as pediatric oral services.

(9) A health benefit plan must not be offered if the commissioner determines that:

(a) It creates a risk of biased selection based on health status;

(b) The benefits within an essential health benefit category are limited so that the coverage for the category is not a meaningful health benefit; or

(c) The benefit has a discriminatory effect in practice, outcome or purpose in relation to age, present or predicted disability, and expected length of life, degree of medical dependency, quality of life or other health conditions, race, gender, national origin, sexual orientation and gender identity or in the application of Section 511 of Public Law 110-343 (the federal Mental Health Parity and Addiction Equity Act of 2008).

(10) An issuer must not impose annual or lifetime dollar limits on an essential health benefit, other than those permitted under WAC 284-43-8781, 284-43-8791, and 284-43-8801.

(11) This section applies to health plans that have an effective date of January 1, 2017, or later.

AMENDATORY SECTION (Amending WSR 14-15-012, filed 7/3/14, effective 7/3/14)

**WAC 284-43-878 Essential health benefit categories.**

(1) A health benefit plan must cover "ambulatory patient services." For purposes of determining a plan's actuarial value, an issuer must classify as ambulatory patient services medically necessary services delivered to enrollees in settings other than a hospital or skilled nursing facility, which are generally recognized and accepted for diagnostic or therapeutic purposes to treat illness or injury, in a substantially equal manner to the base-benchmark plan.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as ambulatory patient services:

- (i) Home and outpatient dialysis services;
- (ii) Hospice and home health care, including skilled nursing care as an alternative to hospitalization consistent with WAC 284-44-500, 284-46-500, and 284-96-500;
- (iii) Provider office visits and treatments, and associated supplies and services, including therapeutic injections and related supplies;
- (iv) Urgent care center visits, including provider services, facility costs and supplies;
- (v) Ambulatory surgical center professional services, including anesthesiology, professional surgical services, and surgical supplies and facility costs;
- (vi) Diagnostic procedures including colonoscopies, cardiovascular testing, pulmonary function studies and neurology/neuromuscular procedures; and
- (vii) Provider contraceptive services and supplies including, but not limited to, vasectomy, tubal ligation and insertion or extraction of FDA-approved contraceptive devices.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. These services are specifically excluded by the base-benchmark plan, and should not be included in establishing actuarial value for this category.

- (i) Infertility treatment and reversal of voluntary sterilization;
- (ii) Routine foot care for those that are not diabetic;
- (iii) Coverage of dental services following injury to sound natural teeth, but not excluding services or appliances necessary for or resulting from medical treatment if the service is:
  - (A) Emergency in nature; or
  - (B) Requires extraction of teeth to prepare the jaw for radiation treatments of neoplastic disease. Oral surgery related to trauma and injury must be covered.
- (iv) Private duty nursing for hospice care and home health care, to the extent consistent with state and federal law;
- (v) Adult dental care and orthodontia delivered by a dentist or in a dentist's office;
- (vi) Nonskilled care and help with activities of daily living;
- (vii) Hearing care, routine hearing examinations, programs or treatment for hearing loss including, but not limited to, externally worn or surgically implanted hearing aids, and the surgery and services necessary to implant them, other than for cochlear implants, which are covered, and for hear-

ing screening tests required under the preventive services category, unless coverage for these services and devices are required as part of, and classified to, another essential health benefits category;

(viii) Obesity or weight reduction or control other than covered nutritional counseling.

(c) The base-benchmark plan establishes specific limitations on services classified to the ambulatory patient services category that conflict with state or federal law as of January 1, 2014. The base-benchmark plan limits nutritional counseling to three visits per lifetime, if the benefit is not associated with diabetes management. This lifetime limitation for nutritional counseling is not part of the state EHB-benchmark plan. An issuer may limit this service based on medical necessity, and may establish an additional reasonable visit limitation requirement for nutritional counseling for medical conditions when supported by evidence based medical criteria.

(d) The base-benchmark plan's visit limitations on services in this category include:

- (i) Ten spinal manipulation services per calendar year without referral;
  - (ii) Twelve acupuncture services per calendar year without referral;
  - (iii) Fourteen days' respite care on either an inpatient or outpatient basis for hospice patients, per lifetime;
  - (iv) One hundred thirty visits per calendar year for home health care.
- (e) State benefit requirements classified to this category are:
- (i) Chiropractic care (RCW 48.44.310);
  - (ii) TMJ disorder treatment (RCW 48.21.320, 48.44.460, and 48.46.530);
  - (iii) Diabetes-related care and supplies (RCW 48.20.391, 48.21.143, 48.44.315, and 48.46.272).

(2) A health benefit plan must cover "emergency medical services." For purposes of determining a plan's actuarial value, an issuer must classify care and services related to an emergency medical condition to the emergency medical services category, in a substantially equal manner to the base-benchmark plan.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as emergency services:

- (i) Ambulance transportation to an emergency room and treatment provided as part of the ambulance service;
- (ii) Emergency room and department-based services, supplies and treatment, including professional charges, facility costs, and outpatient charges for patient observation and medical screening exams required to stabilize a patient experiencing an emergency medical condition;
- (iii) Prescription medications associated with an emergency medical condition, including those purchased in a foreign country.

(b) The base-benchmark plan does not specifically exclude services classified to the emergency medical care category.

(c) The base-benchmark base plan does not establish specific limitations on services classified to the emergency

medical services category that conflict with state or federal law as of January 1, 2014.

(d) The base-benchmark plan does not establish visit limitations on services in this category.

(e) State benefit requirements classified to this category include services necessary to screen and stabilize a covered person (RCW 48.43.093).

(3) A health benefit plan must cover "hospitalization." For purposes of determining a plan's actuarial value, an issuer must classify as hospitalization services the medically necessary services delivered in a hospital or skilled nursing setting including, but not limited to, professional services, facility fees, supplies, laboratory, therapy or other types of services delivered on an inpatient basis, in a substantially equal manner to the base-benchmark plan.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as hospitalization services:

(i) Hospital visits, facility costs, provider and staff services and treatments delivered during an inpatient hospital stay, including inpatient pharmacy services;

(ii) Skilled nursing facility costs, including professional services and pharmacy services and prescriptions filled in the skilled nursing facility pharmacy;

(iii) Transplant services, supplies and treatment for donors and recipients, including the transplant or donor facility fees performed in either a hospital setting or outpatient setting;

(iv) Dialysis services delivered in a hospital;

(v) Artificial organ transplants based on an issuer's medical guidelines and manufacturer recommendations;

(vi) Respite care services delivered on an inpatient basis in a hospital or skilled nursing facility.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. These services are specifically excluded by the base-benchmark plan, and should not be included in establishing actuarial value:

(i) Hospitalization where mental illness is the primary diagnosis to the extent that it is classified under the mental health and substance use disorder benefits category;

(ii) Cosmetic or reconstructive services and supplies except in the treatment of a congenital anomaly, to restore a physical bodily function lost as a result of injury or illness, or related to breast reconstruction following a medically necessary mastectomy;

(iii) The following types of surgery:

(A) Bariatric surgery and supplies;

(B) Orthognathic surgery and supplies unless due to temporomandibular joint disorder or injury, sleep apnea or congenital anomaly; and

(C) Sexual reassignment treatment and surgery;

(iv) Reversal of sterilizations;

(v) Surgical procedures to correct refractive errors, astigmatism or reversals or revisions of surgical procedures which alter the refractive character of the eye.

(c) The base-benchmark plan establishes specific limitations on services classified to the hospitalization category that conflict with state or federal law as of January 1, 2014. The base-benchmark plan allows for a transplant waiting

period. This waiting period is not part of the state EHB-benchmark plan.

(d) The base-benchmark plan's visit limitations on services in this category include:

(i) Sixty inpatient days per calendar year for illness, injury or physical disability in a skilled nursing facility;

(ii) Thirty inpatient rehabilitation service days per calendar year. This benefit may be classified to this category for determining actuarial value or to the rehabilitation services category, but not to both.

(e) State benefit requirements classified to this category are:

(i) General anesthesia and facility charges for dental procedures for those who would be at risk if the service were performed elsewhere and without anesthesia (RCW 48.43.185);

(ii) Reconstructive breast surgery resulting from a mastectomy which resulted from disease, illness or injury (RCW 48.20.395, 48.21.230, 48.44.330, and 48.46.280);

(iii) Coverage for treatment of temporomandibular joint disorder (RCW 48.21.320, 48.44.460, and 48.46.530);

(iv) Coverage at a long-term care facility following hospitalization (RCW 48.43.125).

(4) A health benefit plan must cover "maternity and newborn" services. For purposes of determining a plan's actuarial value, an issuer must classify as maternity and newborn services the medically necessary care and services delivered to women during pregnancy and in relation to delivery and recovery from delivery, and to newborn children, in a substantially equal manner to the base-benchmark plan.

(a) A health benefit plan must cover the following services which are specifically covered by the base-benchmark plan and classify them as maternity and newborn services:

(i) In utero treatment for the fetus;

(ii) Vaginal or cesarean childbirth delivery in a hospital or birthing center, including facility fees;

(iii) Nursery services and supplies for newborns, including newly adopted children;

(iv) Infertility diagnosis;

(v) Prenatal and postnatal care and services, including screening;

(vi) Complications of pregnancy such as, but not limited to, fetal distress, gestational diabetes, and toxemia; and

(vii) Termination of pregnancy. Termination of pregnancy may be included in an issuer's essential health benefits package, but nothing in this section requires an issuer to offer the benefit, consistent with 42 U.S.C. 18023 (b)(a)(A)(i) and 45 C.F.R. 156.115.

(b) A health benefit plan may, but is not required to, include the following service as part of the EHB-benchmark package. Genetic testing of the child's father is specifically excluded by the base-benchmark plan, and should not be included in determining actuarial value.

(c) The base-benchmark plan establishes specific limitations on services classified to the maternity and newborn category that conflict with state or federal law as of January 1, 2014. The state EHB-benchmark plan requirements for these services are:

(i) Maternity coverage for dependent daughters must be included in the EHB-benchmark plan on the same basis that the coverage is included for other enrollees;

(ii) Newborns delivered of dependent daughters must be covered to the same extent, and on the same basis, as newborns delivered to the other enrollees under the plan.

(d) The base-benchmark plan's limitations on services in this category include coverage of home birth by a midwife or nurse midwife only for low risk pregnancy.

(e) State benefit requirements classified to this category include:

(i) Maternity services that include diagnosis of pregnancy, prenatal care, delivery, care for complications of pregnancy, physician services, and hospital services (RCW 48.43.041);

(ii) Newborn coverage that is not less than the post-natal coverage for the mother, for no less than three weeks (RCW 48.43.115);

(iii) Prenatal diagnosis of congenital disorders by screening/diagnostic procedures if medically necessary (RCW 48.20.430, 48.21.244, 48.44.344, and 48.46.375).

(5) A health benefit plan must cover "mental health and substance use disorder services, including behavioral health treatment." For purposes of determining a plan's actuarial value, an issuer must classify as mental health and substance use disorder services, including behavioral health treatment, the medically necessary care, treatment and services for mental health conditions and substance use disorders categorized in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, including behavioral health treatment for those conditions, in a substantially equal manner to the base-benchmark plan.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as mental health and substance use disorder services, including behavioral health treatment:

(i) Inpatient, residential and outpatient mental health and substance use disorder treatment, including partial hospital programs or inpatient services;

(ii) Chemical dependency detoxification;

(iii) Behavioral treatment for a DSM category diagnosis;

(iv) Services provided by a licensed behavioral health provider for a covered diagnosis in a skilled nursing facility;

(v) Prescription medication prescribed during an inpatient and residential course of treatment;

(vi) Acupuncture treatment visits without application of the visit limitation requirements, when provided for chemical dependency.

(b) A health benefit plan may, but is not required to include, the following services as part of the EHB-benchmark package. These services are specifically excluded by the base-benchmark plan, and should not be included in establishing actuarial value.

(i) Counseling in the absence of illness, other than family counseling when the patient is a child or adolescent with a covered diagnosis and the family counseling is part of the treatment for mental health services;

(ii) Mental health treatment for diagnostic codes 302 through 302.9 in the DSM-IV, or for "V code" diagnoses except for medically necessary services for parent-child relational problems for children five years of age or younger, neglect or abuse of a child for children five years of age or

younger, and bereavement for children five years of age or younger, unless this exclusion is preempted by federal law;

(ii) Not medically necessary court-ordered mental health treatment.

(c) The base-benchmark plan establishes specific limitations on services classified to the mental health and substance abuse disorder services category that conflict with state or federal law as of January 1, 2014. The state EHB-benchmark plan requirements for these services are:

(i) Coverage for eating disorder treatment must be covered when associated with a diagnosis of a DSM categorized mental health condition;

(ii) Chemical detoxification coverage must not be uniformly limited to thirty days. Medical necessity, utilization review and criteria consistent with federal law may be applied by an issuer in designing coverage for this benefit;

(iii) Mental health services and substance use disorder treatment must be delivered in a home health setting on parity with medical surgical benefits, consistent with state and federal law.

(d) The base-benchmark plan's visit limitations on services in this category include: Court ordered treatment only when medically necessary.

(e) State benefit requirements classified to this category include:

(i) Mental health services (RCW 48.20.580, 48.21.241, 48.44.341, and 48.46.285);

(ii) Chemical dependency detoxification services (RCW 48.21.180, 48.44.240, 48.44.245, 48.46.350, and 48.46.355);

(iii) Services delivered pursuant to involuntary commitment proceedings (RCW 48.21.242, 48.44.342, and 48.46.-292).

(f) The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) (MHPAEA) applies to a health benefit plan subject to this section. Coverage of mental health and substance use disorder services, along with any scope and duration limits imposed on the benefits, must comply with the MHPAEA, and all rules, regulations and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26) where state law is silent, or where federal law preempts state law.

(6) A health benefit plan must cover "prescription drug services." For purposes of determining a plan's actuarial value, an issuer must classify as prescription drug services the medically necessary prescribed drugs, medication and drug therapies, in a manner substantially equal to the base-benchmark plan.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan and classify them as prescription drug services:

(i) Drugs and medications both generic and brand name, including self-administrable prescription medications, consistent with the requirements of (b) through (f) of this subsection;

(ii) Prescribed medical supplies, including diabetic supplies that are not otherwise covered as durable medical equipment under the rehabilitative and habilitative services category, including test strips, glucagon emergency kits, insulin and insulin syringes;



(iii) All FDA approved contraceptive methods, and prescription based sterilization procedures for women with reproductive capacity;

(iv) Certain preventive medications including, but not limited to, aspirin, fluoride, and iron, and medications for tobacco use cessation, according to, and as recommended by, the United States Preventive Services Task Force, when obtained with a prescription order;

(v) Medical foods to treat inborn errors of metabolism.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. These services are specifically excluded by the base-benchmark plan, and should not be included in establishing actuarial value for this category:

(i) Insulin pumps and their supplies, which are classified to and covered under the rehabilitation and habilitation services category; and

(ii) Weight loss drugs.

(c) The base-benchmark plan establishes specific limitations on services classified to the prescription drug services category that conflict with state or federal law as of January 1, 2014. The EHB-benchmark plan requirements for these services are:

(i) Preauthorized tobacco cessation products must be covered consistent with state and federal law;

(ii) Medication prescribed as part of a clinical trial, which is not the subject of the trial, must be covered in a manner consistent with state and federal law.

(d) The base-benchmark plan's visit limitations on services in this category include:

(i) Prescriptions for self-administrable injectable medication are limited to thirty day supplies at a time, other than insulin, which may be offered with more than a thirty day supply. This limitation is a floor, and an issuer may permit supplies greater than thirty days as part of its health benefit plan;

(ii) Teaching doses of self-administrable injectable medications are limited to three doses per medication per lifetime.

(e) State benefit requirements classified to this category include:

(i) Medical foods to treat phenylketonuria (RCW 48.44-440, 48.46.510, 48.20.520, and 48.21.300);

(ii) Diabetes supplies ordered by the physician (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143). Inclusion of this benefit requirement does not bar issuer variation in diabetic supply manufacturers under its drug formulary;

(iii) Mental health prescription drugs to the extent not covered under the hospitalization or skilled nursing facility services, or mental health and substance use disorders categories (RCW 48.44.341, 48.46.291, 48.20.580, and 48.21.241).

(f) An issuer's formulary is part of the prescription drug services category. The formulary filed with the commissioner must be substantially equal to the base-benchmark plan formulary, both as to U.S. Pharmacopoeia therapeutic category and classes covered and number of drugs in each class. If the base-benchmark formulary does not cover at least one drug in a category or class, an issuer must include at least one drug in the uncovered category or class.

(i) An issuer must file its formulary quarterly, following the filing instructions defined by the insurance commissioner in WAC 284-44A-040, 284-46A-050, and 284-58-025.

(ii) An issuer's formulary does not have to be substantially equal to the base-benchmark plan formulary in terms of formulary placement.

(7) A health benefit plan must cover "rehabilitative and habilitative services."

(a) For purposes of determining a plan's actuarial value, an issuer must classify as rehabilitative services the medically necessary services that help a person keep, restore or improve skills and function for daily living that have been lost or impaired because a person was sick, hurt or disabled, in a manner substantially equal to the base-benchmark plan.

(b) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as rehabilitative services:

(i) Cochlear implants;

(ii) In-patient rehabilitation facility and professional services delivered in those facilities;

(iii) Outpatient physical therapy, occupational therapy and speech therapy for rehabilitative purposes;

(iv) Braces, splints, prostheses, orthopedic appliances and orthotic devices, supplies or apparatuses used to support, align or correct deformities or to improve the function of moving parts;

(v) Durable medical equipment and mobility enhancing equipment used to serve a medical purpose, including sales tax.

(c) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. These services are specifically excluded by the base-benchmark plan, and should not be included in establishing actuarial value:

(i) Off the shelf shoe inserts and orthopedic shoes;

(ii) Exercise equipment for medically necessary conditions;

(iii) Durable medical equipment that serves solely as a comfort or convenience item; and

(iv) Hearing aids other than cochlear implants.

(d) **Supplementation:** The base-benchmark plan does not cover certain federally required services under this category. A health benefit plan must cover habilitative services, but these services are not specifically covered in the base-benchmark plan. Therefore, this category is supplemented. The state EHB-benchmark plan requirements for habilitative services are:

(i) For purposes of determining actuarial value and complying with the requirements of this section, the issuer must classify as habilitative services and provide coverage for the range of medically necessary health care services and health care devices designed to assist an individual in partially or fully developing, keeping or learning age appropriate skills and functioning within the individual's environment, or to compensate for a person's progressive physical, cognitive, and emotional illness.

(ii) As a minimum level of coverage, an issuer must establish limitations on habilitative services on parity with those for rehabilitative services. A health benefit plan may include reference based limitations only if the limitations

take into account the unique needs of the individual and target measurable, and specific treatment goals appropriate for the person's age, and physical and mental condition. When habilitative services are delivered to treat a mental health diagnosis categorized in the most recent version of the DSM, the mental health parity requirements apply and supersede any rehabilitative services parity limitations permitted by this subsection.

(iii) A health benefit plan must not limit an enrollee's access to covered services on the basis that some, but not all of the services in a plan of treatment are provided by a public or government program.

(iv) An issuer may establish utilization review guidelines and practice guidelines for habilitative services that are recognized by the medical community as efficacious. The guidelines must not require a return to a prior level of function.

(v) Habilitative health care devices may be limited to those that require FDA approval and a prescription to dispense the device.

(vi) Consistent with the standards in this subsection, speech therapy, occupational therapy, physical therapy, and aural therapy are habilitative services. Day habilitation services designed to provide training, structured activities and specialized assistance to adults, chore services to assist with basic needs, vocational or custodial services are not classified as habilitative services.

(vii) An issuer must not exclude coverage for habilitative services received at a school-based health care center unless the habilitative services and devices are delivered pursuant to federal Individuals with Disabilities Education Act of 2004 (IDEA) requirements and included in an individual educational plan (IEP).

(e) The base-benchmark plan's visit limitations on services in this category include:

(i) In-patient rehabilitation facility and professional services delivered in those facilities are limited to thirty service days per calendar year; and

(ii) Outpatient physical therapy, occupational therapy and speech therapy are limited to twenty-five outpatient visits per calendar year, on a combined basis, for rehabilitative purposes.

(f) State benefit requirements classified to this category include:

(i) State sales tax for durable medical equipment; and

(ii) Coverage of diabetic supplies and equipment (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143).

(g) An issuer must not classify services to the rehabilitative services category if the classification results in a limitation of coverage for therapy that is medically necessary for an enrollee's treatment for cancer, chronic pulmonary or respiratory disease, cardiac disease or other similar chronic conditions or diseases. For purposes of this subsection, an issuer must establish limitations on the number of visits and coverage of the rehabilitation therapy consistent with its medical necessity and utilization review guidelines for medical/surgical benefits. Examples of these are, but are not limited to, breast cancer rehabilitation therapy, respiratory therapy, and cardiac rehabilitation therapy. Such services may be classified to the ambulatory patient or hospitalization services categories for purposes of determining actuarial value.

(8) A health plan must cover "laboratory services." For purposes of determining actuarial value, an issuer must classify as laboratory services the medically necessary laboratory services and testing, including those performed by a licensed provider to determine differential diagnoses, conditions, outcomes and treatment, and including blood and blood services, storage and procurement, and ultrasound, X ray, MRI, CAT scan and PET scans, in a manner substantially equal to the base-benchmark plan.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as laboratory services:

(i) Laboratory services, supplies and tests, including genetic testing;

(ii) Radiology services, including X ray, MRI, CAT scan, PET scan, and ultrasound imaging;

(iii) Blood, blood products, and blood storage, including the services and supplies of a blood bank.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. An enrollee's not medically indicated procurement and storage of personal blood supplies provided by a member of the enrollee's family is specifically excluded by the base-benchmark plan, and should not be included by an issuer in establishing a health benefit plan's actuarial value.

(9) A health plan must cover "preventive and wellness services, including chronic disease management." For purposes of determining a plan's actuarial value, an issuer must classify as preventative and wellness services, including chronic disease management, the services that identify or prevent the onset or worsening of disease or disease conditions, illness or injury, often asymptomatic, services that assist in the multidisciplinary management and treatment of chronic diseases, services of particular preventive or early identification of disease or illness of value to specific populations, such as women, children and seniors, in a manner substantially equal to the base-benchmark plan.

(a) A health benefit plan must include the following services as preventive and wellness services:

(i) Immunizations recommended by the Centers for Disease Control's Advisory Committee on Immunization Practices;

(ii) Screening and tests with A and B recommendations by the U.S. Preventive Services Task Force for prevention and chronic care, for recommendations issued on or before the applicable plan year;

(iii) Services, tests and screening contained in the U.S. Health Resources and Services Administration Bright Futures guidelines as set forth by the American Academy of Pediatricians;

(iv) Services, tests, screening and supplies recommended in the U.S. Health Resources and Services Administration women's preventive and wellness services guidelines;

(v) Chronic disease management services, which typically include, but are not limited to, a treatment plan with regular monitoring, coordination of care between multiple providers and settings, medication management, evidence-based care, measuring care quality and outcomes, and support for patient self-management through education or tools; and

(vi) Wellness services.

(b) The base-benchmark plan does not exclude any services that could reasonably be classified to this category.

(c) The base-benchmark plan does not apply any limitations or scope restrictions that conflict with state or federal law as of January 1, 2014.

(d) The base-benchmark plan does not establish visit limitations on services in this category.

(e) State benefit requirements classified in this category are:

(i) Colorectal cancer screening as set forth in RCW 48.43.043;

(ii) Mammogram services, both diagnostic and screening (RCW 48.21.225, 48.44.325, and 48.46.275);

(iii) Prostate cancer screening (RCW 48.20.392, 48.21.227, 48.44.327, and 48.46.277).

(10) State benefit requirements that are limited to those receiving pediatric services, but that are classified to other categories for purposes of determining actuarial value, are:

(a) Neurodevelopmental therapy to age six, consisting of physical, occupational and speech therapy and maintenance to restore or improve function based on developmental delay, which cannot be combined with rehabilitative services for the same condition (RCW 48.44.450, 48.46.520, and 48.21.310). This state benefit requirement may be classified to ambulatory patient services or mental health and substance abuse disorder including behavioral health categories;

(b) Congenital anomalies in newborn and dependent children (RCW 48.20.430, 48.21.155, 48.44.212, and 48.46.250). This state benefit requirement may be classified to hospitalization, ambulatory patient services or maternity and newborn categories.

(11) This section expires on December 31, 2016.

## NEW SECTION

**WAC 284-43-8781 Essential health benefit categories.** (1) A health benefit plan must cover "ambulatory patient services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as "ambulatory patient services" those medically necessary services delivered to enrollees in settings other than a hospital or skilled nursing facility, which are generally recognized and accepted for diagnostic or therapeutic purposes to treat illness or injury.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as ambulatory patient services:

(i) Home and outpatient dialysis services;

(ii) Hospice and home health care, including skilled nursing care as an alternative to hospitalization consistent with WAC 284-44-500, 284-46-500, and 284-96-500;

(iii) Provider office visits and treatments, and associated supplies and services, including therapeutic injections and related supplies;

(iv) Urgent care center visits, including provider services, facility costs and supplies;

(v) Ambulatory surgical center professional services, including anesthesiology, professional surgical services, surgical supplies and facility costs;

(vi) Diagnostic procedures including colonoscopies, cardiovascular testing, pulmonary function studies and neurology/neuromuscular procedures; and

(vii) Provider contraceptive services and supplies including, but not limited to, vasectomy, tubal ligation and insertion or extraction of FDA-approved contraceptive devices.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the ambulatory category:

(i) Infertility treatment and reversal of voluntary sterilization;

(ii) Routine foot care for those that are not diabetic;

(iii) Coverage of dental services following injury to sound natural teeth. However, health plans must cover oral surgery related to trauma and injury. Therefore, a plan may not exclude services or appliances necessary for or resulting from medical treatment if the service is either emergency in nature or requires extraction of teeth to prepare the jaw for radiation treatments of neoplastic disease;

(iv) Private duty nursing for hospice care and home health care, to the extent consistent with state and federal law;

(v) Adult dental care and orthodontia delivered by a dentist or in a dentist's office;

(vi) Nonskilled care and help with activities of daily living;

(vii) Hearing care, routine hearing examinations, programs or treatment for hearing loss including, but not limited to, externally worn or surgically implanted hearing aids, and the surgery and services necessary to implant them. However, plans must cover cochlear implants and hearing screening tests that are required under the preventive services category, unless coverage for these services and devices are required as part of and classified to another essential health benefits category; and

(viii) Obesity or weight reduction or control other than covered nutritional counseling.

(c) The base-benchmark plan's visit limitations on services in the ambulatory patient services category include:

(i) Ten spinal manipulation services per calendar year without referral;

(ii) Twelve acupuncture services per calendar year without referral;

(iii) Fourteen days respite care on either an inpatient or outpatient basis for hospice patients, per lifetime; and

(iv) One hundred thirty visits per calendar year for home health care.

(d) State benefit requirements classified to the ambulatory patient services category are:

(i) Chiropractic care (RCW 48.44.310);

(ii) TMJ disorder treatment (RCW 48.21.320, 48.44.460, and 48.46.530); and

(iii) Diabetes-related care and supplies (RCW 48.20.391, 48.21.143, 48.44.315, and 48.46.272).

(2) A health benefit plan must cover "emergency medical services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuar-

ial value, an issuer must classify as emergency medical services the care and services related to an emergency medical condition.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as emergency services:

(i) Ambulance transportation to an emergency room and treatment provided as part of the ambulance service;

(ii) Emergency room and department based services, supplies and treatment, including professional charges, facility costs, and outpatient charges for patient observation and medical screening exams required to stabilize a patient experiencing an emergency medical condition;

(iii) Prescription medications associated with an emergency medical condition, including those purchased in a foreign country.

(b) The base-benchmark plan does not specifically exclude services classified to the emergency medical services category.

(c) The base-benchmark plan does not establish visit limitations on services in the emergency medical services category.

(d) State benefit requirements classified to the emergency medical services category include services necessary to screen and stabilize a covered person (RCW 48.43.093).

(3) A health benefit plan must cover "hospitalization" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as hospitalization services the medically necessary services delivered in a hospital or skilled nursing setting including, but not limited to, professional services, facility fees, supplies, laboratory, therapy or other types of services delivered on an inpatient basis.

(a) A health benefit plan must include the following services which are specifically covered by the base-benchmark plan and classify them as hospitalization services:

(i) Hospital visits, facility costs, provider and staff services and treatments delivered during an inpatient hospital stay, including inpatient pharmacy services;

(ii) Skilled nursing facility costs, including professional services and pharmacy services and prescriptions filled in the skilled nursing facility pharmacy;

(iii) Transplant services, supplies and treatment for donors and recipients, including the transplant or donor facility fees performed in either a hospital setting or outpatient setting;

(iv) Dialysis services delivered in a hospital;

(v) Artificial organ transplants based on an issuer's medical guidelines and manufacturer recommendations; and

(vi) Respite care services delivered on an inpatient basis in a hospital or skilled nursing facility.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer should not include the following benefits in establishing actuarial value for the hospitalization category:

(i) Hospitalization where mental illness is the primary diagnosis to the extent that it is classified under the mental health and substance use disorder benefits category;

(ii) Cosmetic or reconstructive services and supplies except in the treatment of a congenital anomaly, to restore a physical bodily function lost as a result of injury or illness, or related to breast reconstruction following a medically necessary mastectomy;

(iii) The following types of surgery:

(A) Bariatric surgery and supplies;

(B) Orthognathic surgery and supplies unless due to temporomandibular joint disorder or injury, sleep apnea or congenital anomaly.

(iv) Reversal of sterilizations; and

(v) Surgical procedures to correct refractive errors, astigmatism or reversals or revisions of surgical procedures which alter the refractive character of the eye.

(c) The base-benchmark plan establishes specific limitations on services classified to the hospitalization category that conflict with state or federal law as of January 1, 2017, and should not be included in essential health benefit plans:

(i) The base-benchmark plan allows a waiting period for transplant services; and

(ii) The base-benchmark plan excludes coverage for sexual reassignment treatment, surgery, or counseling services. Health plans must cover such services consistent with 42 U.S.C. 18116, Section 1557, RCW 48.30.300 and 49.60.040.

(d) The base-benchmark plan's visit limitations on services in the hospitalization category include:

(i) Sixty inpatient days per calendar year for illness, injury or physical disability in a skilled nursing facility;

(ii) Thirty inpatient rehabilitation service days per calendar year. For purposes of determining actuarial value, this benefit may be classified to the hospitalization category or to the rehabilitation services category, but not to both.

(e) State benefit requirements classified to the hospitalization category are:

(i) General anesthesia and facility charges for dental procedures for those who would be at risk if the service were performed elsewhere and without anesthesia (RCW 48.43.185);

(ii) Reconstructive breast surgery resulting from a mastectomy that resulted from disease, illness or injury (RCW 48.20.395, 48.21.230, 48.44.330, and 48.46.280);

(iii) Coverage for treatment of temporomandibular joint disorder (RCW 48.21.320, 48.44.460, and 48.46.530); and

(iv) Coverage at a long-term care facility following hospitalization (RCW 48.43.125).

(4) A health benefit plan must cover "maternity and newborn services" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as maternity and newborn services the medically necessary care and services delivered to women during pregnancy and in relation to delivery and recovery from delivery and to newborn children.

(a) A health benefit plan must cover the following services which are specifically covered by the base-benchmark plan and classify them as maternity and newborn services:

(i) In utero treatment for the fetus;

(ii) Vaginal or cesarean childbirth delivery in a hospital or birthing center, including facility fees;

(iii) Nursery services and supplies for newborns, including newly adopted children;

(iv) Infertility diagnosis;

(v) Prenatal and postnatal care and services, including screening;

(vi) Complications of pregnancy such as, but not limited to, fetal distress, gestational diabetes, and toxemia; and

(vii) Termination of pregnancy. Termination of pregnancy may be included in an issuer's essential health benefits package, but nothing in this section requires an issuer to offer the benefit, consistent with 42 U.S.C. 18023 (b)(a)(A)(i) and 45 C.F.R. 156.115.

(b) A health benefit plan may, but is not required to, include genetic testing of the child's father as part of the EHB-benchmark package. The base-benchmark plan specifically excludes this service. If an issuer covers this benefit, the issuer may not include this benefit in establishing actuarial value for the maternity and newborn category.

(c) The base-benchmark plan's limitations on services in the maternity and newborn services category include coverage of home birth by a midwife or nurse midwife only for low risk pregnancy.

(d) State benefit requirements classified to the maternity and newborn services category include:

(i) Maternity services that include diagnosis of pregnancy, prenatal care, delivery, care for complications of pregnancy, physician services, and hospital services (RCW 48.43.041);

(ii) Newborn coverage that is not less than the postnatal coverage for the mother, for no less than three weeks (RCW 48.43.115); and

(iii) Prenatal diagnosis of congenital disorders by screening/diagnostic procedures if medically necessary (RCW 48.20.430, 48.21.244, 48.44.344, and 48.46.375).

(5) A health benefit plan must cover "mental health and substance use disorder services, including behavioral health treatment" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as mental health and substance use disorder services, including behavioral health treatment, the medically necessary care, treatment and services for mental health conditions and substance use disorders categorized in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, including behavioral health treatment for those conditions.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as mental health and substance use disorder services, including behavioral health treatment:

(i) Inpatient, residential, and outpatient mental health and substance use disorder treatment, including diagnosis, partial hospital programs or inpatient services;

(ii) Chemical dependency detoxification;

(iii) Behavioral treatment for a DSM category diagnosis;

(iv) Services provided by a licensed behavioral health provider for a covered diagnosis in a skilled nursing facility;

(v) Prescription medication including medications prescribed during an inpatient and residential course of treatment;

(vi) Acupuncture treatment visits without application of the visit limitation requirements, when provided for chemical dependency.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes these benefits in a health plan, the issuer may not include these benefits in establishing actuarial value for the category of mental health and substance use disorder services including behavioral health treatment:

(i) Counseling in the absence of illness, other than family counseling when the patient is a child or adolescent with a covered diagnosis and the family counseling is part of the treatment for mental health services;

(ii) Mental health treatment for diagnostic codes 302 through 302.9 in the DSM-IV, or for "V code" diagnoses except for medically necessary services for parent-child relational problems for children five years of age or younger, neglect or abuse of a child for children five years of age or younger, bereavement for children five years of age or younger, and gender identity disorder consistent with 42 U.S.C. 18116, Section 1557, RCW 48.30.300 and 49.60.040, unless this exclusion is preempted by federal law; and

(iii) Court-ordered mental health treatment which is not medically necessary.

(c) The base-benchmark plan establishes specific limitations on services classified to the mental health and substance abuse disorder services category that conflict with state or federal law as of January 1, 2017. The state EHB-benchmark plan requirements for these services are: The base-benchmark plan does not provide coverage for mental health services and substance use disorder treatment delivered in a home health setting in parity with medical surgical benefits consistent with state and federal law. Health plans must cover mental health services and substance use disorder treatment that is delivered in a home health setting in parity with medical surgical benefits, consistent with state and federal law.

(d) The base-benchmark plan's visit limitations on services in this category include court-ordered treatment only when medically necessary.

(e) State benefit requirements classified to this category include:

(i) Mental health services (RCW 48.20.580, 48.21.241, 48.44.341, and 48.46.285);

(ii) Chemical dependency detoxification services (RCW 48.21.180, 48.44.240, 48.44.245, 48.46.350, and 48.46.355); and

(iii) Services delivered pursuant to involuntary commitment proceedings (RCW 48.21.242, 48.44.342, and 48.46.292).

(f) The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (Public Law 110-343) (MHPAEA) applies to a health benefit plan subject to this section. Coverage of mental health and substance use disorder services, along with any scope and duration limits imposed on the benefits, must comply with the MHPAEA, and all rules, regulations and guidance issued pursuant to Section 2726 of the federal Public Health Service Act (42 U.S.C. Sec. 300gg-26) including where state law is silent, or where federal law preempts state law.

(6) A health benefit plan must cover "prescription drug services" in a manner substantially equal to the base-bench-

mark plan. For purposes of determining a plan's actuarial value, an issuer must classify as prescription drug services medically necessary prescribed drugs, medication and drug therapies.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as prescription drug services:

(i) Drugs and medications both generic and brand name, including self-administrable prescription medications, consistent with the requirements of (b) through (e) of this subsection;

(ii) Prescribed medical supplies, including diabetic supplies that are not otherwise covered as durable medical equipment under the rehabilitative and habilitative services category, including test strips, glucagon emergency kits, insulin and insulin syringes;

(iii) All FDA-approved contraceptive methods, and prescription-based sterilization procedures for women with reproductive capacity;

(iv) Certain preventive medications including, but not limited to, aspirin, fluoride, and iron, and medications for tobacco use cessation, according to, and as recommended by, the United States Preventive Services Task Force, when obtained with a prescription order; and

(v) Medical foods to treat inborn errors of metabolism in accordance with RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services for the prescription drug services category. If an issuer includes these services, the issuer may not include the following benefits in establishing actuarial value for the prescription drug services category:

(i) Insulin pumps and their supplies, which are classified to and covered under the rehabilitation and habilitation services category; and

(ii) Weight loss drugs.

(c) The base-benchmark plan's visit limitations on services in the prescription drug services category include:

(i) Prescriptions for self-administrable injectable medication are limited to thirty day supplies at a time, other than insulin, which may be offered with more than a thirty day supply. This limitation is a floor, and an issuer may permit supplies greater than thirty days as part of its health benefit plan;

(ii) Teaching doses of self-administrable injectable medications are limited to three doses per medication per lifetime.

(d) State benefit requirements classified to the prescription drug services category include:

(i) Medical foods to treat inborn errors of metabolism (RCW 48.44.440, 48.46.510, 48.20.520, 48.21.300, and 48.43.176);

(ii) Diabetes supplies ordered by the physician (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143). Inclusion of this benefit requirement does not bar issuer variation in diabetic supply manufacturers under its drug formulary;

(iii) Mental health prescription drugs to the extent not covered under the hospitalization or skilled nursing facility

services, or mental health and substance use disorders categories (RCW 48.44.341, 48.46.291, 48.20.580, and 48.21.241);

(e) An issuer's formulary is part of the prescription drug services category. The formulary filed with the commissioner must be substantially equal to the base-benchmark plan formulary, both as to U.S. Pharmacopoeia therapeutic category and classes covered and number of drugs in each class. If the base-benchmark plan formulary does not cover at least one drug in a category or class, an issuer must include at least one drug in the uncovered category or class.

(i) An issuer must file its formulary quarterly, following the filing instructions defined by the insurance commissioner in WAC 284-44A-040, 284-46A-050, and 284-58-025.

(ii) An issuer's formulary does not have to be substantially equal to the base-benchmark plan formulary in terms of formulary placement.

(7) A health benefit plan must cover "rehabilitative and habilitative services" in a manner substantially equal to the base-benchmark plan.

(a) For purposes of determining a plan's actuarial value, an issuer must classify as rehabilitative services the medically necessary services that help a person keep, restore or improve skills and function for daily living that have been lost or impaired because a person was sick, hurt or disabled.

(b) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as rehabilitative services:

(i) Cochlear implants;

(ii) Inpatient rehabilitation facilities and professional services delivered in those facilities;

(iii) Outpatient physical therapy, occupational therapy and speech therapy for rehabilitative purposes;

(iv) Braces, splints, prostheses, orthopedic appliances and orthotic devices, supplies or apparatus used to support, align or correct deformities or to improve the function of moving parts; and

(v) Durable medical equipment and mobility enhancing equipment used to serve a medical purpose, including sales tax.

(c) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes these services. If an issuer includes the following benefits in a health plan, the issuer may not include these benefits in establishing actuarial value for the rehabilitative and habilitative services category:

(i) Off-the-shelf shoe inserts and orthopedic shoes;

(ii) Exercise equipment for medically necessary conditions;

(iii) Durable medical equipment that serves solely as a comfort or convenience item; and

(iv) Hearing aids other than cochlear implants.

(d) For purposes of determining a plan's actuarial value, an issuer must classify as habilitative services the range of medically necessary health care services and health care devices designed to assist a person to keep, learn or improve skills and functioning for daily living. Examples include services for a child who isn't walking or talking at the expected age, or services to assist with keeping or learning skills and functioning within an individual's environment, or to com-

pensate for a person's progressive physical, cognitive, and emotional illness. These services may include physical and occupational therapy, speech-language pathology and other services for people with disabilities in a variety of inpatient or outpatient settings.

(i) As a minimum level of coverage, an issuer must establish limitations on habilitative services on parity with those for rehabilitative services. A health benefit plan may include such limitations only if the limitations take into account the unique needs of the individual and target measurable, and specific treatment goals appropriate for the person's age and physical and mental condition. When habilitative services are delivered to treat a mental health diagnosis categorized in the most recent version of the DSM, the mental health parity requirements apply and supersede any rehabilitative services parity limitations permitted by this subsection.

(ii) A health benefit plan must not limit an enrollee's access to covered services on the basis that some, but not all, of the services in a plan of treatment are provided by a public or government program.

(iii) An issuer may establish utilization review guidelines and practice guidelines for habilitative services that are recognized by the medical community as efficacious. The guidelines must not require a return to a prior level of function.

(iv) Habilitative health care devices may be limited to those that require FDA approval and a prescription to dispense the device.

(v) Consistent with the standards in this subsection, speech therapy, occupational therapy, physical therapy, and aural therapy are habilitative services. Day habilitation services designed to provide training, structured activities and specialized assistance to adults, chore services to assist with basic needs, vocational or custodial services are not classified as habilitative services.

(vi) An issuer must not exclude coverage for habilitative services received at a school-based health care center unless the habilitative services and devices are delivered pursuant to federal Individuals with Disabilities Education Act of 2004 (IDEA) requirements and included in an individual educational plan (IEP).

(e) The base-benchmark plan's visit limitations on services in the rehabilitative and habilitative services category include:

(i) Inpatient rehabilitation facilities and professional services delivered in those facilities are limited to thirty service days per calendar year; and

(ii) Outpatient physical therapy, occupational therapy and speech therapy are limited to twenty-five outpatient visits per calendar year, on a combined basis, for rehabilitative purposes.

(f) State benefit requirements classified to this category include:

(i) State sales tax for durable medical equipment; and

(ii) Coverage of diabetic supplies and equipment (RCW 48.44.315, 48.46.272, 48.20.391, and 48.21.143).

(g) An issuer must not classify services to the rehabilitative services category if the classification results in a limitation of coverage for therapy that is medically necessary for an enrollee's treatment for cancer, chronic pulmonary or respira-

tory disease, cardiac disease or other similar chronic conditions or diseases. For purposes of this subsection, an issuer must establish limitations on the number of visits and coverage of the rehabilitation therapy consistent with its medical necessity and utilization review guidelines for medical/surgical benefits. Examples of these are, but are not limited to, breast cancer rehabilitation therapy, respiratory therapy, and cardiac rehabilitation therapy. Such services may be classified to the ambulatory patient or hospitalization services categories for purposes of determining actuarial value.

(8) A health plan must cover "laboratory services" in a manner substantially equal to the base-benchmark plan. For purposes of determining actuarial value, an issuer must classify as laboratory services the medically necessary laboratory services and testing, including those performed by a licensed provider to determine differential diagnoses, conditions, outcomes and treatment, and including blood and blood services, storage and procurement, and ultrasound, X ray, MRI, CAT scan and PET scans.

(a) A health benefit plan must include the following services, which are specifically covered by the base-benchmark plan, and classify them as laboratory services:

(i) Laboratory services, supplies and tests, including genetic testing;

(ii) Radiology services, including X ray, MRI, CAT scan, PET scan, and ultrasound imaging; and

(iii) Blood, blood products, and blood storage, including the services and supplies of a blood bank.

(b) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes procurement and storage of personal blood supplies provided by a member of the enrollee's family when this service is not medically indicated. If an issuer includes this benefit in a health plan, the issuer may not include this benefit in establishing the health plan's actuarial value.

(9) A health plan must cover "preventive and wellness services, including chronic disease management" in a manner substantially equal to the base-benchmark plan. For purposes of determining a plan's actuarial value, an issuer must classify as preventive and wellness services, including chronic disease management, the services that identify or prevent the onset or worsening of disease or disease conditions, illness or injury, often asymptomatic; services that assist in the multidisciplinary management and treatment of chronic diseases; and services of particular preventative or early identification of disease or illness of value to specific populations, such as women, children and seniors.

(a) If a plan does not have in its network a provider who can perform the particular service, then the plan must cover the item or service when performed by an out-of-network provider and must not impose cost-sharing with respect to the item or service. In addition, a health plan must not limit sex-specific recommended preventive services based on an individual's sex assigned at birth, gender identity or recorded gender. If a provider determines that a sex-specific recommended preventive service is medically appropriate for an individual, and the individual otherwise satisfies the coverage requirements, the plan must provide coverage without cost-sharing.

(b) A health benefit plan must include the following services as preventive and wellness services, including chronic disease management:

(i) Immunizations recommended by the Centers for Disease Control's Advisory Committee on Immunization Practices;

(ii)(A) Screening and tests for which the U.S. Preventive Services Task Force for Prevention and Chronic Care have issued A and B recommendations on or before the applicable plan year.

(B) To the extent not specified in a recommendation or guideline, a plan may rely on the relevant evidence base and reasonable medical management techniques, based on necessity or appropriateness, to determine the frequency, method, treatment, or setting for the provision of a recommended preventive health service;

(iii) Services, tests and screening contained in the U.S. Health Resources and Services Administration ("HRSA") Bright Futures guidelines as set forth by the American Academy of Pediatricians; and

(iv) Services, tests, screening and supplies recommended in the HRSA women's preventive and wellness services guidelines:

(A) If the plan covers children under the age of nineteen, or covers dependent children age nineteen or over who are on the plan pursuant to RCW 48.44.200, 48.44.210, or 48.46.-320, the plan must provide the child with the full range of recommended preventive services suggested under HRSA guidelines for the child's age group without cost-sharing. Services provided in this regard may be combined in one visit as medically appropriate or may be spread over more than one visit, without incurring cost-sharing, as medically appropriate; and

(B) A plan may use reasonable medical management techniques to determine the frequency, method, treatment or setting for a recommended preventive service, including providing multiple prevention and screening services at a single visit or across multiple visits.

(v) Chronic disease management services, which typically include, but are not limited to, a treatment plan with regular monitoring, coordination of care between multiple providers and settings, medication management, evidence-based care, measuring care quality and outcomes, and support for patient self-management through education or tools; and

(vi) Wellness services.

(c) The base-benchmark plan does not specifically exclude any services that could reasonably be classified to this category.

(d) The base-benchmark plan does not establish visit limitations on services in this category.

(e) State benefit requirements classified in this category are:

(i) Colorectal cancer screening as set forth in RCW 48.43.043;

(ii) Mammogram services, both diagnostic and screening (RCW 48.21.225, 48.44.325, and 48.46.275); and

(iii) Prostate cancer screening (RCW 48.20.392, 48.21.-227, 48.44.327, and 48.46.277).

(10) Some state benefit requirements are limited to those receiving pediatric services, but are classified to other categories for purposes of determining actuarial value.

(a) These benefits include:

(i) Neurodevelopmental therapy, consisting of physical, occupational and speech therapy and maintenance to restore or improve function based on developmental delay, which cannot be combined with rehabilitative services for the same condition (RCW 48.44.450, 48.46.520, and 48.21.310). This state benefit requirement may be classified to ambulatory patient services or mental health and substance abuse disorder including behavioral health categories; and

(ii) Treatment of congenital anomalies in newborn and dependent children (RCW 48.20.430, 48.21.155, 48.44.212, and 48.46.250). This state benefit requirement may be classified to hospitalization, ambulatory patient services or maternity and newborn categories.

(b) The base-benchmark plan contains limitations or scope restrictions that conflict with state or federal law as of January 1, 2017. Specifically, the plan covers outpatient neurodevelopmental therapy services only for persons age six and under. Health plans must cover medically necessary neurodevelopmental therapy for any DSM diagnosis without blanket exclusions.

(11) Issuers must know and apply relevant guidance, clarifications and expectations issued by federal governmental agencies regarding essential health benefits. Such clarifications may include, but are not limited to, Affordable Care Act implementation and frequently asked questions jointly issued by the U.S. Department of Health and Human Services, the U.S. Department of Labor and the U.S. Department of the Treasury.

(12) This section applies to health plans that have an effective date of January 1, 2017, or later.

**AMENDATORY SECTION** (Amending WSR 14-09-080, filed 4/18/14, effective 5/19/14)

**WAC 284-43-879 Essential health benefit category—Pediatric oral services.** A health benefit plan must include "pediatric dental benefits" in its essential health benefits package. Pediatric dental benefits means coverage for the oral services listed in subsection (3) of this section, delivered to those under age nineteen.

(1) For benefit years beginning January 1, 2015, a health benefit plan must include pediatric dental benefits as an embedded set of benefits, or through a combination of a health benefit plan and a stand-alone dental plan that includes pediatric dental benefits certified as a qualified dental plan. For a health benefit plan certified by the health benefit exchange as a qualified health plan, this requirement is met if a stand-alone dental plan meeting the requirements of subsection (3) of this section is offered in the health benefit exchange for that benefit year.

(2) The requirements of WAC 284-43-878 and 284-43-880 are not applicable to the stand-alone dental plan. A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The supplemental base-benchmark plan specifically excludes oral



implants, and an issuer should not include benefits for oral implants in establishing a plan's actuarial value.

(3) **Supplementation:** The base-benchmark plan covers pediatric services for the categories set forth in WAC 284-43-878, but does not cover pediatric oral services. Because the base-benchmark plan does not cover pediatric oral benefits, the state EHB-benchmark plan requirements are supplemented for pediatric oral benefits. The Washington state CHIP plan is designated as the supplemental base-benchmark plan for pediatric dental benefits. A health plan issuer must offer coverage for and classify the following pediatric oral services as pediatric dental benefits in a manner substantially equal to the supplemental base-benchmark plan:

- (a) Diagnostic services;
  - (b) Preventive care;
  - (c) Restorative care;
  - (d) Oral surgery and reconstruction to the extent not covered under the hospitalization benefit;
  - (e) Endodontic treatment;
  - (f) Periodontics;
  - (g) Crown and fixed bridge;
  - (h) Removable prosthetics; and
  - (i) Medically necessary orthodontia.
- (4) The supplemental base-benchmark plan's visit limitations on services in this category are:
- (a) Diagnostic exams once every six months, beginning before one year of age;
  - (b) Bitewing X ray once a year;
  - (c) Panoramic X rays once every three years;
  - (d) Prophylaxis every six months beginning at age six months;
  - (e) Fluoride three times in a twelve-month period for ages six and under; two times in a twelve-month period for ages seven and older; three times in a twelve-month period during orthodontic treatment; sealant once every three years for occlusal surfaces only; oral hygiene instruction two times in twelve months for ages eight and under if not billed on the same day as a prophylaxis treatment;
  - (f) Every two years for the same restoration (fillings);
  - (g) Frenulectomy or frenuloplasty covered for ages six and under without prior authorization;
  - (h) Root canals on baby primary posterior teeth only;
  - (i) Root canals on permanent anterior, bicuspid and molar teeth, excluding teeth 1, 16, 17 and 32;
  - (j) Periodontal scaling and root planing once per quadrant in a two-year period for ages thirteen and older, with prior authorization;
  - (k) Periodontal maintenance once per quadrant in a twelve-month period for ages thirteen and older, with prior authorization;
  - (l) Stainless steel crowns for primary anterior teeth once every three years; if age thirteen and older with prior authorization;
  - (m) Stainless steel crowns for permanent posterior teeth once every three years;
  - (n) Metal/porcelain crowns and porcelain crowns on anterior teeth only, with prior authorization;
  - (o) Space maintainers for missing primary molars A, B, I, J, K, L, S, and T;

(p) One resin based partial denture, if provided at least three years after the seat date;

(q) One complete denture upper and lower, and one replacement denture per lifetime after at least five years from the seat date;

(r) Rebasement and relining of complete or partial dentures once in a three-year period, if performed at least six months from the seat date.

(5) This section expires on December 31, 2016.

#### NEW SECTION

**WAC 284-43-8791 Essential health benefit category—Pediatric oral services.** A health benefit plan must include "pediatric dental benefits" in its essential health benefits package. Pediatric dental benefits means coverage for the oral services listed in subsection (3) of this section, delivered to those under age nineteen. Plans must provide this coverage for enrollees until at least the end of the month in which the enrollee turns age nineteen.

(1) For benefit years beginning January 1, 2017, a health benefit plan must include pediatric dental benefits as an embedded set of benefits, or through a combination of a health benefit plan and a stand-alone dental plan that includes pediatric dental benefits certified as a qualified dental plan. For a health benefit plan certified by the health benefit exchange as a qualified health plan, this requirement is met if a stand-alone dental plan meeting the requirements of subsection (4) of this section is offered in the health benefit exchange for that benefit year.

(2) The requirements of WAC 284-43-8781 and 284-43-8801 are not applicable to the stand-alone dental plan.

(3) A health benefit plan may, but is not required to, include the following services as part of the EHB-benchmark package. The base-benchmark plan specifically excludes oral implants, and an issuer should not include benefits for oral implants in establishing a plan's actuarial value.

(4) The base-benchmark plan covers pediatric services for the categories set forth in WAC 284-43-8781 and covers pediatric oral services. The designated base-benchmark plan for pediatric dental benefits consists of the benefits and services covered by health care service contractor Regence Blue Shield as the *Regence Direct Gold* small group plan policy form, policy form number WW0114CCONMSD, and certificate form number WW0114BPPO1SD, offered during the first quarter of 2014 (SERFF filing number RGWA-128968362). A health plan issuer must offer coverage for and classify the following pediatric oral services as pediatric dental benefits in a manner substantially equal to the base-benchmark plan:

- (a) Diagnostic services;
- (b) Preventive care;
- (c) Restorative care;
- (d) Oral surgery and reconstruction to the extent not covered under the hospitalization benefit;
- (e) Endodontic treatment, not including indirect pulp capping;
- (f) Periodontics;
- (g) Crown and fixed bridge;
- (h) Removable prosthetics; and

- (i) Medically necessary orthodontia.
- (5) The base-benchmark plan's visit limitations on services in this category are:
  - (a) Diagnostic exams once every six months, beginning before one year of age, plus limited oral evaluations when necessary to evaluate for a specific dental problem or oral health complaint, dental emergency or referral for other treatment;
  - (b) Limited visual oral assessments or screenings, limited to two per member per calendar year, not performed in conjunction with other clinical oral evaluation services;
  - (c) Two sets of bitewing X rays once a year for a total of four bitewing X rays per year;
  - (d) Cephalometric films, limited to once in a two-year period;
  - (e) Panoramic X rays once every three years;
  - (f) Occlusal intraoral X rays, limited to once in a two-year period;
  - (g) Periapical X rays not included in a complete series for diagnosis in conjunction with definitive treatment;
  - (h) Prophylaxis every six months beginning at age six months;
  - (i) Fluoride three times in a twelve-month period for ages six and under; two times in a twelve-month period for ages seven and older; and three times in a twelve-month period during orthodontic treatment;
  - (j) Sealant once every three years for permanent bicuspids and molars only;
  - (k) Oral hygiene instruction two times in twelve months for ages eight and under if not billed on the same day as a prophylaxis treatment;
  - (l) Restorations (fillings) on the same tooth every two years;
  - (m) Frenulectomy or frenuloplasty covered for ages six and under without prior authorization;
  - (n) Root canals on baby primary posterior teeth only;
  - (o) Root canals on permanent anterior, bicuspid and molar teeth, excluding teeth 1, 16, 17, and 32;
  - (p) Periodontal scaling and root planing once per quadrant in a two-year period for ages thirteen and older;
  - (q) Periodontal maintenance once per quadrant in a twelve-month period for ages thirteen and older;
  - (r) Stainless steel crowns for primary anterior teeth once every three years, if age thirteen and older;
  - (s) Stainless steel crowns for permanent posterior teeth once every three years;
  - (t) Installation of space maintainers (fixed unilateral or fixed bilateral) for members twelve years of age or under, including:
    - (i) Recementation of space maintainers;
    - (ii) Removal of space maintainers; and
    - (iii) Replacement space maintainers when dentally appropriate.
  - (u) One resin-based partial denture, if provided at least three years after the seat date;
  - (v) One complete denture upper and lower, and one replacement denture per lifetime after at least five years from the seat date;

(w) Rebasement and relining of complete or partial dentures once in a three-year period, if performed at least six months from the seat date.

(6) Issuers must know and apply relevant guidance, clarifications and expectations issued by federal governmental agencies regarding essential health benefits. Such clarifications may include, but are not limited to, Affordable Care Act implementation and frequently asked questions jointly issued by the U.S. Department of Health and Human Services, the U.S. Department of Labor and the U.S. Department of the Treasury.

(7) This section applies to health plans that have an effective date of January 1, 2017, or later.

**AMENDATORY SECTION** (Amending WSR 14-23-092, filed 11/19/14, effective 12/20/14)

**WAC 284-43-880 Pediatric vision services.** A health benefit plan must include "pediatric vision services" in its essential health benefits package. The base-benchmark plan covers pediatric services for the categories set forth in WAC 284-43-878 (1) through (9), but does not include pediatric vision services. Pediatric vision services are vision services delivered to enrollees under age nineteen.

(1) A health benefit plan must cover pediatric vision services as an embedded set of services.

(2) **Supplementation:** The state EHB-benchmark plan requirements for pediatric vision benefits must be offered at a substantially equal level and classified consistent with the designated supplemental base-benchmark plan for pediatric vision services, the Federal Employees Vision Plan with the largest enrollment and published by the U.S. Department of Health and Human Services at [www.cciioo.cms.gov](http://www.cciioo.cms.gov) on July 2, 2012.

(a) The vision services included in the pediatric vision services category are:

- (i) Routine vision screening; and
- (ii) A comprehensive eye exam for children, including dilation as professionally indicated and with refraction every calendar year;
- (iii) One pair of prescription lenses or contacts every calendar year, including polycarbonate lenses and scratch resistant coating. Lenses may include single vision, conventional lined bifocal or conventional lined trifocal, or lenticular lenses;

(iv) One pair of frames every calendar year. An issuer may establish networks or tiers of frames within their plan design as long as there is a base set of frames to choose from available without cost sharing;

(v) Contact lenses covered once every calendar year in lieu of the lenses and frame benefits. Issuers must apply this limitation based on the manner in which the lenses must be dispensed. If disposable lenses are prescribed, a sufficient number and amount for one calendar year's equivalent must be covered. The benefit includes the evaluation, fitting and follow-up care relating to contact lenses. If determined to be medically necessary, contact lenses must be covered in lieu of eyeglasses at a minimum for the treatment of the following conditions: Keratoconus, pathological myopia, aphakia,

anisometropia, aniseikonia, aniridia, corneal disorders, post-traumatic disorders, and irregular astigmatism;

(vi) Low vision optical devices including low vision services, training and instruction to maximize remaining usable vision as follows:

(A) One comprehensive low vision evaluation every five years;

(B) High power spectacles, magnifiers and telescopes as medically necessary, with reasonable limitations permitted; and

(C) Follow-up care of four visits in any five year period, with prior approval.

(b) The pediatric vision supplemental base-benchmark specifically excludes, and issuer must not include in its actuarial value for the category:

(i) Visual therapy, which is otherwise covered under the medical/surgical benefits of the plan;

(ii) Two pairs of glasses may not be ordered in lieu of bifocals;

(iii) Medical treatment of eye disease or injury, which is otherwise covered under the medical/surgical benefits of the plan;

(iv) Nonprescription (Plano) lenses; and

(v) Prosthetic devices and services, which are otherwise covered under the rehabilitative and habilitative benefit category.

(3) This section expires on December 31, 2016.

#### NEW SECTION

**WAC 284-43-8801 Pediatric vision services.** A health benefit plan must include "pediatric vision services" in its essential health benefits package. The designated base-benchmark plan for pediatric vision benefits consists of the benefits and services covered by health care service contractor Regence Blue Shield as the *Regence Direct Gold* small group plan policy form, policy form number WW0114CCO-NMSD, and certificate form number WW0114BPPO1SD, offered during the first quarter of 2014 (SERFF filing number RGWA-128968362).

(1) A health benefit plan must cover pediatric vision services as an embedded set of services.

(2) For the purpose of determining a plan's actuarial value, an issuer must classify as pediatric vision services the following vision services delivered to enrollees until at least the end of the month in which enrollees turn age nineteen:

(a) Routine vision screening;

(b) A comprehensive eye exam for children, including dilation as professionally indicated and with refraction every calendar year;

(c) One pair of prescription lenses or contacts every calendar year, including polycarbonate lenses and scratch resistant coating. Lenses may include single vision, conventional lined bifocal or conventional lined trifocal, or lenticular lenses;

(d) One pair of frames every calendar year. An issuer may establish networks or tiers of frames within their plan design as long as there is a base set of frames to choose from available without cost-sharing;

(e) Contact lenses covered once every calendar year in lieu of the lenses and frame benefits. Issuers must apply this limitation based on the manner in which the lenses must be dispensed. If disposable lenses are prescribed, a sufficient number and amount for one calendar year's equivalent must be covered. The benefit includes the evaluation, fitting and follow-up care relating to contact lenses. If determined to be medically necessary, contact lenses must be covered in lieu of eyeglasses at a minimum for the treatment of the following conditions: Keratoconus, pathological myopia, aphakia, anisometropia, aniseikonia, aniridia, corneal disorders, post-traumatic disorders, and irregular astigmatism;

(f) Low vision optical devices including low vision services, training and instruction to maximize remaining usable vision as follows:

(i) One comprehensive low vision evaluation every five years;

(ii) High power spectacles, magnifiers and telescopes as medically necessary, with reasonable limitations permitted; and

(iii) Follow-up care of four visits in any five-year period, with prior approval.

(3) The base-benchmark plan specifically excludes the following benefits. If an issuer includes the following benefits in a health plan, the issuer may not include these benefits in establishing the plan's actuarial value for the pediatric vision services category:

(a) Visual therapy, which is otherwise covered under the medical/surgical benefits of the plan; and

(b) Ordering two pairs of glasses in lieu of bifocals.

(4) Issuers must know and apply relevant guidance, clarifications and expectations issued by federal governmental agencies regarding essential health benefits. Such clarifications may include, but are not limited to, Affordable Care Act implementation and frequently asked questions jointly issued by the U.S. Department of Health and Human Services, the U.S. Department of Labor and the U.S. Department of the Treasury.

(5) This section applies to health plans that have an effective date of January 1, 2017, or later.

#### **WSR 15-16-129**

#### **PROPOSED RULES**

#### **PROFESSIONAL EDUCATOR**

#### **STANDARDS BOARD**

[Filed August 5, 2015, 9:30 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-13-111.

Title of Rule and Other Identifying Information: Amends WAC 181-79A-221 and 181-79A-251. Creates new WAC 181-79A-2510, 181-79A-2511, and 181-79A-2512 to separate and clarify the residency and professional requirements for teachers, principals and administrators, school counselors and psychologists. Provides exception for educators taking national board assessment during the national board delay in revising the assessments.

Hearing Location(s): Red Lion at the Park, 303 West North Drive, Spokane, WA 99201, on September 17, 2015, at 8:30.

Date of Intended Adoption: September 17, 2015.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail david.brenna@k12.wa.us, fax (360) 586-4548, by September 10, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by September 10, 2015, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Changes basic format of rules for different classes of educator licenses by removing sections of rule and creating new sections. Addresses national board effort to revise NBCT assessments, thus creating a problem for educators whose certificates expire during the delay.

Reasons Supporting Proposal: Clarifies requirements. Improves structure of rules for different classes of educator.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

August 5, 2015  
David Brenna  
Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 14-24-057, filed 11/25/14, effective 12/26/14)

**WAC 181-79A-221 Academic and experience requirements for certification—School counselors and school psychologists.** Candidates for school counselor and school psychologist certification shall complete the following requirements in addition to those set forth in WAC 181-79A-150 and 181-79A-226: Provided, That it shall not be necessary for any candidate who holds a master's or doctorate degree to obtain the specified master's degree if the candidate provides satisfactory evidence to the superintendent of public instruction that he or she has completed all course work requirements relevant to the required master's degree and has satisfactorily completed a comprehensive examination required in such master's degree program. This examination shall be an examination of a regionally accredited institution of higher education or the National Counselor Examination (NCE) of the National Board of Certified Counselors (NBCC) or, in the case of school psychologists, hold the

NCSPP accreditation from the National Association of School Psychologists (NASP): Provided, That if any candidate has been awarded a master's degree without a comprehensive examination, the candidate, as a condition for certification, shall successfully complete the Praxis II exam in the appropriate role.

(1) School counselor.

(a) Residency.

(i) The candidate shall hold a master's degree with a major in counseling.

(ii) The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II guidance and counseling examination.

~~(b) ((Continuing-~~

~~(i) The candidate shall hold a valid initial or residency school psychologist certificate, an approved master's degree with a major in counseling, and shall have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved school psychologist program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. Such study shall:~~

~~(A) Be based on the school psychologist performance domains included in WAC 181-78A-270 (5)(a);~~

~~(B) Be taken subsequent to the issuance of the initial or residency school psychologist certificate; and~~

~~(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved school psychologist preparation program.~~

~~(ii) The candidate shall provide documentation of one hundred eighty days or full time equivalent or more employment in the respective role with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.~~

~~(e)) Professional. A professional certificate can be earned in one of the following ways:~~

~~(i) An individual who has successfully completed an approved professional certificate program shall be deemed to meet the requirement for professional certification.~~

~~(ii) An individual who holds a school counseling certificate issued by the National Board for Professional Teaching Standards (NBPTS) shall be deemed to have met the requirement for completion of a professional certificate program, in recognition that NBPTS certification is issued only to individuals who have demonstrated highly advanced skills as a school counselor.~~

~~(c) Beginning with certificates first issued or renewed after July 1, 2015, continuing and professional certificates for school counselors include a requirement for suicide prevention training per RCW 28A.410.226.~~

(2) School psychologist.

(a) Residency.

(i) The candidate shall hold a master's degree with a major or specialization in school psychology.

(ii) The candidate shall have successfully completed a comprehensive examination of the knowledge included in the course work for the required master's degree. This examination shall be a proctored examination of a regionally accredited institution of higher education or the candidate may meet this requirement by receiving a passing score on the Praxis II school psychology examination.

(b) Continuing.

(i) The candidate shall hold a valid initial or residency school psychologist certificate, a master's degree with a major or specialization in school psychology, and have completed at least fifteen quarter (ten semester) credit hours of graduate course work offered by a college or university with a state approved school psychologist program or one hundred fifty clock hours of study, which meet the state continuing education clock hour criteria pursuant to chapter 181-85 WAC, or a combination of credits and clock hours equivalent to the above. The study shall:

(A) Be based on the school psychologist performance domains included in WAC 181-78A-270 (5)(a);

(B) Be taken subsequent to the issuance of the initial or residency school psychologist certificate; and

(C) Be determined in consultation with and approved by the candidate's employer or the administrator of a state approved school psychologist preparation program.

(ii) The candidate shall provide documentation of one hundred eighty days or full-time equivalent or more employment in the ~~((respective))~~ role of school psychologist with an authorized employer—i.e., school district, educational service district, state agency, college or university, private school, or private school system—and at least thirty days of such employment with the same employer.

~~((iii) The candidates must demonstrate their respective knowledge and skills while employed in that role by passing a one-quarter or one-semester college or university course that includes peer review. The college or university shall establish the procedures for the peer review with advice from the respective professional education advisory board.)~~

(c) Professional. ~~((The candidate shall have completed an approved professional certificate program: Provided, That))~~ An individual who holds an NCSP certificate issued by the National Association of School Psychologists (NASP) shall be deemed to have met the requirement for ((completion of a)) professional ((certificate program)) certification, in recognition that NCSP certification is issued only to individuals who have demonstrated highly advanced skills as a school psychologist.

~~((3))~~ (d) Beginning with certificates first issued or renewed after July 1, 2015, continuing and/or professional certificates for school ((counselors and school)) psychologists include a requirement for suicide prevention training per RCW 28A.410.226.

AMENDATORY SECTION (Amending WSR 14-24-057, filed 11/25/14, effective 12/26/14)

**WAC 181-79A-251 Teacher residency and professional certification—Renewal and reinstatement.**  
~~((Renewal and reinstatement.))~~

~~(1) ((Residency certificate.))~~ Residency certificates shall be renewed under one of the following options:

~~(a) ((Teachers-~~

~~(i))~~ Individuals who hold, or have held, residency certificates have the following options for renewal past the first three-year certificate:

~~((A) Candidates))~~ (i) Individuals who have attempted and failed the professional certificate assessment are eligible for a two-year renewal;

~~((B) Candidates))~~ (ii) Individuals who have not been employed or employed less than full-time as a teacher during the dated, three-year residency certificate may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio or they will complete assessment for National Board for Professional Teaching Standards ~~((or they))~~. Individuals not employed as a teacher may permit their certificate to lapse until such time they register for the professional certificate assessment, or the National Board Certification;

~~((C) Candidates))~~ (iii) Individuals whose three-year residency certificate has lapsed may receive a two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certificate assessment or assessment for National Board for Professional Teaching Standards: Provided, That teachers holding certificates expiring in 2014, 2015, or 2016 who have completed the available sections for the National Board Teacher Certificate may receive an additional two-year renewal in 2016 or 2017 to complete the assessment.

~~((ii))~~ (b) A residency certificate expires after the first renewal if the candidate has not registered for and submitted a portfolio assessment prior to June 30th of the expiration year, to achieve the professional certificate, Provided: When the first two-year renewal on residency certificates expires, teachers have ((two)) three renewal options:

~~((A) Teachers))~~ (i) Individuals who were employed but failed the professional certification assessment, may receive a second two-year renewal;

~~((B) Teachers))~~ (ii) Individuals who were unemployed or employed less than full-time as a teacher during the first two-year renewal may permit their certificate to lapse ~~((and receive a))~~. Upon contracting to return to a teacher role, individuals may apply for a final, second two-year renewal by submitting an affidavit to the certification office confirming that they will register and submit a uniform assessment portfolio for the professional certification assessment.

~~((C))~~ (iii) An individual who completes a National Board Certification assessment but does not earn National Board Certification, may use that completed assessment to ~~((renew the residency certificate for two years in lieu of))~~ apply for a final, second two-year renewal by submitting an affidavit to the certification office confirming that they will complete and submit their scores from the assessment for

National Board for Professional Teaching Standards or register and submit the Washington uniform assessment portfolio as per this section, WAC 181-79A-251.

~~((iii) Teachers)) (c) Individuals who hold expired residency certificates may be reinstated by having a district request, under WAC 181-79A-231, a transitional certification not less than five years following the final residency expiration: Provided, That the teacher registers and passes the ((professional certification assessment)) Washington uniform assessment portfolio as per this section, WAC 181-79A-206 or assessment for National Board for Professional Teaching Standards within two years of issuance of the transitional certificate.~~

~~((iv) Teachers that)) (d) Individuals who hold a dated residency certificate prior to September 2011 that have expiration dates past September 2011 are subject to the same renewal options as described in (a)(ii) and (iii) of this subsection.~~

~~((b) Principals/program administrators may renew their residency certificate in one of the following ways:~~

~~(i) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535 (2)(a) may have the certificate renewed for one additional two year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.~~

~~(ii) Individuals who hold, or have held, residency certificates who are not in the role of principal or program administrator may have their residency certificates renewed for an additional five year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education credit hours, directly related to the current performance-based leadership standards as defined in WAC 181-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.~~

~~(e) School counselors and school psychologists may renew their residency certificate in one of the following ways:~~

~~(i) Individuals who hold, or have held, a residency certificate who are not in the role of school counselor or school psychologist may have their residency certificates renewed for an additional five year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.~~

~~(ii) An individual school psychologist who is applying for the National Certificate for School Psychologist (NCSP) may apply for a one-time two-year renewal with verification of NCSP submission. Individuals with expiring certificates in 2014, 2015, 2016, or 2017 may apply for a second two-year renewal with verification of NCSP submission.~~

~~(iii) An individual school counselor who completes a national board certification from the National Board of Pro-~~

~~fessional Teaching Standards (NBPTS) assessment but does not earn national board certification may use that completed assessment to renew the residency certificate one-time for two years.~~

~~(iv) School psychologists with residency certificates dated to expire June 30, 2013, 2014, 2015, 2016, or 2017 may apply until June 30, 2016, for a two-year extension. These individuals may apply for a second two-year extension until June 30, 2018.)~~

~~(2) Teacher professional certificate.~~

~~(a) ((Teachers-~~

~~(i) A valid professional certificate may be renewed for additional five-year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC or by completing the professional growth plan as defined in WAC 181-79A-030. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours: Provided, That professional certificates issued under rules prior to September 1, 2014, retain the option of clock hours or professional growth plans for renewal.)~~ Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

~~(b) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.~~

~~(c) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207.~~

~~(d) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, technology, engineering, and mathematics instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics and science; the designated secondary sciences; technology; and career and technical education endorsements. Certificates being renewed starting in 2019 must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics. This requirement is for all professional teacher certificate holders regardless of date of issuance of the first professional certificate.~~

~~(e) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.~~

~~(f) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years,~~

may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by this section. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(g) For educators holding multiple certificates in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(h) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(i) A valid professional teacher certificate issued prior to September 1, 2014, may be renewed for additional five-year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC or by completing four professional growth plans as defined in WAC 181-79A-030.

(ii) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid ~~((in collaboration with the professional growth team as defined in WAC 181-79A-030))~~ are required for renewal. ~~((The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours:))~~

(iii) An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to ~~((either (a)(i)(A) or (B) of this subsection: Provided, That both categories (a)(i)(A) and (B) of this subsection must be represented in the one hundred fifty continuing education credit hours required for renewal:~~

(A) One or more of the following three standards:

(I) Effective instruction.

(II) Professional contributions.

(III) Professional development.

(B) One of the salary criteria specified in WAC 392-121-

262.

(ii) Beginning September 1, 2014, continuing education or professional growth plans for teachers at the elementary and secondary levels in STEM-related subjects must include a specific focus on the integration of science, mathematics, technology, and engineering instruction as per RCW 28A.410.2212. This renewal requirement applies to the following endorsement areas: Elementary education; early childhood education; middle level mathematics and science; secondary mathematics and science; the designated secondary sciences; technology; and career and technical education endorsements. Certificates being renewed starting in 2019 must demonstrate completion of at least fifteen continuing education credit hours, or at least one goal from an annual professional growth plan, with an emphasis on the integration of science, technology, engineering and mathematics. This requirement is for all professional teacher certificate holders regardless of date of issuance of the first professional certificate.

(iii) one of the three standards: Effective instruction, professional contributions or professional development.

(i) Individuals not in the role ~~((as))~~ of a teacher in a public school or approved private school holding a professional teaching certificate may have their professional certificate renewed for a five-year period by the completion of:

~~((A))~~ (i) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 181-78A-540; or

~~((B))~~ (ii) One hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-79A-207; or

~~((C))~~ (iii) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal. ~~((The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207. Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or~~

~~(D) Teachers addressed in this section are also subject to (a)(ii) of this subsection.~~

~~(iv) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.~~

(b) Principals/program administrators.

(i) A professional certificate may be renewed for additional five-year periods for individuals in the role as a principal, assistant principal or program administrator in a public school or approved private school by:

(A) Completion of four professional growth plans developed annually since the certificate was issued, in collaboration with the professional growth team as defined in WAC 181-79A-030, that documents formalized learning opportunities and professional development activities that relate to the six standards and "career level" benchmarks defined in WAC 181-78A-540(1). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(B) Documented evidence of results of the professional growth plan on student learning.

(C) As per RCW 28A.405.278 beginning September 1, 2016, all professional administrator certificates must complete continuing education on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of professional administrator certificates including requiring knowledge and competencies in teacher and principal evaluation systems as an aspect of professional growth plans (PGPs) used for certificate renewal.

(ii) Individuals not in the role as a principal, assistant principal, or program administrator in a public school or approved private school may have their professional certificate renewed for a five-year period by the completion of:

(A) Fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based leadership standards as defined in WAC 181-78A-540(1) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(1); or

(C) Completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal. Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours; or

(D) Principals, assistant principals, or program administrators addressed in this section are also subject to subsection (b)(i)(C) of this section.

(e) School counselors and school psychologists.

(i) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(A) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the

certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270 (5), (7), or (9); or

(B) Completion of four professional growth plans that are developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030, and that documents formalized learning opportunities and professional development activities that relate to the standards and career level benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(ii) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals in the role as a school counselor or school psychologist in a public school, approved private school, or in a state agency which provides educational services to students by completion of four professional growth plans developed annually since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(iii) Individuals not in the role as a school counselor or school psychologist in a public school or approved private school may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(C) Completion of four annual professional growth plans developed since the certificate was issued in collaboration with the professional growth team as defined in WAC 181-79A-030 that documents formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2). Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(iv) Provided, That a school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater; or



~~(v) Provided, That a school psychologist professional certificate may be renewed based on the possession of a valid national certified school psychology certificate issued by the national association of school psychologists at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the national certified school psychology certificate, whichever is greater.~~

~~(d) Provided, any educator holding a professional certificate in (a), (b), or (c) of this subsection, which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by (a)(ii)(C), (b)(ii)(A), and (c)(ii) of this subsection. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.~~

~~(e) For educators holding multiple certificates in (a), (b), or (c) of this subsection, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.~~

~~(f) The one time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.~~

~~(g) After July 1, 2015, professional certificates for school counselors or psychologists, in addition to the requirements in this chapter, must attend training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.))~~

#### NEW SECTION

**WAC 181-79A-2510 Principal and program administrator residency and professional certification—Renewal and reinstatement.** (1) Principals/program administrators may renew their residency certificate in one of the following ways:

(a) Individuals who hold, or have held, a residency certificate and who qualify for enrollment in a professional educator standards board approved professional certificate program pursuant to WAC 181-78A-507 and 181-79A-145 may have the certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(b) Individuals who hold, or have held, residency certificates who are not in the role of principal or program administrator may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work

from a regionally accredited institution of higher education or completion of one hundred fifty continuing education credit hours, directly related to the current performance-based leadership standards as defined in WAC 181-78A-270 (2)(b) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(2) Professional certificate.

(a) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(b) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(c) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(1).

(d) As per RCW 28A.405.278 beginning September 1, 2016, all professional administrator certificates must complete continuing education on the revised teacher and principal evaluation systems under RCW 28A.405.100 as a requirement for renewal of professional administrator certificates including requiring knowledge and competencies in teacher and principal evaluation systems as an aspect of professional growth plans (PGPs) used for certificate renewal.

(e) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application: Provided, That this section is no longer in effect after June 30, 2020.

(f) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(g) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

#### NEW SECTION

**WAC 181-79A-2511 School counselor residency and professional certification—Renewal and reinstatement.** (1) School counselors may renew their residency certificate in one of the following ways:

(a) Individuals who hold a residency certificate and who qualify for enrollment in a professional certificate program pursuant to WAC 181-78A-535(3) may have the residency certificate renewed for one additional two-year period upon verification by the professional certificate program administrator that the candidate is enrolled in a state approved professional certificate program.

(b) An individual school counselor who completes or intends to complete a National Board of Professional Teaching Standards (NBPTS) school counselor assessment but does not earn National Board Certification may use that completed assessment, or an affidavit of intention to complete, in order to renew the residency certificate one time for two years.

(c) Individuals who hold, or have held, a residency certificate who are not in the role of school counselor may have their residency certificates renewed for an additional five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270(4) since the issuance of the residency certificate.

(2) Professional.

(a) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(b) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-540(2).

(c) Provided, That a school counselor professional certificate may be renewed based on the possession of a valid school counselor certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(d) Provided, any educator holding a professional certificate which requires completion of four PGP's in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by this chapter. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application: Provided, That this section is no longer in effect after June 30, 2020.

(e) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all

certificates held by an individual which is affected by this section.

(f) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(g) After July 1, 2015, professional certificates for school counselors, in addition to the requirements in this chapter, must attend professional educator standards board approved training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.

(i) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(A) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-270(4); or

(B) Completion of four professional growth plans that are developed annually since the certificate was issued.

(ii) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals in the role of a school counselor by completion of four professional growth plans developed annually since the certificate was issued.

(iii) Individuals not in the role of a school counselor may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(C) Completion of four annual professional growth plans developed since the certificate was issued.

#### NEW SECTION

**WAC 181-79A-2512 School psychologist residency and professional certification—Renewal and reinstatement.** (1) School psychologists may renew their residency certificate in one of the following ways:

(a) An individual school psychologist who is applying for the National Certificate for School Psychologist (NCSP) may apply for a one-time two-year renewal with verification of NCSP submission: Provided, That individuals with expiring certificates in 2014, 2015, 2016, or 2017 may apply for a second two-year renewal with verification of NCSP submission.

(b) An individual who holds, or has held, a residency certificate who is not in the role of school psychologist may have their residency certificate renewed for an additional

five-year period by the completion of fifteen quarter credits (ten semester credits) of college credit course work from a regionally accredited institution of higher education or completion of one hundred fifty continuing education hours, directly related to the current performance-based standards as defined in WAC 181-78A-270(5) from a regionally accredited institution of higher education taken since the issuance of the residency certificate.

(c) School psychologists with residency certificates dated to expire June 30, 2013, 2014, 2015, 2016, or 2017, may apply until June 30, 2016, for a two-year extension. These individuals may apply for a second two-year extension until June 30, 2018.

(2) Professional certificate.

(a) Individuals may apply their focused evaluation professional growth activities of the evaluation system toward the professional growth plan for certificate renewal.

(b) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(c) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-79A-207.

(d) Provided, That a professional certificate may be renewed based on the possession of a valid teaching certificate issued by the National Board for Professional Teaching Standards at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the National Board Certificate, whichever is greater.

(e) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans as required by (a)(ii)(C), (b)(ii)(A), and (c)(ii) of this subsection. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(f) For educators holding multiple certificates in as described in WAC 181-79A-251, 181-79A-2150, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(g) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(h) A valid professional teacher certificate issued prior to September 1, 2014, may be renewed for additional five-year periods by the completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC or by completing four professional growth plans as defined in WAC 181-79A-030.

(i) Beginning September 1, 2014, four professional growth plans developed annually during the period in which the certificate is valid in collaboration with the professional growth team as defined in WAC 181-79A-030 are required for renewal.

(j) An expired professional certificate issued under rules in effect prior to September 1, 2014, may be renewed for an additional five-year period by presenting evidence to the superintendent of public instruction of completing the continuing education credit hour requirement within the five years prior to the date of the renewal application. All continuing education credit hours shall relate to one or more of the following three standards: Effective instruction, professional contributions, or professional development.

(3) Professional.

(a) Individuals who complete the requirements of the annual professional growth plan to renew their professional certificate shall receive the equivalent of thirty hours of continuing education credit hours.

(b) The professional growth plans must document formalized learning opportunities and professional development activities that relate to the standards and "career level" benchmarks defined in WAC 181-78A-540(2).

(c) Provided, That a school psychologist professional certificate may be renewed based on the possession of a valid nationally certified school psychologist certificate issued by the National Association of School Psychologists at the time of application for the renewal of the professional certificate. Such renewal shall be valid for five years or until the expiration of the nationally certified school psychologist certificate, whichever is greater.

(d) Provided, any educator holding a professional certificate which requires completion of four PGPs in five years, may renew the professional certificate for one time only by completing one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC, or with completion of fifteen quarter credit hours related to job responsibilities, in lieu of completion of four professional growth plans. Individuals with valid certificates must show completion of the hours as described in this section since the professional certificate was issued. Individuals with an expired professional certificate must complete the hours as described in this section within the five years prior to the date of the renewal application. Provided, That this section is no longer in effect after June 30, 2020.

(e) For educators holding multiple certificates as described in WAC 181-79A-251, 181-79A-2510, 181-79A-2511, or 181-79A-2512 of this chapter, or in chapter 181-85 WAC, a professional growth plan for teacher, administrator, or education staff associate shall meet the requirement for all certificates held by an individual which is affected by this section.

(f) The one-time renewal option of using clock hours or credits in lieu of professional growth plans as required

applies to any/all professional certificates an educator may hold, and is only available to the individual one time. This section is no longer in effect after June 30, 2020.

(g) After July 1, 2015, professional certificates for school psychologists, in addition to the requirements in this chapter, must attend professional educator standards board approved training in suicide prevention as per RCW 28A.410.226 for renewal of their certificate.

(i) For certificates issued under rules in effect prior to September 1, 2014, a valid professional certificate may be renewed for additional five-year periods by:

(A) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(B) Completion of four professional growth plans that are developed annually since the certificate was issued.

(ii) Beginning September 1, 2014, a valid professional certificate may be renewed for additional five-year periods for individuals in the role of a school psychologist by completion of four professional growth plans developed annually since the certificate was issued.

(iii) Individuals not in the role of a school psychologist may have their professional certificate renewed for an additional five-year period by:

(A) Completion of fifteen quarter credits (ten semester credits) of college credit course work directly related to the current performance-based standards as defined in WAC 181-78A-540(2) from a regionally accredited institution of higher education taken since the issuance of the professional certificate; or

(B) Completion of one hundred fifty continuing education credit hours as defined in chapter 181-85 WAC since the certificate was issued and which relate to the current performance-based standards as defined in WAC 181-78A-540(2); or

(C) Completion of four annual professional growth plans developed since the certificate was issued.

**WSR 15-16-130**  
**PROPOSED RULES**  
**PROFESSIONAL EDUCATOR**  
**STANDARDS BOARD**

[Filed August 5, 2015, 9:31 a.m.]

Continuance of WSR 15-13-015.

Preproposal statement of inquiry was filed as WSR 14-06-106.

Title of Rule and Other Identifying Information:  
Amends WAC 181-79A-231, providing clarity to the issuance and use of substitute teaching certificates.

Hearing Location(s): Red Lion at the Park, 303 West North Drive, Spokane, WA 99201, on September 17, 2015, at 8:30.

Date of Intended Adoption: September 17, 2015.

Submit Written Comments to: David Brenna, 600 Washington Street, Room 400, Olympia, WA 98504, e-mail

david.brenna@k12.wa.us, fax (360) 586-4548, by September 10, 2015.

Assistance for Persons with Disabilities: Contact David Brenna by September 10, 2015, (360) 725-6238.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC 181-79A-231, addresses temporary certificates for teaching. A number of classes of substitute teaching certificates are available, with differing requirements. Limitations on the use of emergency substitute certificates are put in place. Also allows interns to apply for their substitute teachings certificates, rather than requiring districts or higher education to recommend such certificates and permits those interns to serve as substitutes.

Reasons Supporting Proposal: Clarifies requirements and relaxes some restrictions. Improves districts' ability to add substitutes to their workforce.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: David Brenna, P.O. Box 42736 [47236], Olympia, WA 98504, (360) 725-6238.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting David Brenna, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6238, fax (360) 586-4548, e-mail david.brenna@k12.wa.us.

August 4, 2015

David Brenna

Senior Policy Analyst

AMENDATORY SECTION (Amending WSR 10-16-124, filed 8/3/10, effective 9/3/10)

**WAC 181-79A-231 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eligibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The professional educator standards board encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The professional educator standards board asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 181-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a bachelor's degree or higher from a regionally accredited college/university. All speech-language pathologists or audiologists providing services under a current and valid conditional certificate issued as of June 30, 2003, will be fully qualified consistent with WAC 181-79A-223 by the year 2010. First conditional certificates, issued to speech-language pathologists or audiologists after June 30, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologists or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university.

(vi) The issuance of a conditional certificate to a special education teacher after July 1, 2003, is contingent upon the individual being enrolled in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education. The conditional certificate is valid for up to two years and may be reissued once for one year upon verification by the college/university that the individual is completing satisfactory progress in the residency teacher certificate program.

(vii) An individual with full certification and endorsed in special education shall be assigned as a mentor to the special education teacher serving on a conditional certificate for the duration of the conditional certificate.

(d) The educational service district or local district superintendent or administrator of an approved private school

will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

(2) Substitute certificate.

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 181-79A-257 (1)(c) and (d).

(b) The substitute certificate is valid for life.

(3) Emergency certification.

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

(4) Emergency substitute certification.

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for ~~((three years or less))~~ one year, as evidenced by the expiration date which is printed on the certificate. Emergency substitute certificated teachers may only teach a maximum of sixty days during the year the certificate is valid. An emergency substitute certificate may only be issued twice to the same individual.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 181-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

(6) Intern substitute teacher certificate.

(a) ~~((School districts and approved private schools may request))~~ Individuals may apply for intern substitute teacher certificates ~~((for persons))~~ when the individual is enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

~~((The supervising college or university must approve the candidate for the intern substitute teacher certificate.~~

~~((e)))~~ Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) ~~((to which the individual is assigned as a student teacher/intern))~~ with subject areas the intern is pursuing an endorsement in.

~~((c)))~~ (c) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

(7) Transitional certificate.

(a) An individual whose continuing or residency certificate has expired according to WAC 181-85-040 or 181-79A-251 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must successfully complete the external assessment established by the professional educator standards board within two years of the date the holder was issued the transitional certificate in order to continue to be employed: Provided, five years has elapsed since the final renewal expired and the teacher registers and passes the professional certificate assessment within the two years under WAC 181-79A-251. The transitional certificate expiration date shall not be calculated under professional educator standards board policy WAC 181-79A-117.

(b) No individual whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 181-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable and may not be reissued.

(8) Provisional alternative administrative certificate.

(a) This certificate shall be issued to individuals admitted to the professional educator standards board alternative route to principal certification pilot program.

(b) The certificate is valid for one year from date of issue.

(c) A comprehensive assessment of the intern's performance by school officials and program faculty and a recommendation that the person be issued a residency principal certificate upon successful completion of the program.

## WSR 15-16-131

### PROPOSED RULES

### DEPARTMENT OF HEALTH

(Board of Optometry)

[Filed August 5, 2015, 9:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-13-100.

Title of Rule and Other Identifying Information: WAC 246-851-090 through 246-851-230, the board of optometry is proposing to update the framework of the continuing education rules.

Hearing Location(s): Creekside Two at Center Point, 20425 72nd Avenue South, Room 307, Kent, WA 98032, on September 21, 2015, at 10:00 a.m.

Date of Intended Adoption: September 21, 2015.

Submit Written Comments to: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2901, by September 17, 2015.

Assistance for Persons with Disabilities: Contact Lorelei Walker, program manager, by September 11, 2015, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Optometrists must complete fifty hours of continuing education (CE) every two years. The proposal amends WAC 246-851-090 through 246-851-230 and creates new WAC 246-851-055 to provide an updated framework for optometrists to follow when selecting continuing education courses that complement their practice. The proposal groups CE course types into five clearly defined categories. A sixth allows credit for practice management. A current certification by the American Board of Optometry or a current Optometric Recognition Award would satisfy the fifty required hours. The proposal repeals WAC 246-851-180 and 246-851-190 and incorporates the content within the amended rules. The proposal also repeals WAC 246-851-130 Post-graduate educational program.

Statutory Authority for Adoption: RCW 18.54.070(2).

Statute Being Implemented: RCW 18.54.070(2).

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

Name of Proponent: Department of health, board of optometry, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4947.

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

A cost-benefit analysis is required under RCW 34.05.-328. A preliminary cost-benefit analysis may be obtained by contacting Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater WA 98501, phone (360) 236-4947, fax (360) 236-2901, e-mail [loralei.walker@doh.wa.gov](mailto:loralei.walker@doh.wa.gov).

August 5, 2015  
Kathy Schmitt  
Deputy Director  
Office of Health  
Professions and Facilities

AMENDATORY SECTION (Amending WSR 98-05-060, filed 2/13/98, effective 3/16/98)

**WAC 246-851-090 Continuing education requirement.** (1) A licensed optometrist((s)) must complete and document fifty hours of continuing education every two years ((as required in)) and comply with chapter 246-12 WAC, Part 7.

(2) ((In lieu of this requirement, licensees practicing solely outside of Washington may meet the continuing education requirements of the state or territory in which they practice-)) A licensed optometrist whose two-year continuing education reporting cycle begins on or after December 1, 2015, must meet the continuing education requirement by:

(a) Completing fifty hours of education that complies with WAC 246-851-125 through 246-851-230; or

(b) Alternatively meeting the requirements of this subsection by providing proof that he or she:

(i) Holds a current Optometric Recognition Award from the American Optometric Association;

(ii) Holds a current certification by the American Board of Optometry or other certification program deemed substantially equivalent to American Board of Medical Specialties' programs; or

(iii) Is practicing solely outside of Washington state and meets the continuing education requirements of the state or territory in which he or she practices.

AMENDATORY SECTION (Amending WSR 97-12-088, filed 6/4/97, effective 7/5/97)

**WAC 246-851-120 Approval of courses.** ~~((+)) The board will individually consider requests for approval of continuing education courses. The board will consider the following course components:~~

~~(a) Whether the course contributes to the advancement and enhancement of skills in the practice of optometry.~~

~~(b) Whether the course is taught in a manner appropriate to the subject matter.~~

~~(c) Whether the instructor has the necessary qualifications, training and/or experience to present the course.~~

~~(2) Courses related to a single product or device will not normally be granted credit.~~

~~(3) Requests must be submitted at least sixty days prior to the date of the course and must include at least:~~

~~(a) Name of the course being offered.~~

~~(b) Location and date of course.~~

~~(c) Course outline.~~

~~(d) Format of activity (e.g., lecture, videotape, clinical participation, individual study).~~

~~(e) Total number of hours of continuing education being offered.~~

~~(f) Name and qualifications of the instructor or speaker-)) The board will not authorize or approve specific continuing education courses or materials. All continuing education courses must contribute to the professional knowledge and development of the practitioner, enhance services provided to patients, and contribute to the practitioner's ability to deliver current standards of care. The board will accept continuing education that reasonably falls within these criteria, and relies upon the integrity of each individual practi-~~

tioner, as well as that of program sponsors, in complying with this requirement and experiencing meaningful and meritorious learning. The board reserves the right to not accept credits from any category for any practitioner if, upon auditing, it determines that a course or material did not provide appropriate information or training.

#### NEW SECTION

**WAC 246-851-125 Category 1—Credit for education from optometry-specific organizations.** (1) A minimum of twenty-five category 1 credit hours must be earned in any two-year reporting period.

(2) Up to ten category 1 credit hours may be earned for live courses attended remotely, provided that attendees have the documented opportunity to question the instructor and hear the questions of other attendees in real time.

(3) Credits may be obtained for in-person live-attended education offered by the following optometry-specific course and program sources:

(a) The American Optometric Association (AOA) and its state affiliates;

(b) Educational institutions accredited by the Association of Schools and Colleges of Optometry (ASCO);

(c) The Association of Regulatory Boards of Optometry (ARBO) and its state agency members;

(d) Nationally recognized academic and scholarly optometric organizations including, but not limited to, the American Academy of Optometry, the Optometric Extension Program, and the College of Optometrists in Vision Development; and

(e) Ophthalmic referral centers, secondary and tertiary ophthalmic specialty providers.

AMENDATORY SECTION (Amending WSR 97-12-088, filed 6/4/97, effective 7/5/97)

**WAC 246-851-140** (~~Continuing education credit for admission to optometric organizations and participation in patient care reviews.~~) **Category 2—Credit for education from nonoptometric organizations.** ((1) Credit may be granted for preparation and admission to optometric scientific groups (for example, the Academy of Optometry).

~~(2) Credit may be granted for participation in a local, county, state or federal professional standard review or planning organization relating to health care agencies or institutions.~~

~~(3) Requests for credit must be submitted to the board at least sixty days prior to the end of the reporting period.~~

~~(4) No more than five credit hours will be granted under this section for any licensee in any two-year reporting period.~~ (1) A maximum of twenty category 2 credit hours may be earned in any two-year reporting period.

(2) Credits may be obtained for in-person live-attended education offered by the following nonoptometry-specific course and program sources:

(a) Category 1 and category 2 continuing medical education courses approved by the medical quality assurance commission;

(b) First aid, CPR, and other emergency-related courses; and

(c) Industry-sponsored scientific courses that enhance the knowledge of ocular conditions and diseases, and their treatments.

AMENDATORY SECTION (Amending WSR 02-10-065, filed 4/26/02, effective 5/27/02)

**WAC 246-851-150** (~~Credit for individual research, publications, and small group study.~~) **Category 3—Credit for teaching.** (((1) Subject to approval by the board, continuing education credit may be granted for:

~~(a) Participation in formal reviews and evaluations of patient care such as peer review and case conferences;~~

~~(b) Participation in small group study or individual research;~~

~~(c) Scholarly papers and articles whether or not the articles or papers are published.~~

~~Requests for credit for papers or articles should include a copy of the article and the number of hours requested.~~

~~(2) Licensees must submit requests for credit to the board at least sixty days prior to the end of the reporting period.~~

~~(3) No more than ten credit hours will be granted under this section to any licensee in any two-year reporting period.~~) (1) A maximum of ten category 3 credit hours may be earned in any two-year reporting period.

(2) Credits may be obtained for formal and informal optometric instruction.

(a) Three credit hours will be granted for each course hour taught.

(b) Credit will be granted for only the first time a course is taught.

(c) Qualifying courses must be presented to optometrists or allied health professionals.

#### NEW SECTION

**WAC 246-851-155 Category 4—Credit for publishing and exhibiting.** (1) A maximum of ten category 4 credit hours may be earned in any two-year reporting period.

(2) Five credits may be obtained for each paper, exhibit, publication, or for each chapter of a book that is authored and published.

(a) A paper must be published in a recognized optometric or medical journal.

(b) A qualifying paper or exhibit must be presented to optometrists or allied health professionals.

(c) Credit may be claimed only once for the scientific materials published or exhibited.

(d) Credit will be assigned as of the date materials were presented or published.

AMENDATORY SECTION (Amending WSR 04-21-077, filed 10/20/04, effective 11/20/04)

**WAC 246-851-170** (~~Self study educational activities.~~) **Category 5—Credit for self-directed study.** ((The board may grant continuing education credit for participation in self study educational activities. The board may grant a licensee a total of twenty-five credit hours under this section



for any two-year reporting period. Self-study educational activities may include:

(1) **Credit for reports.** The board may grant continuing education credit for reports on professional optometric literature. Licensees must submit requests for credit at least sixty days before the end of the reporting period. The request must include a copy of the article, including publication source, date and author. The report must be typewritten and include at least ten descriptive statements from the article.

(a) Professional literature approved for these reports are:

- (i) *Optometry and Physiological Optics*;
- (ii) *American Optometric Association News*;
- (iii) *Contact Lens Spectrum*;
- (iv) *Optometry*;
- (v) *Journal of Optometric Education*;
- (vi) *Journal of Optometric Vision Development*;
- (vii) *Optometric Management*;
- (viii) *Review of Optometry*;
- (ix) *Primary Care Optometry News*;
- (x) *20/20 Magazine*; and
- (xi) Other literature as approved by the board.

(b) Each report qualifies for one credit hour. The board may grant a licensee up to ten credit hours under this subsection if the combined total of twenty-five hours for all types of self-study CE is not exceeded.

(2) **Credit for preprogrammed educational materials.** The board may grant a licensee continuing education credit for viewing and participating in board-approved formal preprogrammed optometric educational materials. The preprogrammed materials must be approved by the Council on Optometric Practitioner Education (COPE), or offered by a board-approved school or college of optometry or other entity or organization approved by the board for credit under this section; and must require successful completion of an examination for certification. The preprogrammed educational materials include, but are not limited to:

- (a) Correspondence courses offered through magazines or other sources;
- (b) Cassettes;
- (c) Videotapes;
- (d) CD-ROM;
- (e) Internet.

The board may grant a licensee up to twenty-five credit hours under this subsection if the combined total for all types of self-study CE does not exceed twenty-five hours in any two-year reporting period. (1) A maximum of twenty-five category 5 credit hours may be earned in any two-year reporting period.

(2) Credits may be obtained for nonsupervised individual continuing educational activities.

(a) Subject matter must be from professional optometric or medical literature or multimedia material;

(b) Course material may be presented in any form of printed or electronic media;

(c) Courses must be approved by a category 1 organization listed in WAC 246-851-120; and

(d) Successful completion of an examination or other assessment tool is required for qualifying credit. Up to ten category 5 credit hours may be earned by submitting in lieu of an assessment tool a nonhandwritten report which includes

a copy of the article, publication source and date, and at least ten descriptive statements from the article.

AMENDATORY SECTION (Amending WSR 97-12-088, filed 6/4/97, effective 7/5/97)

**WAC 246-851-230 Credits for practice management.** ~~((Continuing education credit will be granted for courses or materials involving practice management under WAC 246-851-110 through 246-851-180. No more than ten credit hours will be granted under this section to any licensee in any two-year reporting period.))~~ A maximum of ten credit hours may be granted in any two-year reporting period for practice management courses or programs.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-851-110 Courses presumed to qualify for credit.

WAC 246-851-130 Post-graduate educational program.

WAC 246-851-180 Credit for lecturing.

WAC 246-851-190 Credit for CPR training.

#### **WSR 15-16-134**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **FISH AND WILDLIFE**

[Filed August 5, 2015, 11:28 a.m.]

Supplemental Notice to WSR 15-10-107.

Preproposal statement of inquiry was filed as WSR 15-07-107 filed March 18, 2015

Title of Rule and Other Identifying Information: Amendments to wildlife interaction, depredation and hazing rules.

#### **Damage to Agriculture and Timber:**

##### **WAC 232-12-025 Depredation hunts.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to remove this rule and create new rules under chapter 232-36 WAC, wildlife interaction rules. The new rules will separate bear timber damage from deer, elk, and turkey damage permits and hunts. Additionally, the new rules will adjust the language to reflect items, such as disposition of carcasses, permit materials, damage tags, and reporting requirements.

**Reasons supporting proposal:** The current process for both bear and deer/elk/turkey depredation hunts has been streamlined to provide improved data collection and facilitate an expedited service for those who participate or need to utilize these tools.

##### **WAC 232-28-266 Damage prevention permit hunts.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to remove this rule and capture the intent in rules

under wildlife interaction chapter 232-36 WAC. The proposed rules will include language within each rule to further clarify practices related to damage prevention cooperative agreements and damage hunts to reduce wildlife conflict damage. Also, this proposal increases the kill quota and alters the season dates for chronic damage areas where continual damage is occurring due to elk population in excess of management objectives and better aligns the department's ability to address seasonal crop damage.

**Reasons supporting proposal:** The revisions align with the department's objective to mitigate wildlife damage, to the extent possible, while managing sustainable populations of wildlife species. Currently, there are areas where under the existing kill quotas we are unable to effectively mitigate the damage because the elk population far exceeds manageable numbers; which results in paying higher damage claims. Increasing the quotas will help staff to be more efficient at addressing problems and alleviate pressure on local farmers. Additionally, there are areas where seasonal crop damage occurs prior to the season currently identified for damage hunts; thereby limiting department staff ability to mitigate damage. The change in season dates will assist the department in more effectively applying this tool to address damage and thereby may reduce the potential for paying higher claim values.

#### **WAC 232-36-300 Public hunting requirements.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to include language within the rule to further illustrate that the public hunting requirement is intended to assist with mitigating wildlife damage.

**Reasons supporting proposal:** The department's objective is to mitigate wildlife damage, to the extent possible, using nonlethal measures. However, it is understood that often nonlethal measures are not enough to abate the damage; therefore lethal options are then deployed. We recognize that often hunting pressure alone can deter further damage while providing additional recreational opportunities to hunters.

#### **Proposed New Rules:**

##### **WAC 232-36-090 Limitations to managing damage caused by big game on private property.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal clarifies the roles and responsibilities of the department and owners to work collaboratively to minimize wildlife damage. The proposal provides an opportunity for the owner to appeal if they choose not to comply with recommendations provided by the department.

**Reasons supporting proposal:** The proposed language clearly articulates the responsibilities of both the department and the owner to work cooperatively. The proposed rule provides the owner a process by which to reject actions recommended by the department. The proposal provides the department a process by which to cease with assistance when owners do not want to cooperate or comply.

##### **WAC 232-36-310 Damage prevention permit hunts—Deer, elk and turkey.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to remove WAC 232-28-266 and replace it with this proposed rule under chapter 232-36 WAC, wildlife interaction rules. The language of the new rule improves efforts to address chronic damage areas by aligning the seasons with crop damage periods and increasing quotas. Also, the proposal clearly identifies the use of damage prevention cooperative agreements, use of damage prevention permits, and damage tags. The proposal assists the department in clarifying the differences among deer/elk and turkey damage.

**Reasons supporting proposal:** The current process for both bear and deer/elk depredation hunts has been streamlined to provide improved data collection and facilitate an expedited service for those who participate. These activities are specifically related to wildlife damage prevention and therefore should be under chapter 232-36 WAC, wildlife interaction rules. This rule is specific to deer, elk and turkey and serves to further the department's ability to mitigate deer, elk, turkey damage during the appropriate time frames.

##### **WAC 232-36-320 Black bear timber damage depredation permits.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal creates a separate rule that addresses restrictions and requirements related to black bear damage to commercial timber. In addition, the proposed rule modifies the language to reflect the process for abating bear timber damage, as the program has been streamlined to provide improved data collection and facilitate an expedited service for those who are impacted and those who participate.

**Reasons supporting proposal:** The department's objective is to mitigate the various types of wildlife damage, to the extent possible. This action will create a standalone rule for a primary damage issue the department manages. The revisions align [and] clarify the restrictions for bear removals in response to tree damage and assist in differentiating black bear timber damage from deer, elk and turkey damage.

**Change from original CR-102:** Removed text stating "unlawful to retain parts of harvested animals." The rule requires all harvested bears be disposed of as conditioned on the permit.

#### **Killing Wildlife in Protection of Property:**

##### **WAC 232-36-051 Killing wildlife causing private property damage.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to clarify when landowners may kill deer, elk, bear, and cougar in the act of causing damage and to clarify the use of damage prevention and kill permits.

**Reasons supporting proposal:** The damage prevention and kill permits are offered to provide additional opportunity for abating wildlife damage when other measures have failed. This revision will clearly identify current terms of use for these permits without limiting the rights of property owners to defend their property.

**Change from original CR-102:** Clarifies that landowners can kill one deer, elk, bear, cougar (but not all big game (e.g., big horn sheep)) without a permit if caught in the act of causing damage or multiple deer or elk (but not all big game) if the owner has permits to do so.

**WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to include WAC 232-12-142 Special trapping permits, which often result in wildlife being killed to protect property or for personal safety reasons.

**Reasons supporting proposal:** The rule currently outlines proper disposal of wildlife taken for personal safety or for causing private property damage but fails to identify one of the primary permits specifically designed to address those issues. The inclusion here within helps to direct permit holders.

**WAC 232-36-510 Failure to abide by the conditions of permits, provide completed forms, or submit required documents or reports.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal modifies the language to reflect the correct title of the certifications and permits.

**Reasons supporting proposal:** The proposed language correctly identifies the parties responsible for reporting.

**Proposed New Rules:**

**WAC 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal creates a separate rule which outlines the restrictions and requirements related to bear and cougar removals in response to livestock losses and property damage other than timberland tree damage.

**Reasons supporting proposal:** This action will create a stand alone rule, under chapter 232-36 WAC, wildlife interaction rules, for cougar and bear depredation removals. The standalone rule will assist in clarifying acceptable actions for responding to bear and cougar depredations. This rule is separate of WAC 232-12-243 which addresses chronic areas and public safety.

**Compensation:**

**WAC 232-36-100 Payment for commercial crop damage—Limitations.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to modify the existing language to better articulate agreements utilized by the department and limitations for compensation.

**Reasons supporting proposal:** The intent is to alleviate confusion for owners regarding the limitations for crop damage claims.

**Change from original CR-102:** Clarified that claims will be denied if there is no damage prevention cooperative agreement (DPCA), noncompliance with DPCA terms, or no waiver from DPCA from director. Clarified that prevention

measures shall be applicable, legal, practical, and industry recognized.

**WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to reinstate the shared responsibility which was inadvertently deleted from WAC during a previous review. Additionally, existing language is modified to clarify confusion on the claims process; including the use of claims adjustors.

**Reasons supporting proposal:** This serves to clarify confusion between landowner, claimant, and applicant. Also, the revisions serve to illustrate the claimant's role, continue the collaborative process with the claimant and the department, provide quality assessments, and minimize or avoid frivolous assessments.

**WAC 232-36-210 Application for cash compensation for livestock damage or other domestic animal—Procedure.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to provide the claimant with ample time to request and file the appropriate claim package paperwork. Allows the claimant to utilize the damage prevention agreement, a checklist, or a director approved waiver. Further, this clarifies the options for appealing an offer of compensation.

**Reasons supporting proposal:** This serves to facilitate the claims process, continue positive collaboration with the claimant and the department, provide an adequate period of time for claimants to request and submit claims. Explains that the landowner may use an informal resolution or adjudicative process for appeal per WAC 232-36-400.

**Change from original CR-102:** Requires inclusion of a DPCA-L or prevention measures checklist or director approved waiver to make claims. Explains that the landowner may use an informal resolution or adjudicative process for appeal pursuant to WAC 232-36-400.

**Wildlife Control Operators (WCO):**

**WAC 232-36-060 Director or his/her designee is empowered to grant wildlife control operator certifications.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to clearly articulate the WCO certification process. This revision further explains methods for documenting experience.

**Reasons supporting proposal:** This serves to clarify the rules associated with WCOs and eliminate confusion between the WCO certification versus the permit.

**Changes from original CR-102:** Identifies ways a WCO applicant can meet the two year experience requirement.

**WAC 232-36-065 Director or his/her designee is empowered to issue wildlife control operator permits to address wildlife interactions.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of the proposal is to clearly articulate the responsibilities and requirements of the WCO under their certification and per-

mits and to articulate retention of fur from animals taken under WCO permits.

**Reasons supporting proposal:** This serves to streamline the rules associated with WCOs while making technical changes to clarify, correct, and update language. These revisions will further the department's ability to utilize the WCO program and maximize benefits for landowners and other customers of the department.

**Changes from original CR-102:** Clarifies possession of raw fur is only permissible for personal or educational use. Not for commerce.

**WAC 232-12-142 Special trapping permit—Use of body-gripping traps.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose is to modify the existing language to clearly articulate the use of a special trapping permit, and clarify questions regarding possession of carcasses and continual renewal of permits which are limited to thirty days. Limiting the thirty day permits to one permit renewal within a twelve month period will improve the department's ability to ensure these permits are being utilized to address wildlife conflict events as they occur and lessen the likelihood that these permits would be used as a continuous year-long trapping effort. Further, language was added to exclude the consideration of bal chatri traps for falconry as body gripping traps. Additional language was added to clarify that raw fur may be retained for personal use or education purposes which do not result in retail sale or commerce.

**Reasons supporting proposal:** The amended language provides further clarification regarding use of special trapping permits and carcass retention. The revision also addresses the continual renewal requests for permits that were intended to resolve a conflict issue within thirty days not act as a continuous maintenance program.

**Change from original CR-102:** Excludes bal chatri traps from body gripping definition. Prohibits the sale of fur (raw or processed) when captured under a special trapping permit (i.e. use of body-gripping trap). Raw fur may be retained for personal or educational purposes only.

**Proposed New Rules:**

**WAC 232-36-054 Use of body-gripping traps and exceptions.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal purposefully identifies restrictions associated with the use of body-gripping traps and separates these restrictions from the general trapping rule.

**Reasons supporting proposal:** This action serves to create a separate rule which clearly identifies the restrictions associated with the use of body-gripping traps and for which purposes these traps may be used.

**WAC 232-36-066 Report required of certified wildlife control operators.**

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** This proposal clearly articulates the reporting requirements of certified WCOs.

**Reasons supporting proposal:** The proposed language outlines the reporting responsibilities of WCOs; separate of those individuals participating in furbearer trapping. The proposed rule also assists in better aligning the WCO program with the trapping program.

**Change from original CR-102:** WCO failure to report follows a similar process and violation stipulations as trappers. However, false reports are considered a gross misdemeanor per RCW 77.15.270.

Hearing Location(s): Red Lion at the Park, Riverfront Ballroom A, 303 West North River Drive, Spokane, WA 99201, on September 18-19, 2015, at 8:00 a.m.

For additional agenda information, see [www.wdfw.gov/commission/](http://www.wdfw.gov/commission/).

Date of Intended Adoption: On or after September 18, 2015.

Submit Written Comments to: Wildlife Program Commission Meeting Public Comments, 600 Capitol Way North, Olympia, WA 98501, e-mail [wildthing@dfw.wa.gov](mailto:wildthing@dfw.wa.gov), fax (360) 902-2162, by August 30, 2015,

Assistance for Persons with Disabilities: Contact Tami Lininger by September 4, 2015, TTY (800) 833-6388 or (360) 902-2267.

**Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules:** The department is proposing revisions to the proposed changes to wildlife interaction rules to provide the department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions clarify roles, responsibilities, process and requirements for trappers, WCOs, permit holders, hunters, and landowners that participate in activities. The proposed changes will assist the department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the department as well as lessen the likelihood for confusion regarding the tools used for mitigation. The changes proposed as part of this supplemental CR-102 also incorporate feedback, suggestions, and concerns received by stakeholders and interest groups.

**Reasons Supporting Proposal:** During 2013, several wildlife conflict responsibilities were transferred from Washington department of fish and wildlife (WDFW) law enforcement to the WDFW wildlife program. As a result, the department is advancing efforts to improve management of wildlife conflict issues. The proposed revisions will address frequent questions and concerns regarding the various components of wildlife conflict mitigation; including permits, licenses, tags, and reporting requirements for the variety of harvest opportunities afforded through assisting the department with conflict abatement. These revisions will further facilitate the department's ability to address wildlife conflict problems. The proposed changes are largely a result of the recent transition of conflict responsibilities from enforcement to wildlife, discussions with stakeholders, and the need for clear guidance to the department and the public.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

Statute Being Implemented: RCW 77.04.012, 77.04.020, 77.04.055, 77.12.047, 77.12.240, 77.12.320, 77.12.150, 77.15.245, and chapter 77.36 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: When filing the permanent rule-making order (CR-103P), the WAC sections containing rule amendments will be consolidated into two or three order typing service (OTS) documents.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Nate Pamplin, Natural Resources Building, (360) 902-2515; and Enforcement: Steven Crown, Natural Resources Building, (360) 902-2373.

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

#### Small Business Economic Impact Statement

**1. Description of the Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule:** Revisions are being proposed to the wildlife interaction rules to provide the department guidance for managing wildlife conflict issues and implementing abatement measures. The proposed revisions are intended to clarify roles, responsibilities, process and requirements for trappers, WCOs, permit holders, hunters, and landowners that participate in activities to assist the department with abating wildlife damage and conflict issues and to further facilitate an improved understanding of the assistance available through the department as well as lessen the likelihood for confusion regarding the tools used for mitigation.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** There are no additional anticipated professional services required to comply with these changes. Under the current rules applicants for claims of livestock or agricultural losses are responsible for assessing the value of their losses; some small businesses may need to hire bookkeepers, accountants, or other professionals to assist with required paperwork for documenting losses and other impacts to their crop or livestock operation; WCOs will still be required to pay their certification fee and dispose of animals in a lawful manner; and hunters will still need to comply with hunting license and tag requirements for damage permits. WDFW will continue to assist owners of crop or livestock if they chose to employ preventive nonlethal and lethal means to prevent losses.

The proposed changes include extending the time period allotted for filing claim and thereby allow the crop/livestock owner ample time to file their claim.

The proposed change in season dates for deer/elk and turkey may result in less damage to crops and thereby have a positive impact to crop owners.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** The proposed rules do not require any additional equipment, supplies, labor, or administrative costs as the rules are administrative in nature. Therefore,

there are no expected additional costs to comply with the proposed rules. However, if a landowner does not want to engage in conflict prevention measures, even after several attempts by WDFW to provide technical assistance, then the owner may incur greater losses.

**4. Will Compliance with the Rule Cause Businesses to Lose Sales or Revenue?** No, the intent of the proposed rules is to assist businesses and avoid damage or losses from wildlife. If businesses follow the procedures in these rules, they should be able to minimize lost sales or revenue. Therefore, the proposed rules should not cause any businesses to lose sales or revenue.

**5. Cost of Compliance for the Ten Percent of Businesses That are the Largest Businesses Required to Comply with the Proposed Rules, Using One or More of the Following as a Basis for Comparing Costs:**

(a) Cost per employee;

(b) Cost per hour of labor; or

(c) Cost per one hundred dollars of sales.

Now compare the largest businesses' cost of compliance with the cost of compliance for small businesses. Will this rule have a disproportionate impact on small businesses? None, the proposed rules do not require any additional equipment, supplies, labor, or administrative costs as the current rules. The costs/fees remain unchanged.

Larger agriculture or livestock operations will experience more costs than smaller operators for things like fence installation, hazing, and bookkeeping/accounting, but the reason for this is that they have a larger land mass or more livestock to protect. Their cost has little correlation to the costs of complying with these rules, especially since these rules are already in effect and are designed to help businesses avoid losses.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So:** The department has stationed staff in all regions of the state to work closely with landowners, livestock and crop producers, hunters, and WCOs to deter wildlife that cause damage. Increased staff involvement and increased preventative measures should result in improved response to conflict issues and potentially fewer losses caused by wildlife.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** The department has collaborated on an ongoing basis with commercial growers, livestock producers, WCOs, and hunters to develop rules that are fair to everyone but that also help to deter abuses. WDFW will notify stakeholders of the opportunity to comment on these rules and to continue collaborating on changes.

**8. A List of Industries That Will Be Required to Comply with the Rule:** Growers of commercial crops, commercial timber, and livestock producers; and WCOs.

**9. An Estimate of the Number of Jobs That Will Be Created or Lost as the Result of Compliance with the Proposed Rule:** These proposed rule changes are administrative in nature and detail the process WDFW will use to address wildlife conflict issues. No increase or decrease in jobs is anticipated.

A copy of the statement may be obtained by contacting Wildlife Program Customer Service, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2515, fax (360) 902-2162, e-mail wildthing@dfw.wa.gov.

A cost-benefit analysis is not required under RCW 34.05.328. This proposal relates to wildlife interaction rules and does not involve hydraulics.

August 5, 2015  
Joanna Eide  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 01-17-067, filed 8/15/01, effective 9/15/01)

**WAC 232-12-142 Special trapping permit**~~((—Use of body-gripping traps))~~. For abating wildlife conflict, the applicant shall submit a special trapping permit application as provided by the department.

(1) As used in this section, unless the context clearly requires otherwise, the following definitions apply:

(a) ("Animal" means any nonhuman vertebrate.

(b) "Animal problem" means any animal that threatens or damages timber or private property or threatens or injures livestock or any other domestic animal.

(e)) "Body-gripping trap" as defined by RCW 77.15.192 means a trap that grips an animal's body or body part. Body-gripping trap includes, but is not limited to, unpadded foot-hold traps, padded foot-hold traps, Conibear traps, neck snares, and nonstrangling foot snares. Cage and box traps, suitcase-type live beaver traps, bal chatri traps for falconry, and common rat and mouse traps are not considered body-gripping traps.

((d)) (b) "Conibear or Conibear-type trap" means any trap of various manufacturers having design and operational characteristics essentially the same as or like that developed by Frank Conibear and designed and set to grip and hold an animal's body across its main axis.

((e)) (c) "In water" means beneath the water surface so that the trap is completely submerged.

((f)) (d) "Nonstrangling-type foot snare" means a cable or wire designed and set to encircle and hold an animal's foot or limb. Bal chatri traps for falconry are not considered non-strangling-type foot snare traps because they are not designed to ultimately kill the bird but rather to ensure the bird's health and safety and cause no harm by bal chatri slip nooses which are constructed of monofilament nylon.

((g)) "Padded foot hold trap" means a trap designed and set to grip the foot of an animal, both jaws of which are covered with rubber pads having a minimum thickness of one-eighth inch.

((h)) (e) "Special trapping permit" means a ((special trapping)) permit issued to a person under the authority of RCW 77.15.194 and the provisions of this section to use certain body-gripping traps to abate an animal problem for thirty days.

((i)) (f) "Permittee" means the person to whom a special trapping permit is granted.

((j)) "Raw fur" means a pelt that has not been processed for purposes of retail sale.)

(2) It is unlawful to trap ((animals)) wildlife using body-gripping traps without a special trapping permit issued by the department.

(3) It is unlawful to fail to comply with any conditions of a special trapping permit to trap.

(4) ((It is unlawful for any)) Persons issued a special trapping permit ((to fail to complete and submit to the department)) must submit a report of ((animals)) wildlife taken ((under the permit. This report is due)) to the department within ten days ((of)) after the permit expiration date ((of)) as defined on the permit.

(5) It is unlawful to knowingly offer to sell, barter, or otherwise exchange the raw fur or carcass of a mammal that has been trapped pursuant to a special trapping permit.

(6) A person seeking a special trapping permit shall submit a complete application to the department. ((The applicant shall provide the following information:

(a) Applicant's name, address, and telephone number.

(b) Location(s) of animal problem (physical address or legal description including township, range, and section number).

(c) Description of the animal problem:

(i) Duration of the animal problem:

(ii) Description of the damage or potential damage being caused (i.e., crop, timber, property, livestock, or pet animals, etc.):

(iii) Any threat or potential threat to the health and/or safety of people:

(d) Species of animal causing the problem and, if known, the number of animals involved:

(e) Description of the measures taken to prevent or alleviate the problem or damage:

(f) Explanation of why the measures taken were ineffective to abate the problem or why such measures could not reasonably or effectively be used to abate the animal problem:

(g) Whether Conibear-type traps in water, padded foot-hold traps or nonstrangling-type foot snares will be used:

(h) Species and number of animals to be removed:))

(7) ((For)) To conduct wildlife research, the applicant shall ((provide the following information:

(a) Applicant's name, address, and telephone number.

(b) Location(s) where wildlife trapping will occur (physical address or legal description including township, range, and section number):

(c) Whether padded foot-hold traps or nonstrangling-type foot snares will be used:

(d) Species and number of animals to be captured:

(e) Research objective or proposal:

(f) A copy of a valid department scientific collection permit:

(8) A completed report of animals taken pursuant to a special trapping permit shall include the following information:

(a) Permittee's name, address, and telephone number:

(b) The number of the permit for which the report is being submitted:

(c) The common name of the animal(s) taken, the number of animals taken, and the disposition:

~~(d) For any nontargeted animals taken, the common name of the animal, the number of animals, and the disposition.~~

~~(9) Successive permits for the same animal problem) submit a scientific collection permit application as provided by the department.~~

~~(8) One permit renewal may be requested by completing the justification and applicant certification on the report of animals taken.~~

~~((10)) (9) The conditions of a special trapping permit shall (include:~~

~~(a) The term of the permit is thirty days.~~

~~(b) Any body-gripping trap authorized under a permit shall be checked at least every twenty-four hours.~~

~~(c) Each body-gripping trap authorized under a permit shall have attached to its chain or to the trap a legible metal tag with either the department identification number of the trapper or the name and address of the trapper in English letters not less than one-eighth inch in height.~~

~~(d) Nontargeted species shall be released unharmed if possible.~~

~~(e) Any mammal trapped pursuant to a permit must be lethally dispatched or released as soon as possible, unless taken for scientific research, in which case the animal may be retained alive if so provided in the permit.~~

~~(f) The carcass of any mammal) be determined by the department and be annotated on the permit.~~

~~(10) All parts of animals taken under a special trapping permit must be properly disposed of in a lawful manner. Raw fur may only be retained for personal use or education purposes which do not result in retail sale or commerce.~~

~~((g)) (11) Any retention of raw fur requires a valid Washington state trapper's license.~~

~~(12) A copy of the permit shall be in the immediate possession of the person authorized to trap pursuant to a permit.~~

~~((11)) (13) A special trapping permit may be denied when, in the judgment of the department:~~

~~(a) Other appropriate nonlethal methods to abate damage have not been utilized;~~

~~(b) The alleged animal problem either does not exist or the extent is insufficient to justify lethal removal;~~

~~(c) The use of the requested body-gripping trap(s) would result in direct or indirect harm to people or domestic animals;~~

~~(d) The use of the requested body-gripping trap(s) would conflict with federal or state law, local ordinance or department rule((, or)).~~

~~(e) The application is ((not complete)) incomplete.~~

~~((12)) (14) A special trapping permit may be revoked ((when, in the judgment of)) if the department determines:~~

~~(a) Information contained in the application was inaccurate or false;~~

~~(b) The permittee or person trapping under the permit fails to comply with any of the permit conditions; or~~

~~(c) The permittee or person trapping under the permit exceeds the number of animals authorized.~~

~~((13)) (d) Information becomes available that otherwise would have led to the denial of the original application or the inclusion of additional conditions in the permit.~~

~~(15) If the department denies or revokes a special trapping permit ((is denied or revoked,)) the department ((shall)) will provide the applicant((, in writing,)) a written notice including a statement of the specific reason(s) for the denial or revocation.~~

~~(a) The applicant may request an appeal ((in accordance with)) to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request((s shall be filed)) in writing ((and returned)) within twenty days from the mailing date of the notice of denial ((and be addressed to)) or revocation. Address appeals to WDFW Legal Services Office, ((600 Capitol Way North)) P.O. Box 43137, Olympia, Washington ((98501-1091)) 98504-3137.~~

~~(b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.~~

~~(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.~~

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-12-025 Depredation hunts.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-266 Damage prevention permit hunts.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

**WAC 232-36-051 Killing wildlife causing private property damage.** The fish and wildlife commission is authorized to classify wildlife as game, and/or as endangered species or protected ((species)) wildlife, and/or as a predatory bird consistent with RCW 77.08.010 and 77.12.020. The commission is also authorized, pursuant to RCW 77.36.030, to establish the limitations and conditions on killing or trapping wildlife that is causing damage on private property. The department may authorize, pursuant to RCW 77.12.240 the killing of wildlife destroying or injuring property.

The conditions for killing wildlife vary, based primarily on the classification of the wildlife species, the imminent nature of the threat to damage private property, the type of private property damage, and the preventive and nonlethal methods employed by the person prior to the damage event. Additional conditions defined by the department may also be important, depending on individual situations. Killing wildlife to address private property damage is subject to all other state and federal laws including, but not limited to, Titles 77 RCW and 232 WAC.

(1) It is unlawful to kill protected ((species (as defined in WAC 232-12-011)) wildlife or endangered species (as

defined in (~~WAC 232-12-014~~) RCW 77.08.010) unless authorized by commission rule or with a permit from the department, with the following additional requirements:

(a) Federally listed threatened or endangered species will require federal permits or federal authority, in addition to a state permit.

(b) All migratory birds are federally protected and may require a federal permit or federal authority, in addition to a state permit.

(2) Killing wildlife causing damage to a commercial crop or to livestock.

It is permissible to kill unclassified wildlife, predatory birds, and game animals that are in the act of damaging commercial crops or attacking livestock or other domestic animals, under the following conditions:

(a) Predatory birds (defined in RCW 77.08.010(39)) and unclassified wildlife that are in the act of damaging commercial crops or attacking livestock or other domestic animals may be killed with the express permission of the crop, livestock, domestic animals, or property owner at any time on private property, to protect domestic animals, livestock, or commercial crops.

(b) An owner (~~with a valid, written damage prevention agreement with the department may kill an individual (one) game animal while it is in the act of damaging commercial crops; a permit will be provided if authorized in the agreement.~~

~~(c) An individual (one) game animal may be killed during the physical act of attacking livestock or domestic animals.~~

~~(d) Multiple game animals may be killed while they are in the act of damaging commercial crops or attacking livestock if the owner is issued a kill permit by the department.~~

~~(e) A damage prevention agreement or kill permit must include: An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal; a description of the properties where lethal removal is allowed; the species and sex of the animal that may be killed; the terms of the agreement/permit; the dates when lethal removal is authorized; who may kill the animal(s); and other conditions developed within department procedural documents.) may kill an individual (one) deer, elk, bear, or cougar during the physical act of damaging crops, attacking livestock or domestic animals with or without an agreement or permit.~~

(c) Multiple deer or elk may be killed if they are in the act of damaging commercial crops if the owner, owner's immediate family member, agent of the owner, or owner's documented employee is issued damage prevention or kill permits and the owner has a valid, written damage prevention cooperative agreement with the department.

(3) Killing wildlife causing damage or killing wildlife to prevent private property damage.

~~(a) ((An individual (one) game animal may be killed during the physical act of attacking domestic animals.~~

~~(b))~~ (b)) Predatory birds (as defined in RCW 77.08.010 (39)), unclassified wildlife, and eastern gray squirrels may be killed by the owner of private property, owner's immediate family, agent of the owner, or the owner's documented employee with the express permission of the private real

property owner at any time, to prevent private property damage on private real property.

~~((e))~~ (b) Subject to subsection (7) of this section, the following list of wildlife species may be killed by the owner of the property, owner's immediate family member, agent of the owner, owner's documented employee, or licensed hunters/trappers in a lawful manner with the express permission of the private real property owner, when causing damage to private property: Raccoon, fox, bobcat, beaver, muskrat, mink, river otter, weasel, hare, and cottontail rabbits.

~~((d))~~ (c) The department may make agreements with landowners to prevent private property damage by wildlife. The agreements may ~~((include special hunting season))~~ authorize permits ~~((such as: Landowner damage prevention permits, spring black bear hunting permits, permits issued through the landowner hunting permit program, kill permits, and Master Hunter permits.~~

~~(e))~~ to remove animal(s) to abate private property damage.

(d) Landowners are encouraged to allow general season ~~((hunters during established hunting seasons))~~ hunting and trapping on their property to help minimize damage potential and concerns.

(4) Wildlife control operators may assist property owners under the conditions of their certification or permits ~~((as established in WAC 232-36-060 and 232-36-065))~~ to remove animals causing damage. WCOs may not kill big game animals.

(5) Tribal members may assist property owners under the conditions of valid comanagement agreements between tribes and the department. Tribes must be in compliance with the agreements including, but not limited to, adhering to reporting requirements, possession, and harvest restrictions.

(6) Hunting licenses and/or associated tags are not required to kill wildlife under this section ~~((;))~~ unless the killing is pursuant to subsections ~~((3)(e) and (d))~~ (2)(c) and (3)(b) of this section. Hunters and trappers participating in harvesting wildlife under this section must comply with provisions of each permit. Tribal members operating under subsection (5) of this section are required to meet tribal hunting license, tag, and permit requirements.

(7) Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this rule are subject to the laws and rules of the state ~~((including, but not limited to, those found in Titles 77 RCW and 220 and 232 WAC)).~~

**AMENDATORY SECTION** (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

**WAC 232-36-055 Disposal of wildlife killed for personal safety or for causing private property damage.** The fish and wildlife commission is authorized pursuant to RCW 77.36.030, to establish the limitations and conditions on disposal of wildlife killed or trapped because they were threatening human safety or causing property damage.

Except as specifically provided in a permit from the department or a rule of the commission, people taking wildlife under this title are subject to the laws and rules of the state including, but not limited to, those found in Titles 77



RCW and 220 and 232 WAC. Wildlife taken under this chapter remains the property of the state and may be disposed of in the manner and under the conditions that follow:

~~(1) (Wildlife taken under WAC 232-36-050 (1)(b) and 232-36-051 (1)(b), and 232-36-051 (1)(a)(iii) must be reported to the department within twenty-four hours, and the animal and all parts must be provided to the department or its designees.~~

~~(2) Wildlife taken under WAC 232-36-051 (1)(a)(i) and (ii) becomes the property of the private landowner and may be lawfully disposed consistent with state laws and rules including, but not limited to, Titles 77 RCW and 232 WAC.~~

~~(3) Wildlife taken under WAC 232-36-051 (1)(a)(iv) must be disposed of consistent with the conditions identified under the permit.~~

~~(4) Wildlife taken under WAC 232-36-051(2) may be lawfully possessed by the owner, licensee, and/or permit holder. Possession of legally taken wildlife by tribal members is subject to the laws of their tribe and must be consistent with their agreement with the state.) Wildlife killed subsequent to a permit provided by the department shall be possessed or disposed of in accordance with permit provisions.~~

(2) Except as otherwise provided, all parts of wildlife killed in protection of private property without a permit authorized by the department may not be retained and must be lawfully disposed of as specified by the department or as otherwise provided in statute, rule, or local ordinance.

(3) Except as otherwise provided, big game animals or parts of big game animals killed in protection of private property without a permit must be reported to the department within twenty-four hours.

(4) Disposal methods: Unless otherwise specified in permits issued by the department:

(a) The person killing wildlife, or their designee, is responsible for disposal of killed wildlife and must dispose of the animal, within twenty-four hours or as soon as feasible, in a manner so as not to become a public or common nuisance or cause pollution of surface or groundwater.

(b) The person responsible for disposal of dead wildlife must dispose of it by burial, landfilling, incineration, composting, rendering, or another method approved (such as natural decomposition) that is not otherwise prohibited by federal, state, or local law or regulation.

(c) A person disposing of dead wildlife by burial must place it so that every part is covered by at least three feet of soil; at a location not less than one hundred feet from any well, spring, stream or other surface waters; not in a low-lying area subject to seasonal flooding; and not in a manner likely to contaminate groundwater.

(d) A person disposing of a dead animal must not bury or compost it within the sanitary control area of a public drinking water supply source.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

**WAC 232-36-060 ((Director or his/her designee is empowered to grant wildlife control operator certifications.)) Certification of wildlife control operators.** For purposes of training individuals to assist landowners with

employing nonlethal management techniques, or to harass, kill, trap, release, ~~((and dispatch animals))~~ wildlife that ~~((are))~~ is causing damage to private property, the director or his/her designee may ~~((issue))~~ certify wildlife control operators (WCOs) ~~((certifications)).~~

(1) To ~~((qualify))~~ be eligible to apply for WCO certification, applicants must:

(a) Be at least eighteen years of age;

(b) Must pass the Washington state trapper education exam and possess a minimum of two years experience that demonstrates the knowledge and ability to control wildlife species causing conflict or property damage. Applicants may document the two-year experience requirement by possessing a trapper's license for two years, providing a letter of recommendation from a currently certified WCO or trapper, providing evidence being employed in the wildlife abatement field for two years, providing a written statement verifying they are currently working with a certified WCO, or other method as identified by the department;

(c) Take and ~~((complete))~~ pass the department's approved WCO basic certification((s)) course(s);

~~((Be certified by the department and have the equipment, knowledge, and ability to control the wildlife species causing conflict or property damage.))~~

(d) Be legally eligible to possess a firearm and without a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW, unless firearm possession rights have been restored;

(e) Not have ~~((a gross))~~ any infractions, misdemeanors or fish and wildlife conviction within the last five years; and

(f) Pay the enrollment fee for each certification training/education (RCW 77.12.184). ((After July 1, 2010,)) This fee shall be fifty dollars ((RCW 77.12.184)) per certification.

(2) ~~((Once a person is granted))~~ The department may grant a WCO certification if the applicant meets the criteria for eligibility in subsection (1) of this section and passes the basic certification courses.

(3) If the department grants WCO certification, ((he or she)) the WCO must apply for a permit ((pursuant to WAC 232-36-065 in order to harass, kill, trap, release, or dispatch animals)) to lawfully engage in harassing, killing, trapping, releasing, or dispatching wildlife causing damage to private property.

(4) WCO certification is valid for three years.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

**WAC 232-36-065 ((Director or his/her designee is empowered to issue)) Use of wildlife control operators ((permits)) to address wildlife interactions.** The director or director's designee may issue permits to persons that fulfill the requirements to become a certified wildlife control operator (WCO) for purposes of assisting property owners in managing animals causing damage to private property((, the director or his/her designee may issue permits to wildlife control operators (WCOs). Only WCOs who are certified by the department)). Only persons meeting the WCO certification requirements qualify for such a permit.

(1) ~~((If the certification for a WCO included training for the use of live traps, the WCO may use live traps))~~ Certified WCOs may use nonbody-gripping traps or body-gripping traps with a special trapping permit, outside of designated harvest season to capture ((any animal)) wildlife causing damage or creating an animal problem, as ((that term is)) defined in RCW 77.15.192.

(2) ~~((Depending on a WCO's certification training, he or she may use body gripping traps, but only if he or she complies with RCW 77.15.194.~~

~~(3))~~ WCOs with a valid trapping license may retain raw fur of wildlife taken using a special trapping permit, for personal use or educational purposes that does not result in retail sale or commerce. The carcass must be disposed of in a lawful manner according to WAC 232-36-055.

(3) WCOs who trap wildlife under the authority of a department permit may not release wildlife outside of the property boundary where they were captured without a permit from the department or dispose of such wildlife without the consent of the property owner where ((the)) wildlife is to be ((released or)) disposed.

(4) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee without a WCO certification.

(5) WCOs must submit a complete annual report of all control activity ((on the form supplied)) as directed by the department. ((The report must be received or postmarked on or before the twentieth day of April each year.)) Failure to submit a report may result in ((the department revoking)) revocation of the WCO's certification ((and)) or permits and ((suspending the person's right to)) denial of future certifications ((and)) or permits.

~~((5))~~ (6) The department may develop additional conditions and procedures to include training requirements for WCOs consistent with this rule.

(7) WCO certification and associated permits will be revoked and future certification and permits may be denied by the director or ((issuing authority when, in the judgment of)) director's designee if the department determines:

(a) Information contained in a WCO's application was inaccurate or false;

(b) The WCO fails to comply with department statutes or rules; ~~((or))~~

(c) The WCO violates a trapping or other fish and wildlife law((-

~~(6) A WCO who provides false or misleading information in his or her WCO certification application may be punished under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and permit may be punished under RCW 77.15.750. A WCO who violates trapping or other wildlife laws may be punished under the appropriate statute in Title 77 RCW for that crime.~~

~~(7)); or~~

(d) The WCO is no longer eligible to possess a firearm, has been convicted of a felony or domestic violence conviction including, but not limited to, convictions under chapter 9.41 RCW.

(8) Revocation of certifications and permits shall remain in effect until all issues pertaining to revocation are resolved.

~~(9) If the initial application ((for WCO certification is denied or revoked,)) or the application to renew a WCO's certification is denied or revoked, the department ((shall)) will provide the applicant, in writing, a notice containing a statement of the ((specific)) reason(s) for the denial or revocation.~~

(a) The applicant may request an appeal ((in accordance with)) to contest the denial or revocation pursuant to chapter 34.05 RCW. The department must receive an appeal request((s shall be filed)) in writing ((and returned)) within twenty days from the mailing date of the notice of denial ((and be addressed)) or revocation. Address appeal requests to WDFW Legal Services Office, ((600 Capitol Way North)) P.O. Box 43137, Olympia, Washington ((98501-1091)) 98504-3137.

~~((8))~~ (b) A notice contested by written appeal is final when that proceeding ends in a final order pursuant to chapter 34.05 RCW, or is otherwise dismissed.

(c) If there is no timely request for an appeal, then the department's denial or revocation of the permit is final and effective on the 21st calendar day following the mailing date of the notice of denial or revocation.

(10) WCO certification ((and permits are)) is valid for three years.

~~((9) It is unlawful to trap, harass, or otherwise control wildlife on the property of another for a fee or other consideration without a WCO certification and permit.~~

~~(10) The department may develop additional conditions and procedures, to include training requirements, for WCOs consistent with this rule.)~~ (11) A WCO who provides false or misleading information in his or her WCO certification application may be subject to prosecution under RCW 9A.76.175 or 40.16.030. A WCO who fails to comply with department statutes or rules as required by his or her WCO certification and associated permit may be subject to prosecution under RCW 77.15.750. A WCO who violates trapping or other fish and wildlife laws may be subject to prosecution under the appropriate statute in Title 77 RCW for that crime or infraction.

AMENDATORY SECTION (Amending WSR 13-05-003, filed 2/6/13, effective 3/9/13)

**WAC 232-36-100 Payment for commercial crop damage—Limitations.** Owners, who have worked with the department to prevent deer and elk damage, but continue to experience losses, may be eligible to file a damage claim and receive cash compensation from money appropriated by the legislature. Damages payable under this section are limited to the lost or diminished value of a commercial crop, whether growing or harvested, and ~~((shall))~~ will only be paid ~~((only))~~ to the owner of the crop at the time of damage, without assignment. Cash compensation for claims from deer and elk damage ~~((shall))~~ does not include damage to other real or personal property, including other vegetation or animals, lost profits, consequential damages, or any other damages. The department is authorized to pay up to ten thousand dollars to the owner per claim.

Claims for cash compensation will be denied when:

(1) The claim is for a noncommercial crop;

(2) The owner of the commercial crop does not meet the definition of "eligible farmer" in RCW 82.08.855 (4)(b)(i) through (iv);

(3) The loss estimate is less than one thousand dollars;

(4) ~~((No claim will be processed unless))~~ The owner does not have a valid damage prevention cooperative agreement signed by the owner and the department or a waiver signed by the director and provides the department with an approved checklist of the preventative and nonlethal means that have been employed to prevent damage, and the owner has complied with the terms and conditions of his or her agreement(s) with the department;

(5) An owner or lessee has accepted noncash compensation to offset crop damage in lieu of cash consistent with conditions of the damage prevention cooperative agreement with the department. Acceptance of noncash compensation will constitute full and final payment for crop damages within the growing season of the damaged crop or for the time period specified by the department in writing to the owner;

(6) An owner or lessee has denied the department's offer of fencing as a long-term preventative measure;

(7) The owner or lessee has denied prevention measures offered by the department. The prevention measures offered shall be applicable, legal, practical, and industry recognized.

(8) Damages to the commercial crops claimed are covered by insurance or are eligible for payment from other entities. Any portion of the actual damage not covered by others that exceeds one thousand dollars is eligible for compensation from the department;

~~((8))~~ (9) The property where the damage occurred was not open to public hunting consistent with WAC 232-36-300 for the species causing the damage, unless, as determined by the department, the property is inconsistent with hunting or hunting would not address the damage problem. This includes all properties owned or leased by the owner adjacent to, contiguous to, or in the vicinity of the property where crop damage occurred;

~~((9))~~ (10) The crop is grown or stored on public property;

~~((10))~~ (11) The owner or lessee fails to provide on-site access to the department or designee for inspection and investigation of alleged damage or to verify eligibility for a claim;

~~((11))~~ (12) The owner has not provided a completed written claim form and all other required information, or met required timelines prescribed within WAC 232-36-110;

~~((12))~~ (13) The owner fails to sign a statement affirming that the facts and supporting documents are truthful to the best of the owner's knowledge;

~~((13))~~ (14) The owner or designee has harvested commercial crops without an investigation completed under the direction of the department; ~~((or~~

(14)) (15) The department has expended all funds appropriated for payment of such claims for the current fiscal year.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

**WAC 232-36-110 Application for cash compensation for commercial crop damage—Procedure.** Pursuant to this section, the department may distribute ~~((money))~~ funds appropriated by the legislature to pay commercial crop damage caused by wild deer or elk in the amount of up to ten thousand dollars per claim, unless following an appeal the department is ordered to pay more (see RCW 77.36.130(2)). The department shall develop claim procedures and application forms consistent with this section for cash compensation of commercial crop damage. Partnerships with other public and private organizations to assist with completion of applications, assessment of damage, and to provide funding for compensation are encouraged.

Filing a claim:

(1) ~~((Owners))~~ Claimants who have ~~((worked))~~ cooperated with the department and have a valid damage prevention cooperative agreement to prevent deer or elk damage~~((;))~~ yet ~~((who))~~ still experience loss and meet eligibility requirements, may file a claim for cash compensation.

(2) The claimant must notify the department within seventy-two hours of discovery of crop damage and at least seventy-two hours prior to harvest of the claimed crop.

(3) A complete~~((;))~~ written claim and completed crop assessment must be submitted to the department within sixty days of ~~((when the damage stops))~~ harvest.

(4) ~~((Owners))~~ Claimants may only file one claim per year. Multiple partners in a farming operation are considered one ~~((owner))~~ claimant. Operations involving multiple partners must designate a "primary grower" to receive payment from the department.

(5) The claim form declaration must be signed, affirming that the information provided is factual and truthful per the certification set out in RCW 9A.72.085, before the department will process the claim.

(6) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) A copy of ~~((applicant's))~~ claimant's Schedule F of Form 1040, Form 1120, or other applicable forms filed with the Internal Revenue Service or other documentation indicating the ~~((applicant's))~~ claimant's gross sales or harvested value of commercial crops for the previous tax year.

(b) The assessment method used is consistent with WAC 232-36-120, valuation of property damage.

(c) ~~((Applicant must provide))~~ Proof of ownership of claimed commercial crops or contractual lease of claimed commercial crops consistent with department procedural requirements for submission of documents.

(d) Written documentation of approved methodology used to assess and determine final crop loss and value.

(e) ~~((Applicant must provide))~~ Records documenting average yield on claimed crop and parcel, certified yield reports, production reports and weight certificates completed at the time weighed for claimed year, and other applicable documents that support yield loss and current market price. Current market price will be determined less transportation and cleaning costs when applicable.

(f) A declaration signed under penalty of perjury as provided in RCW 9A.72.085, indicating that the ~~((applicant))~~

claimant is eligible for the claim, meets eligibility requirements listed under this section, and that all claim evaluation and assessment information in the claim application is true and accurate to the best knowledge of the claimant (~~(true and accurate)~~).

(g) A copy of the insurance policy and payment on the commercial crop where loss is claimed.

(h) (~~(Copy)~~) Copies of any applications for other sources of loss compensation and any payment or denial documentation.

Damage claim assessment:

(7) Completion of a damage claim assessment (~~(of)~~) for the amount and value of commercial crop loss is the (~~(primary)~~) responsibility of the claimant. A crop damage evaluation and assessment must be conducted by a licensed crop insurance adjuster in cooperation with the claimant:

(a) The (~~(owner)~~) claimant must submit a damage claim assessment prepared by a crop insurance adjuster licensed by the state of Washington and certified by the federal crop insurance service.

(b) The department will provide the claimant with a list of approved adjustors (~~(and written authorization to proceed with an assessment. The owner must)~~). The claimant may select an adjustor from the approved list and work with the department and the adjustor to arrange for the completion of a crop damage assessment (~~(Adjustor fees will be the responsibility of the department.)~~) or select a state licensed adjustor of their own choosing.

(i) If the claimant selects an adjustor from the approved list, the department will provide the adjustor written authorization to proceed with an assessment and adjustor fees will be the shared responsibility of the owner and the department. The claimant portion of the assessment fees may not exceed one half or a maximum of six hundred dollars, whichever is smaller, and will be deducted from the final payment.

(ii) If the claimant selects a state licensed adjustor of their own choosing then the claimant accepts full responsibility for the assessment fees.

(c) The department or the (~~(owner)~~) claimant may accept the damage claim assessment provided by the licensed adjuster or may hire a state licensed adjustor of their choosing and conduct a separate assessment or evaluation of the crop loss amount and value. The party hiring an adjuster to conduct a separate assessment or evaluation is responsible for payment of all fees.

(8) Disagreement between the claimant and the department over the crop loss value may be settled through an adjudicative proceeding pursuant to chapter 34.05 RCW.

Settlement of claims:

(9) (~~(The crop adjustor's fee is not subject to the ten thousand dollar payment limit per owner.~~

(10)) Compensation paid by the department, in addition to any other compensation received by the claimant, may not exceed the total value of the assessed crop loss.

(~~(11)~~) (10) The (~~(owner)~~) claimant will be notified by the department upon completion of the evaluation and has sixty days to accept or appeal the department's offer for settlement of the claim, or the claim is considered (~~(satisfied)~~) accepted and not subject to appeal.

(~~(12)~~) (11) The department (~~(shall)~~) will prioritize payment for commercial crop damage in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for commercial crop damage during the current fiscal year, the claim (~~(shall)~~) will be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 13-22-056, filed 11/4/13, effective 12/5/13)

**WAC 232-36-210 Application for cash compensation for livestock damage or (~~(other)~~) domestic animal—Procedure.** Pursuant to this section, the department may distribute money specifically appropriated by the legislature or other funding entity to pay livestock or guard dog losses caused by wild bear, cougar, or wolves in the amount of up to ten thousand dollars per claim unless, following an appeal, the department is ordered to pay more (see RCW 77.36.130 (2)). The department will develop claim procedures and application forms consistent with this section for cash compensation of livestock or guard dog losses. Partnerships with other public and private organizations to assist with completion of applications, assessment of losses, and to provide funding for compensation are encouraged.

Filing a claim:

(1) (~~(Owners who have worked with the department to prevent livestock depredation, yet who still experience loss or losses that occur under emergent situations, may file a claim for cash compensation if they meet eligibility requirements.~~

(2)) Claimant must notify the department within twenty-four hours of discovery of livestock or other domestic animal attack or as soon as feasible.

(~~(3)~~) (2) Damage claim assessment of amount and value of domestic animal loss is the primary responsibility of the claimant.

(~~(4)~~) (3) Investigation of the loss and review and approval of the assessment will be conducted by the department:

(a) The (~~(owner)~~) claimant must provide access to department staff or designees to investigate the cause of death or injury to domestic animals and use reasonable measures to protect evidence at the depredation site.

(b) Federal officials may be responsible for the investigation when it is suspected that the attack was by a federally listed species.

(~~(5)~~) Claimant must request a damage claim application within ten days of a loss.

(~~(6)~~) (4) To be eligible a claimant must submit a written statement, within thirty days of discovery of a loss to indicate his or her intent to file a claim.

(5) A complete, written claim must be submitted to the department within ~~((sixty))~~ ninety days of a discovery of an attack on domestic animals or livestock to be eligible for compensation.

~~((7) The)~~ (6) A claim form declaration must be signed, affirming that the information provided is factual and truthful, per the certification set out in RCW 9A.72.085 before the department will process ~~((a))~~ the claim.

~~((8))~~ (7) In addition to a completed claim form, ~~((an applicant))~~ a claimant must provide:

(a) ~~((Claimant must provide))~~ Proof of legal ownership or contractual lease of claimed livestock.

(b) ~~((Claimant must provide))~~ Records documenting the value of the domestic animal based on ~~((current))~~ either market price or value at the time of loss depending upon the determination for cause of loss.

(c) Declaration signed under penalty of perjury indicating that the ~~((applicant))~~ claimant is eligible for the claim, meets eligibility requirements listed under this chapter, and all claim evaluation and assessment information in the claim application is to the best knowledge of the claimant true and accurate.

(d) A copy of any insurance policy covering loss claimed.

(e) ~~((Copy))~~ Copies of applications for other sources of loss compensation and any payment or denial documentation.

(f) The department approved checklist of preventative measures that have been deployed or affirm compliance with the terms and conditions of the claimant's agreement with the department or the director approved waiver.

Settlement of claims:

~~((9))~~ (8) Subject to ~~((money))~~ funds appropriated to pay for domestic animal losses, undisputed claims will be paid up to ten thousand dollars.

~~((10))~~ (9) Valuation of the lost livestock:

(a) For losses caused by wolves, livestock value will be determined by the market at the time the animals would normally be sold. Livestock will be valued based on the average weight of herd mates at the time of sale multiplied by the cash market price received~~((:))~~ and depredated cows or ewes will be replaced based on the value of a bred animal of the same age and type as the one lost~~((, and))~~. Bulls will be replaced using actual purchase price prorated based on a four-year depreciation cycle minus salvage value.

(b) For losses caused by bear or cougar, livestock value will be determined by the market values at the time the animals are lost.

(c) The department may utilize the services of a certified livestock appraiser to assist in the evaluation of livestock claims.

~~((11))~~ (10) Claims for higher than normal livestock losses, reduced weight gains, or reduced pregnancy rates due to harassment of livestock caused by wolves must include:

(a) At least three years of records prior to the year of the claim. Claims will be assessed for losses in excess of the previous three-year running average;

(b) The losses must occur on large ~~((open))~~ pastures or range land used for grazing, lambing, or calving where regular monitoring of livestock is impractical (and therefore dis-

covery of carcasses infeasible) as determined by the department;

(c) Verification by the department that wolves are occupying the area;

(d) The losses cannot be reasonably explained by other causes;

~~((Claims will be assessed for losses in excess of the previous three year running average; and~~

~~(f) Owners must be in compliance with the department's preventative measures checklist and/or damage prevention agreement.~~

~~((12))~~ Compliance with the department's preventative measures checklist and/or damage prevention cooperative agreement.

~~((in addition to any other compensation,))~~ Compensation paid by the department combined with any other compensation may not exceed the total value of the assessed loss.

~~((13))~~ (12) Upon completion of the evaluation, the department will notify the ~~((owner))~~ claimant of its decision to either deny the claim or make a settlement offer (order). The ~~((owner))~~ claimant has sixty days from the date received to accept the department's offer for settlement of the claim ~~((or to submit an appeal of the order)).~~ If the claimant wishes to appeal the offer, they must request an informal resolution or adjudicative proceeding as described in WAC 232-36-400. The acceptance must be in writing and the signed originals must be mailed in to the department. The ~~((response))~~ appeal must be in writing and ~~((the signed document))~~ may be mailed or submitted by ~~((fax or))~~ e-mail. If no written acceptance or request for appeal is received, the offer is considered rejected and not subject to appeal.

~~((14))~~ (13) If the claimant accepts the department's offer, the department will send payment to the ~~((owner))~~ claimant within thirty days from receipt of the written acceptance document.

~~((15))~~ (14) The department will prioritize payment for livestock losses in the order the claims were received or upon final adjudication of an appeal. If the department is unable to make a payment for livestock losses during the current fiscal year, the claim shall be held over until the following fiscal year when funds become available. As funding becomes available to the department under this section, RCW 77.36.170, or any other source, the department must pay claims in the chronologic order. Claims that are carried over will take first priority and receive payment before any new claims are paid. The payment of a claim included on the list maintained by the department under this section is conditional on the availability of specific funding for this purpose and is not a guarantee of reimbursement.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

**WAC 232-36-300 Public hunting requirements.** "Public hunting" generally means that land is open for licensed hunters. The intent of ~~((the))~~ this provision ~~((in this chapter))~~ is to allow hunting at an appropriate time, manner, and level to help prevent property damage.

As specified in WAC 232-36-100, cash compensation for crop damage claims will only be paid when the property

where the crop damage occurred is open to public hunting; unless the department determines that hunting is not practical. Public hunting is defined as:

(1) The landowner opens the property on which the damage or loss is claimed for general access to all licensed hunters during the season for the species causing damage, other species may be included to provide additional hazing, prior to the occurrence of damage; or

(2) The landowner has entered into and complied with any agreement with the department covering the land(s) on which the damage is claimed. ~~((Access))~~ Agreements shall require that:

(a) The land is open to general access to licensed hunters; ~~((or))~~

(b) The landowner allows the department to select a limited number of hunters who are authorized to access the land to minimize or prevent damage; or

(c) The landowner and the department determine ~~((how hunters will be selected and authorized))~~ the number of hunters, timing, weapon options and the required permission for access to hunt on the landowner's property ~~((in order))~~ to effectively ~~((prevent))~~ minimize damage.

AMENDATORY SECTION (Amending WSR 10-13-182, filed 6/23/10, effective 7/24/10)

**WAC 232-36-510 Failure to ~~((abide by))~~ comply with the conditions of permits, provide completed forms, or submit required documents or reports for the purposes of this chapter.** (1) Failure to abide by the conditions of permits is a misdemeanor pursuant to RCW 77.15.750.

(2) Failure to provide reports or ~~((abide by))~~ comply with the conditions of landowner agreements is an infraction pursuant to RCW 77.15.160.

(3) Failure to ~~((abide by))~~ comply with the conditions of wildlife ~~((conflict))~~ control operator certification or permits is a misdemeanor pursuant to RCW 77.15.750.

(4) A person who provides false or misleading information required by this chapter may be in violation ~~((of))~~ subject to prosecution under RCW 9A.76.175 or 40.16.030.

#### NEW SECTION

**WAC 232-36-054 Use of body-gripping traps and exceptions.** (1) It is unlawful to trap for wild animals with body-gripping traps without a special permit from the director.

(2) Body-gripping traps, including conibear-type traps in water, as defined in RCW 77.15.192 may be used for the following purposes with a special trapping permit issued by the director:

(a) To protect public health and safety, in consultation with the department of social and health services or the United States Department of Health and Human Services.

(b) To abate damages caused to private property, domestic animals, livestock or timber, which cannot be reasonably abated by nonlethal control tools. Any person requesting a special trapping permit must apply in writing, stating the threat or damages, the nonlethal control methods attempted or why they cannot be applied, and agree to use the above

traps for no more than thirty days under the permit granted, pursuant to RCW 77.15.194 and WAC 232-12-142.

(c) To protect threatened or endangered species, if such traps are used by department employees or agents of the state.

(d) To conduct wildlife research, except that conibear-type traps are prohibited for this purpose.

(3) Traps must be checked every twenty-four hours and animals removed, pursuant to RCW 77.15.194.

(4) It is unlawful to trap within thirty feet of any exposed animal carcass, meat bait or nonedible game parts which are visible to flying raptors, except that nothing in this section prohibits department employees or agents of the state from trapping within thirty feet of exposed animal carcass, meat bait or nonedible game parts.

(5) Animals taken with the use of a body-gripping trap may not be retained and must be disposed as conditioned in the special trapping permit or as specified in WAC 232-36-055.

#### NEW SECTION

**WAC 232-36-066 Report required of certified wildlife control operators.** All wildlife control operators (WCOs) must report all WCO related activity, regardless of trapping success or whether they trapped or not for the previous year on or before April 20th of each year.

(1) Reports must be made using the department's designated WCO annual report form or web-based WCO reporting system.

(2) If a WCO chooses to report using the WCO annual report form versus the web-based WCO reporting system, it is the responsibility of the certified WCO to obtain a form from the department and ensure the form is received by Washington department of fish and wildlife as conditioned on the form, prior to the reporting deadline.

(3) A WCO who fails to report his or her activity by April 20th will be in violation of reporting requirements.

(4) Providing false or misleading information on reports is considered a gross misdemeanor per RCW 77.15.270.

(5) Failure to report trapping activity as required under this section is an infraction, punishable under RCW 77.15.-160.

#### NEW SECTION

**WAC 232-36-090 Limitations to managing damage caused by big game on private property.** Pursuant to this section the department shall establish guidelines for assisting landowners with minimizing big game damage to private property. Nothing in this section shall be construed to require the department to seek landowners that may be experiencing damage. It is incumbent upon the landowner to notify the department if they are experiencing damage.

(1) A landowner, lessee, or employee of and on behalf of the landowner may contact the department for assistance upon recognition of a damage or depredation event.

(2) Upon confirmation of damage or depredation, the department will offer assistance and work cooperatively with the landowner, lessee, or employee of the landowner on damage prevention measures.

(a) Damage prevention measures offered by the department shall be reasonable, fiscally responsible, and deemed effective in abating damage by the wildlife damage management profession. New techniques may be employed to determine feasibility.

(b) Practical long-term response for damage resolution shall be considered and written into agreements when feasible.

(3) The department will document when prevention measures are rejected by the landowner, lessee, or employee of the landowner.

(4) If the landowner, lessee, or employee of the landowner, rejects prevention measures offered by the department:

(a) The department is not required to take further action if at least three attempts to offer the prescribed prevention measures have been rejected.

(b) The landowner, lessee, or employee of the landowner may submit, within thirty days, a written refusal statement documenting reasons supported by facts why they reject the prescribed measures and offer alternative solutions with justification. This written refusal statement must be submitted to the department and illustrate that the prevention measures prescribed by the department will not result in lessening the damage or depredation and/or would cause physical damage to persons or property.

(i) The department shall take no further action until a written refusal statement has been received by the department and approved by the director or director's designee for assistance to continue.

(ii) If the written refusal letter is approved by the director or director's designee, the department may continue working with the landowner to develop alternative measures.

(5) A landowner, lessee, or employee of the landowner, is ineligible for a compensation claim and the department shall take no further action unless agreed upon prevention measures have been employed.

(6) Nothing in this section prohibits a landowner, lessee, or employee of the landowner, from killing wildlife pursuant to WAC 232-36-051.

#### NEW SECTION

**WAC 232-36-310 Damage prevention permit hunts—Deer, elk, and turkey.** (1) A landowner may enter into a damage prevention cooperative agreement (contract) with WDFW. The landowner may receive a damage prevention permit, if deemed necessary by the department. Hunts conducted pursuant to a damage prevention permit must adhere to the special seasons provided in this section. Nothing in this section prevents a landowner from protecting their property.

(a) The landowner agrees not to file a damage claim unless damage exceeds the threshold established by the department and conditioned in the damage prevention cooperative agreement, except for Elk Areas 3721 and 3722. Landowners will work with the department to allow access to hunters during the general hunting seasons as determined by the department.

(b) A damage prevention cooperative agreement may include:

(i) An approved checklist of the reasonable preventative and nonlethal means that must be employed prior to lethal removal;

(ii) A description of the properties where lethal removal is allowed;

(iii) Other conditions developed within department procedural documents.

(c) A damage prevention permit issued to a landowner by the department and provided to the hunter by the landowner authorizes the hunter to use a deer or elk damage license or tag to hunt and take a legal animal as prescribed on the permit.

(d) A damage prevention permit may include:

(i) A description of the properties where lethal removal is allowed;

(ii) The species and sex of the animal that may be taken; the terms of the permit; the dates when lethal removal is authorized; and

(iii) Other conditions developed within department procedural documents.

#### **(2) General deer and elk removal criteria:**

(a) Only persons with a damage prevention permit may hunt and take one deer or one elk as designated on the permit.

(b) Hunters must have a valid big game license, damage deer/elk license or tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.

(c) Hunters who fill their deer or elk damage tag are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt; this does not preclude a landowner from utilizing a kill permit or their right to protect their property under WAC 232-36-051.

(d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal (e.g., antlerless, deer, elk) as indicated on the permit. If a deer or elk is wounded inside the damage hunt area, it may be pursued outside permit boundaries with adjacent landowner permission.

(e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.

#### **(3) Deer:**

(a) Tag Required: Deer hunters must have a current valid big game license, damage deer hunting license or tag and a damage prevention permit on his/her person.

(b) Hunting Method: Any legal weapon (or as specified on the damage prevention permit)

(c) Location: Statewide

(i) Season Framework: July 1 - March 31

(ii) Legal Deer: Antlerless Only

(iii) Kill Quota: 300 per license year

(d) Location: Region One

(i) Season Framework: July 1 - March 31

(ii) Legal Deer: Antlerless Only

(iii) Kill Quota: 300 per license year

(e) Location: GMUs 105-124

- (i) Legal Deer: Whitetail Antlerless Only
- (ii) Kill Quota: 300 per license year
- (4) **Elk:**
  - (a) Tag Required: Elk hunters must have a valid big game license, a damage elk hunting license or tag and damage prevention permit on his/her person.
  - (b) Hunting Method: Any legal weapon
  - (c) Location: Eastern Washington - GMUs 100, 200, and 300 series
    - (i) Season Framework: July 1 - March 31
    - (ii) Legal Elk: Antlerless Only
    - (iii) Kill Quota: 200 per license year
  - (d) Location: Western Washington - GMUs 400, 500, and 600 series
    - (i) Season Framework: July 1 - March 31
    - (ii) Legal Elk: Antlerless Only
    - (iii) Kill Quota: 100 per license year
  - (e) Location: Hanford Area - GMUs 372 and 379
    - (i) Legal Elk: Antlerless Only
    - (ii) Season Framework: July 1 - March 31
    - (iii) Kill Quota: 70 per license year
  - (f) Location: Elk Area 3721
    - (i) Legal Elk: Spike or antlerless July 1 - March 31; any bull May 15 - June 30
    - (ii) Season Framework: May 15 - March 31; as described in (f)(i) of this subsection
    - (iii) Kill Quota: 100 Spike or antlerless per license year; 60 bulls per license year
    - (g) Location: GMUs 501-578
      - (i) Legal Elk: Antlerless Only
      - (ii) Kill Quota: 100 per license year
    - (h) Access in Elk Area 3721 may not be sold as a condition of use of these permits. The director may consider damage claims from landowners in Elk Areas 3721 and 3722 who accept these permits and do not charge for access.
- (5) **General turkey removal criteria:**
  - (a) Only persons with a damage prevention permit may hunt and take one turkey as designated on the permit.
  - (b) Hunters must have a valid small game license and an unfilled turkey tag to participate in a damage prevention hunt during the prescribed damage prevention permit period, unless the damage permit specifies otherwise.
  - (c) Hunters who fill their turkey tag under a damage permit are ineligible to participate in another damage prevention hunt utilizing a damage prevention permit during the same season in which they already harvested wildlife under a damage prevention hunt.
  - (d) Persons participating with a damage prevention permit may only hunt within the prescribed area, during the specified season dates, and for the specified animal as indicated on the permit.
  - (e) A hunter who fails to comply with this subsection may be ineligible to participate in the next year's damage permit opportunities.
- (6) **Turkey:**
  - (a) Tag Required: Turkey hunter must have an appropriate valid, unaltered, unnotched turkey tag or license on his/her person, along with the damage prevention permit.
  - (b) Hunting Method: Any legal turkey hunting method
  - (c) Season Framework: October 1 - March 1

- (d) Location: Statewide
- (e) Legal Turkey: Either sex
- (f) Kill Quota: 300 per license year
- (7) It is unlawful to violate the provisions of this section. Violation of this section is punishable under RCW 77.15.400, 77.15.410, 77.15.430, or 77.15.750(1) depending on the violation. Hunters who violate this section will be punished under RCW 77.15.400, 77.15.410, 77.15.430 depending on the species hunted and circumstances of the violation.

#### NEW SECTION

**WAC 232-36-320 Black bear timber damage depreciation permits.** This section applies to any person participating in a director-authorized black bear timber depreciation hunt pursuant to RCW 77.12.240 or 77.15.245.

(1) Definitions: As used in this section and in the context of bear depreciation removals for damage to timberlands, the following definitions apply:

(a) "Damage to timberlands" means there is evidence that bears have damaged private commercial timber that is confirmed through criteria outlined by the department.

(b) "Removal" means the act of killing one or more bear.

(2) Black bear removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for black bear timber depreciation action must have confirmed bear caused timber damage as defined in criteria developed by the department.

(c) The department will verify reported damage.

(d) The department will consider forest management objectives and shall ensure bear removals are consistent with population management objectives.

(3) Hunter selection:

(a) Landowners or the landowner's designee may only select hunters authorized by the department to participate in a black bear timber depreciation removal effort on their property.

(b) The landowner or the landowner's designee and the hunters participating in the removal will be identified as permittees on permits issued for bear removal.

(4) Permit required for participation in bear removal:

(a) If approved for a bear removal action, the department will issue a permit for bear removal. The approved selected hunter(s) must be in possession of the bear timber depreciation permit while conducting the removal.

(b) Only hunters whose names appear on the permit may participate in the black bear timber depreciation removal.

(5) General requirements:

(a) Removals must be reported within twenty-four hours of take as prescribed in the black bear depreciation permit.

(b) All harvested bears must be disposed of as conditioned on the permit.

(c) Within five days after harvest the permittee must submit all animals, parts of animals and all permit materials as prescribed in the black bear timber depreciation permit. If a bear is not harvested under the bear depreciation permit and the permit expires, the permittees must return all permit materials to the department within five days of permit. Fail-



ure to comply with this subsection renders the permittee(s) ineligible for the next year's black bear depredation permit.

(d) The black bear timber depredation permit belongs to the state of Washington. A violation of any condition of the permit may result in revocation of the permit and renders the permittee(s) ineligible for future black bear timber depredation permits.

(e) A violation of subsection (4) or (5) of this section is punishable under RCW 77.15.245, 77.15.410, or 77.15.750, depending on the circumstances of the violation.

#### NEW SECTION

**WAC 232-36-330 Bear and cougar depredation permit hunts for domestic animal or livestock loss.** This section applies to any person participating in a director-authorized bear or cougar depredation permit hunt for domestic animal or livestock loss pursuant to RCW 77.12.240 or 77.15.245:

(1) Black bear and cougar removal criteria:

(a) A landowner or the landowner's designee may submit a request for removal to the department following the procedures established by the department.

(b) Areas permitted for bear or cougar removal action must have confirmed bear or cougar caused property damage.

(c) The department may verify reported damage.

(d) The department shall ensure bear and cougar removals are consistent with population management objectives.

(2) Hunter selection:

(a) Landowner or landowner's designee may only select hunters authorized by the department to participate in a bear or cougar removal effort.

(b) The landowner or landowner's designee and the hunters participating in the removal will be identified as depredation permittees on depredation permits issued for bear or cougar removal.

(3) Permit required for participation in bear or cougar removal:

(a) If approved for bear or cougar removal action, the department will issue and condition the depredation permit and selected hunters participating in removals under this section must comply with provisions of the depredation permit.

(b) Selected hunter(s) must be in possession of the depredation permit while conducting the removal.

(c) Only hunters whose names appear on the depredation permit may take part in the hunt.

(4) General requirements:

(a) Removals must be reported within twenty-four hours of take and the carcass must be disposed of within forty-eight hours as conditioned in the depredation permit.

(b) All harvested animals must be disposed of as designated on the permit.

(c) Failure to comply with this section renders the permittee ineligible for future bear or cougar depredation permits.

(d) The depredation permit belongs to the state of Washington. A violation of any condition of the depredation permit may result in revocation of the depredation permit and may render the permittee(s) ineligible for future bear or cougar

damage depredation permits; until all issues pertaining to the revocation are resolved at the department's discretion.

(e) A violation of subsection (3) of this section or this subsection (4) are punishable under RCW 77.15.245, 77.15.-410, or 77.15.750, depending on the circumstances of the violation.

#### **WSR 15-16-135**

#### **PROPOSED RULES**

#### **GAMBLING COMMISSION**

[Filed August 5, 2015, 11:35 a.m.]

Continuance of WSR 15-09-071.

Preproposal statement of inquiry was filed as WSR 14-19-115 and 15-04-041.

Title of Rule and Other Identifying Information: WAC 230-11-999 Pilot project allowing the use of electronic raffle systems to conduct 50/50 raffles.

Hearing Location(s): DoubleTree by Hilton Olympia, 415 Capitol Way North, Olympia, WA 98501, (360) 570-0555, on November 12 or 13, 2015, at 9:00 a.m. or 1:00 p.m. NOTE: Meeting dates and times are tentative. Visit our web site at [www.wsgc.wa.gov](http://www.wsgc.wa.gov) and select public meeting about ten days before the meeting to confirm meeting date/location/start time.

Date of Intended Adoption: November 12 or 13, 2015.

Submit Written Comments to: Susan Newer, P.O. Box 42400, Olympia, WA 98504-2400, e-mail [Susan.Newer@wsgc.wa.gov](mailto:Susan.Newer@wsgc.wa.gov), fax (360) 486-3625, by November 1, 2015.

Assistance for Persons with Disabilities: Contact Michelle Rancour by November 1, 2015, TTY (360) 486-3637 or (360) 486-3453.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This new rule would authorize a pilot project to test the regulatory and economic impact of charitable/nonprofit licensees using electronic raffle systems to conduct 50/50 raffles. In a 50/50 raffle, fifty percent of the proceeds from ticket sales are awarded to one winner with the remaining fifty percent going to the charitable/nonprofit organization operating the raffle. Description of the electronic raffle system:

- In other states or provinces (Illinois, Colorado, North Dakota, Ohio, and British Columbia), electronic raffle tickets are typically sold at major sporting events by persons staffing kiosks equipped with touch screen devices and other staff moving around the facility with handheld wireless equipment.
- The electronic raffle system is used to print raffle tickets and customer receipts, account for raffle ticket sales, and show progressively increasing prize amounts.
- All other aspects of the raffle, including a manual drawing of winning tickets, must follow existing raffle requirements.
- Electronic raffle systems will be reviewed and approved by commission staff. Any conditions or restrictions for operating the system would be included in a letter to the manufacturer approving its use.

Statutory Authority for Adoption: RCW 9.46.070, 9.46.0277.

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

Name of Proponent: Washington state gambling commission, governmental.

Name of Agency Personnel Responsible for Drafting: Susan Newer, Lacey, (360) 486-3466; Implementation: David Trujillo, Director, Lacey, (360) 486-3512; and Enforcement: Mark Harris, Assistant Director, Lacey, (360) 486-3579.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement was not prepared because the rule change would not impose additional costs on any licensees. Although there is a cost for participation in the pilot program, raffle licensees are not required to use the electronic raffle system.

A cost-benefit analysis is not required under RCW 34.05.328. The Washington state gambling commission is not an agency that is statutorily required to prepare a cost-benefit analysis under RCW 34.05.328.

August 7 [5], 2015  
Susan Newer  
Rules Coordinator

#### NEW SECTION

**WAC 230-11-999 Pilot project allowing the use of electronic raffle systems to conduct 50/50 raffles.** The commission finds it to be in the public's interest to conduct a pilot project to test the regulatory and economic impact of charitable and nonprofit licensees using electronic raffle systems at sporting events to conduct "50/50" raffles (raffles as defined in RCW 9.46.0277).

(1) In a 50/50 raffle, fifty percent of the proceeds from ticket sales are awarded to the winner as a cash prize and the remaining fifty percent are kept by the charitable/nonprofit organization operating the raffle.

(2) Raffle licensees, licensed manufacturers, and service suppliers who wish to be in the pilot project must submit a written request to participate to the director or his designee. An operating agreement must be signed before participating in the pilot project.

(3) Applicants and licensees that choose to participate in the pilot project will pay the following fees to offset agency costs to administer the pilot project:

(a) Manufacturers of the electronic raffle equipment must obtain a Class F manufacturer license and pay:

(i) \$10,000 start-up flat fee; and

(ii) A fee of 1% of gross receipts from selling or leasing electronic raffle systems.

(b) Raffle operators using electronic raffle equipment must obtain a Class F raffle license and pay a fee of 1% of gross raffle receipts.

(c) Arena owners or sporting teams/organizations must obtain a service supplier license for possession of electronic raffle equipment and pay a fee of 1% of gross receipts from the lease or rental of the electronic raffle equipment or other contracted amounts, if any.

(4) The pilot project will begin once the first manufacturer is licensed and their equipment is approved and will continue for eighteen months.

(5) If a licensee fails to comply with the requirements of the pilot project, the director may remove the licensee from the pilot project.

(6) Staff will provide a report to the commission with their recommendations after twelve months of activity.

(7) Licensees in the pilot project may continue to use electronic raffle systems to conduct 50/50 raffles unless the commission finally disapproves its use or until new rules are approved.