

**WSR 16-03-030**  
**WITHDRAWAL OF PROPOSED RULES**  
**HEALTH CARE AUTHORITY**  
 (By the Code Reviser's Office)  
 [Filed January 12, 2016, 9:11 a.m.]

WAC 182-500-0100, proposed by the health care authority in WSR 15-14-047, appearing in issue 15-14 of the Washington State Register, which was distributed on July 15, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.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 16-03-031**  
**WITHDRAWAL OF PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 (By the Code Reviser's Office)  
 [Filed January 12, 2016, 9:12 a.m.]

WAC 392-172A-01094, 392-172A-01177, 392-172A-03025, 392-172A-03092 and 392-172A-03100, proposed by the superintendent of public instruction in WSR 15-14-128, appearing in issue 15-14 of the Washington State Register, which was distributed on July 15, 2015, is withdrawn by the office of the code reviser under RCW 34.05.335(3), since the proposal was not adopted within the one hundred eighty day period allowed by the statute.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 16-03-032**  
**PROPOSED RULES**  
**PARKS AND RECREATION**  
**COMMISSION**  
 [Filed January 12, 2016, 9:18 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-17-106.

Title of Rule and Other Identifying Information: WAC 352-32-056 Peace and quiet, 352-32-130 Aircraft, 352-32-200 Expulsion from state park areas, 352-32-210 Consumption of alcohol in state parks, and 352-32-250 Standard fees charged.

Hearing Location(s): Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501-5414, on March 26, 2016, at 9:00 a.m.

Date of Intended Adoption: March 26, 2016.

Submit Written Comments to: Washington State Parks and Recreation Commission, 1111 Israel Road S.W., Olympia, WA 98504, e-mail [diana.dupuis@parks.wa.gov](mailto:diana.dupuis@parks.wa.gov), fax (360) 586-0355, by February 15, 2016.

Assistance for Persons with Disabilities: Contact Becki Ellison, (360) 902-8502, TTY (877) 833-6341.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These revised chapters and sections will provide clarification and modifications to various rules.

WAC 352-32-056 Peace and quiet, changes in this rule allow for park ranger discretion in handling noise from any individual campsite.

WAC 352-32-130 Aircraft, this WAC adds language to clarify the use of remote controlled aircraft via written permission from the director or designee.

WAC 352-32-200 Expulsion from state park areas, changes [in] this rule allow for park ranger discretion in expelling individuals from state park areas based on the elements of the infraction or crime committed.

WAC 352-32-210 Consumption of alcohol in state parks, the change in this rule prohibits possessing alcoholic beverages, either opened or unopened in areas as already established in WAC.

WAC 352-32-250 Standard fees charged, changes in this WAC allow for a towed vehicle to drive into a park unhitched from the recreational vehicle with which it is affiliated and not be subject to the extra vehicle fee, as long as they arrive together. Changes in this WAC also clarify the charge for motorcycles as extra vehicles in campsites, whether with recreational vehicles or other motorcycles.

Statutory Authority for Adoption: Chapter 79A.05 RCW.

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

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The fiscal impact of the proposed WAC changes is indeterminate but is expected to be nominal.

Name of Proponent: Washington state parks and recreation commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Diana Dupuis, 1111 Israel Road S.W., (360) 902-8847; and Enforcement: Robert Ingram, 1111 Israel Road S.W., (360) 902-8615.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These proposed rule changes are exempt from the small business economic impact statement (SBEIS) because they do not impose additional cost[s] on businesses. Therefore, costs are determined to be below the minor cost threshold definition in RCW 19.85.020 (2). RCW 19.85.030 exempts the agency from the requirement to prepare an SBEIS when cost[s] are minor.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34-05/32 [34.05.328] (5)(a)(i) does not identify the Washington state parks and recreation commission as one of the agencies required to prepare a cost-benefit analysis.

January 12, 2016  
 Valeria Evans  
 Management Analyst

AMENDATORY SECTION (Amending WSR 12-22-031, filed 10/31/12, effective 12/1/12)

**WAC 352-32-056 Peace and quiet.** To insure peace and quiet for visitors:

(1) No person (~~((shall conduct themselves so that park users are disturbed in their sleeping quarters or in campgrounds or park employees in their sleeping quarters))~~ may cause a sound that may be plainly audible beyond the person's immediate area of use or campsite between the quiet hours of 10:00 p.m. and 6:30 a.m.

(2) No person shall, at any time, use sound-emitting (~~((electronic))~~) equipment including (~~((electrical speakers, radios, phonographs, televisions, or other such equipment))~~) musical instruments, at a volume which emits sound beyond the (~~((person's))~~) user's vehicle (~~((or))~~), immediate area of use, (~~((individual camp or picnic site that may disturb other park users))~~) or campsite without specific permission of the park ranger.

(3) Engine driven electric generators may be operated only between the hours of 8:00 a.m. and 9:00 p.m., except at Crystal Springs and Easton Reload sno-parks where engine driven electric generators may be operated after 9:00 p.m. during the winter recreation season.

(4) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 07-03-121, filed 1/22/07, effective 2/22/07)

**WAC 352-32-130 Aircraft, paragliders, and remote controlled aircraft.** (1) No aircraft shall land on or take off from any body of water or land area in a state park area not specifically designated for landing aircraft. This provision does not apply to official aircraft used in the performance of search and rescue missions, medical emergencies, law enforcement activities, emergency evacuations or firefighting activities. It also does not apply in cases where the director or designee specifically authorizes such landings or take offs, in writing, associated with the operational, or administrative needs of the agency or state.

(2) Individuals who have complied with the registration process provided or who have obtained a special recreation event permit pursuant to WAC 352-32-047 may launch and land paragliders in state park areas specifically designated by the director or designee as available for paragliding. Prior to any such designation, the director or designee shall advertise and conduct a public meeting in the region where the park is located. The director or designee shall consider the potential impacts of paragliding in the proposed area, including but not limited to the following factors: The degree of conflict paragliding may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park designated for paragliding shall be conspicuously posted as such by the agency.

(3) Individuals paragliding in state parks must:

(a) Comply with the registration process provided for such purposes;

(b) Observe all applicable laws and regulations;

(c) Never destroy or disturb park facilities, natural features, or historical or archeological resources;

(d) Conduct themselves with thoughtfulness, courtesy and consideration for others, and not interfere with other recreational activities;

(e) Conduct themselves in compliance with the following basic safety regulations:

(i) Comply with specific site operational (~~((rules))~~) restrictions that are posted;

(ii) Fly in a manner consistent with the pilot rating held;

(iii) Preplanned landings should be made in areas no smaller than forty feet wide by one hundred feet long;

(iv) Make preflight checks of weather, equipment and site conditions;

(v) Observe all published traffic and right of way flight guidelines, including yielding right of way to all aircraft;

(vi) Wear protective clothing, headgear, Coast Guard approved flotation gear, reserve parachute, supplemental oxygen and communication equipment as appropriate for conditions;

(vii) Fly in a manner that does not create a hazard for other persons or property;

(viii) Fly only during daylight hours, or hours otherwise specified by posting at the site;

(ix) Do not fly over congested areas of parks or open air assembly of persons;

(x) Fly only in designated areas of parks;

(xi) Fly with visual reference to the ground surface at all times;

(xii) Do not tether paraglider to the ground or other stable nonmovable object.

(f) Do not fly while under the influence of alcohol or drugs.

(4) Except as provided in subsection (5) of this section, individuals flying remote controlled aircraft (~~((must))~~) may do so only within flying areas designated by the director or designee and only when following the remote controlled aircraft management plan approved by the director or designee and posted for that designated area.

(a) Prior to (~~((any such designation))~~) designating any remote controlled aircraft flying area, the director or designee shall advise and conduct a public meeting in the region where the park is located. The director or designee shall consider the potential impacts of remote controlled aircraft flying in the proposed area, including, but not limited to, the following factors: The degree of conflict remote controlled aircraft flying may have with other park uses, public safety issues, and any potential damage to park resources/facilities. Any park area designated for remote controlled aircraft flying shall be conspicuously posted as such by the director or designee.

(b) The director or designee shall establish a committee to advise park staff on park management issues related to remote controlled aircraft flying for each state park area designated as a remote controlled aircraft flying (~~((site))~~) area.

(c) Each state park area with an established advisory committee, which includes remote controlled aircraft flyers will have an approved management plan which will specify remote controlled aircraft flying (~~((rules))~~) restrictions concerning types of aircraft, flying hours, identified approved flying zones, identified runways for take-offs and landings, engine muffler requirements, use of and posting of radio frequency, fuel spills and cleanup. The director or designee shall

ensure that any remote controlled aircraft flying (~~rules~~) restrictions contained in the remote controlled aircraft flying management plan are conspicuously posted at the entrance of the affected park area.

(d) The director or designee may permanently, or for a specified period or periods of time, close any designated flying area to remote controlled aircraft flying if the director or designee concludes that a remote controlled aircraft flying closure is necessary for the protection of the health, safety, and welfare of the public, park visitors or staff, or park resources. Prior to closing any designated flying area to remote controlled aircraft flying, the director or designee shall hold a public meeting near the state park area to be closed to remote controlled aircraft flying. Prior notice of the meeting shall be published in a newspaper of general circulation in the area and at the park at least thirty days prior to the meeting. In the event that the director or designee or park manager determines that it is necessary to close a designated flying area immediately to protect against an imminent and substantial threat to the health, safety, and welfare of the public, park visitors or staff, or park resources, the director or designee or park manager may take emergency action to close a state park area to remote controlled aircraft flying without first complying with the publication and meeting requirements of this subsection. Such emergency closure may be effective for only so long as is necessary for the director or designee to comply with the publication and meeting requirements of this subsection. The director or designee shall ensure that any designated flying area closed to remote controlled aircraft flying is conspicuously posted as such at the entrance of the affected park area.

~~((e) Except as provided in WAC 352-32-310;))~~ (5) Remote controlled aircraft may be flown in any state park area pursuant to written permission from the director or designee. In granting such permission, the director or designee may specify time, geographic, and elevation restrictions, and any other restrictions necessary to protect the public, park visitors or staff, or park resources. While operating a remote controlled aircraft pursuant to written permission under this subsection, the operator shall be in possession of a copy of the written permission and shall produce it upon request by parks staff. Permission granted by the director or designee to fly a remote controlled aircraft is subject to recession as necessary to protect the public, park visitors or staff, or park resources.

(6) Any violation of this section (~~rule~~), including any failure to abide by a conspicuously posted remote controlled aircraft flying (~~rule~~) restriction or failure to abide by the terms of written permission to fly remote controlled aircraft, is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 00-13-070, filed 6/16/00, effective 7/17/00)

**WAC 352-32-200 Expulsion from state park areas.**

(1) In addition to the penalty provided in RCW 79A.05.165, or any other existing or future law of the state of Washington, violation of or failure to comply with any section of this chapter, or of any other chapter of this title, or any other rule or regulation of the commission, or with any other federal,

state, or local law, rule, or regulation applicable under the circumstances, shall subject the person so violating or failing to comply to expulsion from any state park area (~~for a period of time no less than forty-eight hours~~). Any park ranger may expel a person from any state park area under the authority of this section by issuing the person a notice of expulsion.

~~(2) ((All drug or alcohol related misconduct for which a citation is issued shall additionally subject the individual to expulsion from all lands administered by the commission for the following periods:~~

~~(a) One incident shall result in a forty-eight hour expulsion.~~

~~(b) Two incidents shall result in a thirty-day expulsion.~~

~~(c) Three incidents shall result in a one-year expulsion.))~~

A notice of expulsion shall:

(a) Be in writing and signed by the ranger issuing it.

(b) Contain the date of issuance and effective date, the violation that the person is alleged to have committed, a citation to the code, statute, or rule violated, and a description of the egregious nature of the violation warranting a deviation from the standard expulsion duration (if any).

(c) Specify the locations where the individual will be expelled from and the duration of the expulsion.

(d) Set out the method of appealing the notice, which shall also include the address where the appeal should be sent.

(e) Prominently display a warning of the consequences for failure to comply with the notice and state that a violation of the terms of the notice will constitute criminal trespass under chapter 9A.52 RCW.

(3) The person subject to expulsion need not be charged, tried, or convicted of any crime or be issued an infraction or have an in-fraction found committed in order for a notice of expulsion to be issued or effective. The issuing ranger need only establish that good cause existed to support the issuance of the notice of expulsion. "Good cause" means facts and circumstances which lead a ranger to believe that a person has violated, or through his or her actions or behaviors, intends to violate the rules of this chapter or any applicable state, local, or federal law or regulation.

(4) The period of expulsion shall be as follows, unless the issuing ranger deems a longer period of expulsion is warranted based on the egregiousness of the violation:

(a) First violation: Forty-eight hour expulsion.

(b) Second violation: Thirty day expulsion.

(c) Third violation: One year expulsion.

(5) A person subject to expulsion pursuant to this section may appeal the expulsion to the director by mailing a written statement of the basis for appeal, together with a copy of the expulsion notice, to the director within ten days of receipt of the notice of expulsion. The appeal shall be decided as a brief adjudicative appeal under RCW 34.05.482 through 34.05.494 and shall be decided by the director or designee. Unless the expulsion period expires, the expulsion shall remain in effect during the pendency of an appeal.

AMENDATORY SECTION (Amending WSR 13-17-037, filed 8/13/13, effective 9/13/13)

**WAC 352-32-210 Consumption of alcohol in state park areas.** (1) ~~((Opening,)) Possessing alcoholic beverages ((in an open container,))~~ or consuming ~~((any))~~ alcoholic beverages in any state park or state park area is prohibited except in the following designated areas and under the following circumstances in those state parks or state park areas not posted by the director or designee as closed to alcohol pursuant to subsection (4) of this section:

(a) In designated campsites or in other overnight accommodations, by registered occupants or their guests; provided ELC users obtain written permission through state parks application process;

(b) In designated picnic areas, which shall include those sites within state park areas where picnic tables, benches, fireplaces, and/or outdoor kitchens are available, even though not signed as designated picnic areas and public meeting rooms;

(c) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager; and

(d) In any building, facility or park area operated and maintained under a concession agreement, wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(2) Possessing alcoholic beverage ~~((in an open container,))~~ or consuming any alcoholic beverages is prohibited at the following locations:

- (a) Dash Point State Park;
- (b) Saltwater State Park;
- (c) Sacajawea State Park;
- (d) Flaming Geyser State Park;

Except in the following designated areas and under the following circumstances:

(i) In designated campsites, or in other overnight accommodations by registered occupants or their guests.

(ii) In any building, facility or park area operated and maintained under a concession agreement wherein the concessionaire has been licensed to sell alcoholic beverages by the Washington state liquor control board, and where the dispensation of such alcoholic beverages by such concessionaire has been approved by the commission.

(iii) In any reservable group day use facility by any authorized group which has paid the reservation fee and applicable damage deposit and which has obtained prior permit authorization to have alcohol by the park manager.

(3) The director or designee may, for a specified period or periods of time, close any state park or state park area to alcohol if the director or designee concludes that an alcohol closure is necessary for the protection of the health, safety and welfare of the public, park visitors or staff, or park resources. The director or designee shall consider factors including but not limited to the effect or potential effect of alcohol on public and employee safety, park appearance, atmosphere, and noise levels, conflicts with other park uses or users, the demand for law enforcement, and the demand on

agency staff. Prior to closing any park or park area to alcohol, the director or designee shall hold a public hearing in the general area of the park or park area to be closed to alcohol. Prior notice of the meeting shall be published in a newspaper of general circulation in the area. In the event the director or designee determines that an immediate alcohol closure is necessary to protect against an imminent and substantial threat to the health, safety and welfare of the public, park visitors or staff, or park resources, the director or designee may take emergency action to close a park or park area to alcohol without first complying with the publication and hearing requirements of this subsection. Such emergency closure may be effective for only so long as the imminent and substantial threat exists.

(4) The director or designee shall ensure that any park or park area closed to alcohol pursuant to subsection (3) of this section is conspicuously posted as such at the entrance to said park or park area. Additionally, the director or designee shall maintain for public distribution a current list of all parks and park areas closed to alcohol pursuant to subsection (3) of this section.

(5) Dispensing alcoholic beverages from containers larger than two gallons is prohibited in state park areas except when authorized in writing and in advance by the park manager.

(6) The provisions of this rule shall not apply to any part of the Seashore Conservation Area, as designated and established by RCW 79A.05.605.

(7) Opening, consuming, or storing alcoholic beverages in Fort Simcoe State Park and Squaxin Island State Park is prohibited.

(8) Any violation of this section is an infraction under chapter 7.84 RCW.

AMENDATORY SECTION (Amending WSR 08-24-006, filed 11/20/08, effective 12/21/08)

**WAC 352-32-250 Standard fees charged.** Fees shall be charged in parks operated by the commission for use of lands, facilities, programs, services, and materials as published by state parks: Provided, however, That the commission may suspend any or all of these fees if revenues generated by the fees are not returned to the benefit of the parks: Provided further, That the director or designee has the authority to discount fees in order to take advantage of marketing opportunities to encourage use and increase revenues. Any such discounts shall be effective for a limited period of time up to one year in duration. The director or designee may consider the following factors in temporarily establishing or discounting fees:

- Prevailing rates for comparable facilities;
- Day of the week;
- Season of the year;
- Amenities of the park area and site;
- Demand for facilities;
- Low-income eligibility requirements as adopted by state parks; and

Such other considerations as the director or designee deems appropriate. The director or designee shall prescribe the specific details and manner in which fees shall be applied.

The director or designee may also waive fees for marketing or promotional purposes or to redress visitor complaints. The director or designee may also establish temporary fees for a maximum of one year for new facilities or services. An administrative fee, as published by state parks, will be assessed for replacement of lost, damaged, or destroyed passes or permits.

(1) The director or designee may authorize reciprocity or cooperative arrangements with other state and/or federal agencies for the use of annual permits for like services, provided, that Washington licensed vehicles and/or residents shall be required to have and/or display the appropriate Washington permit or other permit as approved by the director or designee.

(2) Overnight camping - Standard campsite; utility campsite; emergency campsite; overflow campsite; hiker/biker campsite; walk-in campsite; primitive campsite for nonmotorized for motorized vehicle - Fees will be charged as published by state parks. Payment for utility campsite will be collected whether utility hookups are actually used or not, except when otherwise specified by a ranger.

(3) Overnight camping - Multiple campsites: Where campsites are designated and posted as a "multiple campsite," an individual may rent the multiple campsite by paying the multiple campsite fee and providing the required information on the occupants of the other sites. The multiple campsite fee will be calculated by multiplying the standard, utility or primitive campsite fee, as applicable, by the number of individual campsites to be used in the designated multiple campsite.

(4) Group camping area - Certain parks: Individual camping units using these facilities must pay campsite fees as published by state parks.

(5) Convenience camping - Fees will be charged for use of overnight accommodations such as yurts, cabins, platform tents, etc.

(6) Conference center facilities - Fees will be charged for use of facilities and services as set forth in the fee schedule published by state parks and will include, but not be limited to: Overnight accommodations in individual recreational housing units or dormitory units; use of meeting rooms, performance venues and rally areas; linen and janitorial services; group food services; and use of equipment, supplies, and staff time necessary to support group activities. Certain deposits, reservation and cancellation fees also apply as set forth in the fee schedule published by state parks and may not be refundable.

(7) Environmental interpretation:

(a) Service fees will be established by the director or designee in order to recover, to the maximum extent practicable, all direct and indirect costs of environmental interpretation services on a program-wide basis based on anticipated attendance.

(b) Material and publication fees will be established by the director or designee. All material and publication fees will be deposited in the parks improvement account to be used for purposes specified in RCW 79A.05.060.

(c) Facility use, including environmental learning center fees, will be established by the commission. A facility use fee schedule is available by contacting Washington State Parks

and Recreation Commission, P.O. Box 42650, Olympia, WA 98504-2650.

(8) Adirondacks - Not to include those located in ELC areas: Occupancy shall be limited to the number of built-in bunks provided.

(9) Extra vehicle overnight parking fee will be charged for each additional unhitched vehicle or motorcycle in excess of the one recreational vehicle and its affiliated tow vehicle allowed at each campsite: Provided, An extra vehicle overnight parking fee shall not be imposed when:

(a) Up to four motorcycles occupy one campsite, exclusive of other vehicles, motorcycles, or recreation vehicles; or

(b) When the recreational vehicle and the ~~((towed))~~ affiliated tow vehicle arrive at the park ~~((hitched))~~ together, and after the camper has registered for and occupied the assigned campsite either the recreational vehicle or the ~~((towed))~~ affiliated tow vehicle remain parked at the campsite for the duration of the camper's stay.

(10) Unattended vehicle overnight parking permit: Unoccupied vehicles parked overnight in designated areas must register and pay the nightly permit fee. The permit must be prominently displayed in the vehicle.

(11) Watercraft launch permit fee shall be charged at designated facilities. Watercraft launch permit shall not be required for:

(a) Registered overnight guests in the park containing the watercraft launch;

(b) Persons holding limited-income senior citizen, disability or disabled veteran passes;

(c) Vehicles displaying a valid annual natural investment permit (watercraft launch) permit.

(12) Trailer dump station fee - Fee shall not be required for:

(a) Registered camping vehicles in the park containing the dump station;

(b) Vehicles of persons holding limited-income senior citizen, disability or disabled veterans passes;

(c) Vehicles displaying a valid annual natural investment permit.

(13) Variable pricing - Variable prices will apply for use of campsites and/or facilities during such periods as the director or designee may specify.

(14) Popular destination park - A surcharge will apply for use of standard or utility campsites located in a popular destination park during such periods as the director may specify.

(15) Water trail site fees - For one day/night will be set by the commission.

(16) In addition to the regular fee, a surcharge may be imposed for failure to pay the self-registration fee.

(17) Group day use facilities - A minimum daily permit fee will be charged for groups of 20 or more.

(18) Reservation transaction - Fees will be charged as published by state parks and are not refundable.

(19) Moorage facilities - Fee will be charged as published by state parks.

(20) Hot showers, electric stoves - Fees will be charged as published by state parks. Fees published by state parks do not apply in those circumstances set forth in WAC 352-32-280 and 352-32-285 as now or hereafter amended.

(21) Film permits and site location fees will be charged as outlined in chapter 352-74 WAC.

(22) Off-season pass fees will be charged as published by state parks.

(23) Administrative fees will be charged as published by state parks for the replacement of lost, stolen or destroyed passes and permits.

(24) Commercial recreation provider permit registration - a fee shall be charged, as published by state parks for registration as a commercial recreation provider.

(25) Commercial recreation provider permit - A fee shall be charged, as published by state parks for obtaining a permit to engage in commercial recreational use of state parks, as defined in WAC 352-32-010.

(26) Sno-park permit - Seasonal and daily permit fees will be charged as published by state parks.

(27) Special groomed trail permit - A statewide special groomed trail permit will be required for use of special groomed trail areas. The fee charged will be as published by state parks.

(28) Wood debris collection permit - Fee will be charged for collection and removal of wood debris from a state park area pursuant to RCW 4.24.210. The fee may be waived for volunteers assisting with emergency salvage and storm cleanup in the parks.

(29) Merchandise - Prices for merchandise including but not limited to interpretive, recreational and historic materials, literature, food, beverage, grocery and other items at agency operated sales points will be based on market rates and practices.

(30) Back country camping permit - Fee will be charged as published by state parks for selected state park areas as designated by the director.

(31) Group use registration - Fee will be charged for groups of a size to be specified in the fee schedule on a park by park basis who have not otherwise reserved group facilities.

(32) Special event - Fees will be charged based on the cost of providing events and market rates for comparable activities at other locations.

(33) Public assembly - Permit fees based on costs as indicated in WAC 352-32-165.

(34) Aquatic and other state park facilities - Fees will be charged as published by state parks.

(35) Checks dishonored by nonacceptance or nonpayment (NSF checks) - Handling fee and interest:

(a) A handling fee may be assessed consistent with the maximum amount allowed in the office of state procurement, department of general administration's state contract and as published by state parks for checks as defined by chapter 62A.3-104 RCW, dishonored by nonacceptance or nonpayment.

(b) Interest at the maximum rate allowable may be charged on the NSF check as defined by chapter 62A.3-515 RCW, and as published by state parks for a check not paid within fifteen days after a statutory notice of dishonor is sent to maker's last known address.

(36) Fees subject to certificate of participation (COP) and as determined by the commission.

## WSR 16-03-038

### PROPOSED RULES

## HEALTH CARE AUTHORITY

(Washington Apple Health)

[Filed January 13, 2016, 10:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-20-075.

Title of Rule and Other Identifying Information: WAC 182-500-0015 and 182-500-0095, medical definitions - "B" and "R"; WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services; WAC 182-546-5500 Nonemergency transportation—Covered trips; and WAC 182-550-1050, 182-550-1100 and 182-550-2650, hospital services.

Hearing Location(s): Health Care Authority (HCA), Cherry Street Plaza Building, Pear Conference Room 107, 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 February 23, 2016, at 10:00 a.m.

Date of Intended Adoption: Not sooner than February 24, 2016.

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 5:00 p.m. on February 23, 2016.

Assistance for Persons with Disabilities: Contact Amber Lougheed by February 19, 2016, e-mail [amber.lougheed@hca.wa.gov](mailto:amber.lougheed@hca.wa.gov), (360) 725-1349, or TTY (800) 848-5429 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Amendments to rules on the subject of regional support networks and behavioral health organizations are necessary to comply with 2SSB 6312, chapter 225, Laws of 2014. During the course of this review, the agency may identify additional changes that are required in order to improve clarity or update policy.

Reasons Supporting Proposal: See Purpose above.

Statutory Authority for Adoption: RCW 41.05.021, 41.05.160, 2SSB 6312.

Statute Being Implemented: RCW 41.05.021, 41.05.160, 2SSB 6312.

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: Alison Robbins, P.O. Box 45530, Olympia, WA 98504-5530, (360) 725-1634.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The agency has determined that the proposed filing does not impose a disproportionate cost impact on small businesses or nonprofits.

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.

January 13, 2016  
Wendy Barcus  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-21-063, filed 10/19/15, effective 11/19/15)

**WAC 182-500-0015 Medical assistance definitions—**

**B. "Behavioral health organization"** means a single- or multiple-county authority or other entity operating as a prepaid health plan with which the medicaid agency or the agency's designee contracts for the delivery of community outpatient and inpatient mental health and substance use disorder services in a defined geographic area.

**"Benefit package"** means the set of health care service categories included in a client's health care program. See WAC 182-501-0060.

**"Benefit period"** means the time period used to determine whether medicare can pay for covered Part A services. A benefit period begins the first day a beneficiary receives inpatient hospital or extended care services from a qualified provider. The benefit period ends when the beneficiary has not been an inpatient of a hospital or other facility primarily providing skilled nursing or rehabilitation services for sixty consecutive days. There is no limit to the number of benefit periods a beneficiary may receive. Benefit period also means a "spell of illness" for medicare payments.

**"Billing instructions"** means provider guides. See WAC 182-500-0085.

**"Blind"** is a category of medical program eligibility that requires:

- (a) A central visual acuity of 20/200 or less in the better eye with the use of a correcting lens; or
- (b) A field of vision limitation so the widest diameter of the visual field subtends an angle no greater than twenty degrees from central.

**"By report (BR)"** means a method of payment in which the agency or the agency's designee determines the amount it will pay for a service when the rate for that service is not included in the agency's published fee schedules. The provider must submit a report which describes the nature, extent, time, effort and equipment necessary to deliver the service.

AMENDATORY SECTION (Amending WSR 14-01-021, filed 12/9/13, effective 1/9/14)

**WAC 182-500-0095 Medical assistance definitions—**

**R. "Reasonably compatible"** means the amount of a person's self-attested income (as defined in WAC 182-500-0100) and the amount of a person's income verified via electronic data sources are either both above or both below the applicable income standard for Washington apple health (WAH). When self-attested income is less than the standard for WAH, but income from available data sources is more than the WAH standard, or when the self-attested income cannot be verified via electronic data sources, the self-attested income is considered not reasonably compatible.

~~("Regional support network (RSN)" means a single or multiple-county authority or other entity operating as a prepaid health plan through which the agency or the agency's designee contracts for the delivery of community outpatient~~

~~and inpatient mental health services system in a defined geographic area.)~~

**"Retroactive period"** means approval of medical coverage for any or all of the retroactive period. A client may be eligible only in the retroactive period or may have both current eligibility and a separate retroactive period of eligibility approved.

AMENDATORY SECTION (Amending WSR 15-03-041, filed 1/12/15, effective 2/12/15)

**WAC 182-531-1400 Psychiatric physician-related services and other professional mental health services.** (1)

The mental health services covered in this section are different from the mental health services covered under chapter 388-865 WAC, Community mental health and involuntary treatment programs, administered by the division of behavioral health and recovery within the department of social and health services.

(2) Inpatient and outpatient mental health services not covered under chapter 388-865 WAC, may be covered by the agency ~~((according to))~~ under this section.

**Inpatient mental health services**

(3) For hospital inpatient psychiatric admissions, providers must comply with ~~((the rules of the department of social and health services in))~~ chapter 388-865 WAC ~~((Community mental health and involuntary treatment programs))~~.

(4) The agency covers professional inpatient mental health services as follows:

(a) When provided by a psychiatrist, psychiatric advanced registered nurse practitioner (ARNP), or psychiatric mental health nurse practitioner-board certified (PMHNP-BC);

(b) The agency pays only for the total time spent on direct psychiatric client care during each visit, including services ~~((rendered))~~ provided when making rounds. The agency considers services ~~((rendered))~~ provided during rounds to be direct client care services and may include, but are not limited to:

- (i) Individual psychotherapy up to one hour;
- (ii) Family/group therapy; or
- (iii) Electroconvulsive therapy.

(c) One electroconvulsive therapy or narcosynthesis per client, per day, and only when performed by a psychiatrist.

**Outpatient mental health services**

(5) The agency covers outpatient mental health services when provided by the following licensed health care professionals who are ~~((in good standing with the agency and who are without restriction by the department of health under their appropriate licensure))~~ eligible providers under chapter 182-502 WAC:

- (a) Psychiatrists;
- (b) Psychologists;
- (c) Psychiatric advanced registered nurse practitioners (ARNP) ~~((or))~~;
- (d) Psychiatric mental health nurse practitioners-board certified (PMHNP-BC);
- ~~((and))~~ (e) Mental health counselors;

- ~~((e))~~ (f) Independent clinical social workers;
- ~~((f))~~ (g) Advanced social workers; or
- ~~((g))~~ (h) Marriage and family therapists.

(6) With the exception of licensed psychiatrists and psychologists, qualified health care professionals who treat clients age eighteen (~~(years of age)~~) and younger must have a minimum of two years' experience in the diagnosis and treatment of clients age eighteen (~~(years of age)~~) and younger, including one year of supervision by a mental health professional trained in child and family mental health.

(7) The agency does not limit the total number of outpatient mental health visits a licensed health care professional can provide.

(8) ~~((The agency covers outpatient mental health services with the following limitations:))~~ The agency evaluates a request for covered outpatient mental health services (~~(that is)~~) in excess of the limitations or restrictions (~~((according to WAC 182-501-0169))~~) in this section under WAC 182-501-0169. The agency covers outpatient mental health services with the following limitations:

(a) One psychiatric diagnostic evaluation, per provider, per client, per calendar year, unless significant change in the client's circumstances renders an additional evaluation medically necessary and is authorized by the agency.

(b) One individual or family/group psychotherapy visit, with or without the client, per day, per client.

(c) One psychiatric medication management service, per client, per day, in an outpatient setting when performed by one of the following:

- (i) Psychiatrist;
- (ii) Psychiatric advanced registered nurse practitioner (ARNP); or
- (iii) Psychiatric mental health nurse practitioner-board certified (PMHNP-BC).

(9) Clients enrolled in the alternative benefits plan (defined in WAC 182-500-0010) are eligible for outpatient mental health services when used as a habilitative service to treat a qualifying condition in accordance with WAC 182-545-400.

(10) ~~((The agency requires))~~ Mental health services must be provided in the appropriate place of service. The provider is responsible for referring the client to the ~~((regional support network (RSN)))~~ behavioral health organization (BHO) to assess whether the client meets the ~~((RSN))~~ BHO access to care standards.

(11) If anytime during treatment the provider suspects the client meets the ~~((RSN))~~ BHO access to care standards, an assessment must be conducted. This assessment may be completed by either a health care professional listed in subsection (5) of this section or a representative of the ~~((RSN))~~ BHO.

(12) After the client completes fifteen outpatient mental health visits under this benefit, the agency may request a written attestation that the client has been assessed for meeting access to care standards. This written attestation ~~((assures))~~ verifies the mental health services are being provided in the appropriate place of service. ~~((This))~~ The treating provider must respond to this request.

(13) To support continuity of care, the client may continue under the care of the provider until ~~((an RSN))~~ a BHO can receive the client.

(14) To be paid for providing mental health services, providers must bill the agency using the agency's published billing instructions.

(15) The agency considers a provider's acceptance of multiple payments for the same client for the same service on the same date to be a duplication of payment. Duplicative payments may be recouped by the agency under WAC 182-502-0230. Providers must keep documentation identifying the type of service provided and the contract or agreement under which it is provided.

AMENDATORY SECTION (Amending WSR 15-03-050, filed 1/14/15, effective 2/14/15)

**WAC 182-546-5500 Nonemergency transportation—Covered trips.** (1) The medicaid agency covers nonemergency transportation for ~~((medical assistance clients))~~ a Washington apple health client to and from health care services ~~((when))~~ if all of the following apply:

(a) The health care services are:

(i) Within the scope of coverage of the eligible client's benefit services package;

(ii) Covered as defined in WAC 182-501-0050 through 182-501-0065 and the specific program rules; and

(iii) Authorized, ~~((when))~~ as required ~~((within))~~ under specific program rules.

(b) The health care service is medically necessary as defined in WAC 182-500-0070;

(c) The health care service is being provided ~~((as follows (see subsection (3) of this section for exceptions)))~~:

(i) Under fee-for-service, by an agency-contracted provider;

(ii) Through an agency-contracted managed care organization (MCO), by an MCO provider;

(iii) Through a ~~((regional support network (RSN), by an RSN))~~ behavioral health organization (BHO), by a BHO contractor; or

(iv) Through one of the following providers, as long as the provider is eligible for enrollment as a medicaid provider (see WAC 182-502-0012):

(A) A medicare enrolled provider;

(B) A provider in the network covered by the client's primary insurance where there is third-party insurance;

(C) A provider performing services paid for by the Veteran's Administration, charitable program, or other voluntary program (Shriners, etc.).

(d) The trip is to a local provider as defined in WAC 182-546-5100 (see WAC 182-546-5700(3) for local provider exceptions);

(e) The transportation is the lowest cost available mode or alternative that is both accessible to the client and appropriate to the client's medical condition and personal capabilities;

(f) The trip is authorized by the broker before a client's travel; and

(g) The trip is a minimum of three-quarters of a mile from pick-up point to the drop-off point (see WAC 182-546-



6200(7) for exceptions to the minimum distance requirement).

(2) Coverage for nonemergency medical transportation is limited to one roundtrip per day, with the exception of multiple medical appointments which cannot be accessed in one roundtrip.

AMENDATORY SECTION (Amending WSR 14-12-047, filed 5/29/14, effective 7/1/14)

**WAC 182-550-1050 Hospital services definitions.**

The following definitions and abbreviations, those found in chapter 182-500 WAC, Medical definitions, and definitions and abbreviations found in other sections of this chapter apply to this chapter. When a term is not defined in this chapter, other agency or agency's designee WAC, or state or federal law, the medical definitions found in *Taber's Cyclopedic Medical Dictionary* apply.

**"Accommodation costs"** - The expenses incurred by a hospital to provide its patients services for which a separate charge is not customarily made. These expenses include, but are not limited to, room and board, medical social services, psychiatric social services, and the use of certain hospital equipment and facilities.

**"Accredited"** or **"accreditation"** - A term used by nationally recognized health organizations, such as the commission on accreditation of rehabilitation facilities (CARF), to indicate a facility meets both professional and community standards of medical care.

**"Acute"** - A medical condition of severe intensity with sudden onset. For the purposes of the acute physical medicine and rehabilitation (Acute PM&R) program, acute means an intense medical episode, not longer than three months.

**"Acute care"** - Care provided for patients who are not medically stable or have not attained a satisfactory level of rehabilitation. These patients require frequent monitoring by a health care professional (~~in order~~) to maintain their health status.

**"Acute physical medicine and rehabilitation (acute PM&R)"** - A comprehensive inpatient rehabilitative program coordinated by an interdisciplinary team at an agency-approved rehabilitation facility. The program provides twenty-four-hour specialized nursing services and an intense level of therapy for specific medical conditions for which the client shows significant potential for functional improvement. Acute PM&R is a twenty-four hour inpatient comprehensive program of integrated medical and rehabilitative services provided during the acute phase of a client's rehabilitation.

**"Administrative day"** or **"administrative days"** - One or more days of a hospital stay in which an acute inpatient or observation level of care is not medically necessary, and a lower level of care is appropriate.

**"Administrative day rate"** - The agency's statewide medicaid average daily nursing facility rate.

**"Aggregate cost"** - The total cost or the sum of all constituent costs.

**"Aggregate operating cost"** - The total cost or the sum of all operating costs.

**"All-patient DRG grouper (AP-DRG)"** - A computer software program that determines the medical and surgical diagnosis-related group (DRG) assignments used by the agency for inpatient admissions between August 1, 2007, and June 30, 2014.

**"All-patient refined DRG grouper (APR-DRG)"** - A computer software program that determines the medical and surgical diagnosis-related group (DRG) assignments used by the agency for inpatient admissions on and after July 1, 2014.

**"Allowable"** - The calculated amount for payment, after exclusion of any "nonallowed service or charge," based on the applicable payment method before final adjustments, deductions, and add-ons.

**"Allowed amount"** - The initial calculated amount for any procedure or service, after exclusion of any "nonallowed service or charge," that the agency allows as the basis for payment computation before final adjustments, deductions, and add-ons.

**"Allowed charges"** - The total billed charges for allowable services.

**"Allowed covered charges"** - The total billed charges for services minus the billed charges for noncovered (~~and/or~~) services, denied services, or both.

**"Ambulatory payment classification (APC)"** - A grouping that categorizes outpatient visits according to the clinical characteristics, the typical resource use, and the costs associated with the diagnoses and the procedures performed.

**"Ambulatory surgery"** - A surgical procedure that is not expected to require an inpatient hospital admission.

**"Ancillary services"** - Additional or supporting services provided by a hospital to a client during the client's hospital stay. These services include, but are not limited to: Laboratory, radiology, drugs, delivery room, operating room, postoperative recovery rooms, and other special items and services.

**"Appropriate level of care"** - The level of care required to best manage a client's illness or injury based on:

- (1) The severity of illness and the intensity of services required to treat the illness or injury; or
- (2) A condition-specific episode of care.

**"Audit"** - An assessment, evaluation, examination, or investigation of a health care provider's accounts, books, and records, including:

(1) Health, financial, and billing records pertaining to billed services paid by the agency through Washington apple health, by a person not employed or affiliated with the provider, (~~for the purpose of verifying~~) to verify the service was provided as billed and was allowable under program regulations; and

(2) Financial, statistical, and health records, including mathematical computations and special studies conducted supporting the medicare cost report (Form 2552-96 and 2552-10 or successor form), submitted to the agency (~~for the purpose of establishing~~) to establish program rates for payment to hospital providers.

**"Authorization"** - See **"prior authorization"** and **"expedited prior authorization (EPA)."**

**"Bad debt"** - An operating expense or loss incurred by a hospital because of uncollectible accounts receivables.

**"Bedside nursing services"** - Services included under the room and board services paid to the facility and provided by nursing service personnel. These services include, but are not limited to: Medication administration, IV hydration and IV medication administration, vaccine administration, dressing applications, therapies, glucometry testing and other point of care testing, catheterizations, tube feedings and irrigations, and equipment monitoring services.

**"Billed charge"** - The charge submitted to the agency by the provider.

**"Bordering city hospital"** - A hospital located in one of the cities listed in WAC 182-501-0175.

**"Budget neutral"** - A condition in which a claims model produces aggregate payments to hospitals that are the same under two separate payment systems. See also **"budget neutrality factor."**

**"Budget neutrality factor"** - A multiplier used by the agency to ensure that modifications to the payment method and rates are budget neutral. See also **"budget neutral."**

**"Budget target"** - Funds appropriated by the legislature or through the agency's budget process to pay for a specific group of services, including anticipated caseload changes or vendor rate increases.

**"Budget target adjuster"** - A multiplier applied to the outpatient prospective payment system (OPPS) payment to ensure aggregate payments do not exceed the established budget target.

**"Bundled services"** - Interventions integral to or related to the major procedure. The agency does not pay separately for these services.

**"Case mix"** - A relative value assigned to a DRG or classification of patients in a medical care environment representing the resource intensity demands placed on an institution.

**"Case mix index (CMI)"** - The average relative weight of all cases treated in a hospital during a defined period.

**"Centers for Medicare and Medicaid Services (CMS)"** - See WAC 182-500-0020.

**"Charity care"** - See chapter 70.170 RCW.

**"Chemical dependency"** - An addiction or dependence on alcohol or drugs, or both.

**"Children's health insurance program (CHIP)"** - The federal Title XXI program under which medical care is provided to uninsured children younger than age nineteen. Part of Washington apple health.

**"Children's hospital"** - A hospital primarily serving children.

**"Client"** - A person who receives or is eligible to receive services through agency programs.

**"Commission on accreditation of rehabilitation facilities (CARF)"** - See <http://www.carf.org/home/>.

**"CMS PPS input price index"** - A measure, expressed as a percentage, of the annual inflationary costs for hospital services.

**"Comprehensive hospital abstract reporting system (CHARS)"** - The department of health's (DOH's) inpatient hospital data collection, tracking, and reporting system.

**"Condition-specific episode of care"** - Care provided to a client based on the client's primary condition, complica-

tions, comorbidities, standard treatments, and response to treatments.

**"Contract hospital"** - A hospital contracted by the agency to provide specific services.

**"Conversion factor"** - A hospital-specific dollar amount that is used in calculating inpatient payments.

**"Core provider agreement (CPA)"** - The basic contract the agency holds with providers serving Washington apple health clients.

**"Cost report"** - See **"medicare cost report."**

**"Costs"** - Agency-approved operating, medical education, and capital-related costs (capital costs) as reported and identified on the "cost report."

**"Covered charges"** - Billed charges submitted to the agency on a claim by the provider, less the noncovered charges indicated on the claim.

**"Covered services"** - See **"hospital covered service"** and WAC 182-501-0050.

**"Critical border hospital"** - An acute care hospital located in a bordering city (see WAC 182-501-0175 for list) that the agency has, through analysis of admissions and hospital days, designated as critical to provide health care for Washington apple health clients.

**"Current procedural terminology (CPT)"** - A systematic listing of descriptive terms and identifying codes for reporting medical services, procedures, and interventions performed by physicians. CPT is copyrighted and published annually by the American Medical Association (AMA).

**"Deductible"** - The dollar amount a client is responsible for before an insurer, such as medicare, starts paying or the initial specific dollar amount for which the client is responsible.

**"Department of social and health services (DSHS)"** -

The Washington state agency that provides food assistance, financial aid, medical and behavioral health care, and other services to eligible children, families, and vulnerable adults and seniors of Washington state.

**"Diabetes education program"** - A comprehensive, multidisciplinary program of instruction offered by a DOH-approved diabetes education provider to diabetic clients for managing diabetes. This includes instruction on nutrition, foot care, medication and insulin administration, skin care, glucose monitoring, and recognition of signs/symptoms of diabetes with appropriate treatment of problems or complications.

**"Diagnosis code"** - A set of numeric or alphanumeric characters assigned by the current published ICD-CM coding guidelines used by the agency as a shorthand symbol to represent the nature of a disease or condition.

**"Diagnosis-related group (DRG)"** - A classification system that categorizes hospital patients into clinically coherent and homogenous groups with respect to resource use. Classification of patients is based on the current published ICD-CM coding guidelines used by the agency, the presence of a surgical procedure, patient age, presence or absence of significant comorbidities or complications, and other relevant criteria.

**"Direct medical education costs"** - The direct costs of providing an approved medical residency program as recognized by medicare.

**"Discharging hospital"** - The institution releasing a client from the acute care hospital setting.

**"Discount factor"** - The percentage applied to additional significant procedures when a claim has multiple significant procedures or when the same procedure is performed multiple times on the same day. Not all significant procedures are subject to a discount factor.

**"Disproportionate share hospital (DSH) payment"** - A supplemental payment made by the agency to a hospital that qualifies for one or more of the disproportionate share hospital programs identified in the state plan. See WAC 182-550-4900.

**"Disproportionate share hospital (DSH) program"** - A program through which the agency makes payment adjustments to eligible hospitals that serve a disproportionate number of low-income clients in accordance with legislative direction and established payment methods. See 1902 (a)(13)(A)(iv) of the Social Security Act. See also WAC 182-550-4900 through 182-550-5400.

**"Dispute conference"** - See **"hospital dispute conference."**

**"Distinct unit"** - A distinct area for psychiatric, rehabilitation, or detox services which has been certified by medicare within an acute care hospital or approved by the agency within a children's hospital.

**"Division of behavioral health and recovery services (DBHR)"** - The division within DSHS that administers mental health, problem gambling, and substance abuse programs authorized by chapters 43.20A, 71.05, 71.24, 71.34, and 70.96A RCW.

**"DRG"** - See **"diagnosis-related group."**

**"DRG allowed amount"** - The DRG relative weight multiplied by the conversion factor.

**"DRG average length-of-stay"** - The agency's average length-of-stay for a DRG classification established during an agency DRG rebasing and recalibration project.

**"DRG-exempt services"** - Services paid through methods other than DRG, such as per diem rate, per case rate, or ratio of costs-to-charges (RCC).

**"DRG payment"** - The total payment made by the agency for a client's inpatient hospital stay. The DRG payment is the DRG allowed amount plus the high outlier minus any third-party liability, client participation, medicare payment, and any other adjustments applied by the agency.

**"DRG relative weight"** - A factor used in the calculation of DRG payments. As of July 1, 2014, the medicaid agency uses the 3M™ Corporation's national weights developed for the all-patient refined-diagnosis-related group (APR-DRG) software.

**"Enhanced ambulatory patient groupings (EAPG)"** - The payment system used by the agency to calculate reimbursement to hospitals for the facility component of outpatient services on and after July 1, 2014. This system uses 3M's EAPGs as the primary basis for payment.

**"Emergency medical condition"** - See WAC 182-500-0030.

**"Emergency room"** or **"emergency facility"** or **"emergency department"** - A distinct hospital-based facility which provides unscheduled services to clients who require immediate medical attention. An emergency depart-

ment must be capable of providing emergency medical, surgical, and trauma care services twenty-four hours a day, seven days a week. A physically separate extension of an existing hospital emergency department may be considered a freestanding emergency department as long as the extension provides comprehensive emergency medical, surgical, and trauma care services twenty-four hours a day, seven days a week.

**"Emergency services"** - Health care services required by and provided to a client after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in placing the client's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part. Inpatient maternity services are considered emergency services by the agency.

**"Equivalency factor (EF)"** - A factor that may be used by the agency in conjunction with other factors to determine the level of a state-administered program payment. See WAC 182-550-4800.

**"Exempt hospital - DRG payment method"** - A hospital that for a certain client category is reimbursed for services to Washington apple health clients through methodologies other than those using DRG conversion factors.

**"Expedited prior authorization (EPA)"** - See WAC 182-500-0030.

**"Experimental service"** - A procedure, course of treatment, drug, or piece of medical equipment, which lacks scientific evidence of safety and effectiveness. See WAC 182-531-0050. A service is not "experimental" if the service:

(1) Is generally accepted by the medical profession as effective and appropriate; and

(2) Has been approved by the federal Food and Drug Administration (FDA) or other requisite government body if ((such)) approval is required.

**"Fee-for-service"** - See WAC 182-500-0035.

**"Fiscal intermediary"** - Medicare's designated fiscal intermediary for a region or category of service, or both.

**"Fixed per diem rate"** - A daily amount used to determine payment for specific services provided in long-term acute care (LTAC) hospitals.

**"Formal release"** - When a client:

(1) Discharges from a hospital or distinct unit;

(2) Dies in a hospital or distinct unit;

(3) Transfers from a hospital or distinct unit as an acute care transfer; or

(4) Transfers from the hospital or distinct unit to a designated psychiatric unit or facility, or a designated acute rehabilitation unit or facility.

**"Global surgery days"** - The number of preoperative and follow-up days that are included in the payment to the physician for the major surgical procedure.

**"Graduate medical education costs"** - The direct and indirect costs of providing medical education in teaching hospitals. See "direct medical education costs" and "indirect medical education costs."

**"Grouper"** - See **"all-patient DRG grouper (AP-DRG)"** and **"all-patient refined DRG grouper (APR-DRG)."**

**"Health care authority (medicaid agency)"** - The Washington state agency that administers Washington apple health.

**"High outlier"** - A DRG claim classified by the agency as being allowed a high outlier payment that is paid under the DRG payment method, does not meet the definition of "administrative day," and has extraordinarily high costs as determined by the agency. See WAC 182-550-3700.

**"Hospice"** - A medically directed, interdisciplinary program of palliative services for terminally ill clients and the clients' families. Hospice is provided under arrangement with a Washington state-licensed and Title XVIII-certified Washington state hospice.

**"Hospital"** - An entity that is licensed as an acute care hospital in accordance with applicable state laws and regulations, or the applicable state laws and regulations of the state in which the entity is located when the entity is out-of-state, and is certified under Title XVIII of the federal Social Security Act. The term "hospital" includes a medicare or state-certified distinct rehabilitation unit, a "psychiatric hospital" as defined in this section, or any other distinct unit of the hospital.

**"Hospital covered service"** - Any service, treatment, equipment, procedure, or supply provided by a hospital, covered under a Washington apple health program, and within the scope of an eligible client's Washington apple health program.

**"Hospital cost report"** - See "cost report."

**"Hospital readmission"** - A situation in which a client who was admitted as an inpatient and discharged from the hospital has returned to inpatient status to the same or a different hospital.

**"Indirect medical education costs"** - The indirect costs of providing an approved medical residency program as recognized by medicare.

**"Inflation adjustment"** - For cost inflation, this is the hospital inflation adjustment. This adjustment is determined by using the inflation factor method approved by the legislature. For charge inflation, this is the inflation factor determined by comparing average discharge charges for the industry from one year to the next, as found in the comprehensive hospital abstract reporting system (CHARS) Hospital Census and Charges by Payer report.

**"Inpatient hospital admission"** - A formal admission to a hospital based on an evaluation of the client using objective clinical indicators (~~for the purpose of providing~~) to provide medically necessary, acute inpatient care. These indicators include assessment, monitoring, and therapeutic services as required to best manage the client's illness or injury. All applicable indicators must be documented in the client's health record. The decision to admit a client to inpatient status should be based on the condition-specific episode of care, severity of illness presented, and the intensity of services rendered. The agency does not deem inpatient hospital admissions as covered or noncovered solely on the basis of the length of time the client actually spends in the hospital. Generally, a client remains overnight and occupies a bed. Inpatient status can apply even if the client is discharged or transferred to another acute hospital and does not actually use a hospital bed overnight. For the agency to recognize a stay as

inpatient there must be a physician admission order in the client's medical record indicating the status as inpatient.

**"Inpatient medicaid DRG conversion factor"** - A dollar amount that represents selected hospitals' average costs of treating medicaid and CHIP clients. The conversion factor is a rate that is multiplied by a DRG relative weight to pay medicaid and CHIP claims under the DRG payment method. See WAC 182-550-3800 for how this conversion factor is calculated.

**"Inpatient services"** - Health care services provided to a client during hospitalization whose condition warrants formal admission and treatment in a hospital.

**"Inpatient state-administered program conversion factor"** - A DRG conversion factor reduced from the inpatient medicaid DRG conversion factor to pay a hospital for inpatient services provided to a client eligible under a state-administered program. The conversion factor is multiplied by a DRG relative weight to pay claims under the DRG payment method.

**"Intermediary"** - See "fiscal intermediary."

**"International Classification of Diseases (ICD-9-CM and ICD-10-CM)"** - The systematic listing of diseases, injuries, conditions, and procedures as numerical or alpha numerical designations (coding).

**"Length of stay (LOS)"** - The number of days of inpatient hospitalization, calculated by adding the total number of days from the admission date to the discharge date, and subtracting one day.

**"Long-term acute care (LTAC) services"** - Inpatient intensive long-term care services provided in agency-approved LTAC hospitals to eligible Washington apple health clients who meet criteria for level 1 or level 2 services. See WAC 182-550-2565 through 182-550-2596.

**"LTAC level 1 services"** - LTAC services provided to a client who requires eight or more hours of direct skilled nursing care per day and the client's medical needs cannot be met at a lower level of care due to clinical complexity. Level 1 services include one of the following:

- (1) Ventilator weaning care; or
- (2) Care for a client who has:

(a) Chronic open wounds that require on-site wound care specialty services and daily assessments and/or interventions; and

(b) At least one comorbid condition (such as chronic renal failure requiring hemodialysis).

**"LTAC level 2 services"** - LTAC services provided to a client who requires four or more hours of direct skilled nursing care per day, and the clients' medical needs cannot be met at a lower level of care due to clinical complexity. Level 2 services include at least one of the following:

(1) Ventilator care for a client who is ventilator-dependent and is not weanable and has complex medical needs; or

(2) Care for a client who:

(a) Has a tracheostomy;

(b) Requires frequent respiratory therapy services for complex airway management and has the potential for decannulation; and

(c) Has at least one comorbid condition (such as quadriplegia).

**"Major diagnostic category (MDC)"** - One of the mutually exclusive groupings of principal diagnosis areas in the AP-DRG and APR-DRG classification systems.

**"Medical care services (MCS)"** - See WAC 182-500-0070.

**"Medical education costs"** - The expenses incurred by a hospital to operate and maintain a formally organized graduate medical education program.

**"Medical visit"** - Diagnostic, therapeutic, or consultative services provided to a client by a health care professional in an outpatient setting.

**"Medicare cost report"** - The Medicare cost report (Form 2552-96 or Form 2552-10), or successor document, completed and submitted annually by a hospital provider.

**"Medicare crossover"** - A claim involving a client who is eligible for both Medicare benefits and Medicaid.

**"Medicare physician fee schedule (MPFS)"** - The official CMS publication of relative value units and Medicare payment policy indicators for the resource-based relative value scale (RBRVS) payment program.

**"Medicare Part A"** - See WAC 182-500-0070.

**"Medicare Part B"** - See WAC 182-500-0070.

**"Medicare payment principles"** - The rules published in the federal register regarding payment for services provided to Medicare clients.

**"Mental health designee"** - A professional contact person authorized by the division of behavioral health and recovery (DBHR) of DSHS, who operates under the direction of a (~~regional support network (RSN)~~) behavioral health organization (BHO) or a prepaid inpatient health plan (PIHP). See WAC 182-550-2600.

**"Military hospital"** - A hospital reserved for the use of military personnel, their dependents, and other authorized users.

**"Modifier"** - A two-digit alphabetic and/or numeric identifier added to the procedure code to indicate the type of service performed. The modifier provides the means by which the reporting hospital can describe or indicate that a performed service or procedure has been altered by some specific circumstance but not changed in its definition or code. The modifier can affect payment or be used for information only. Modifiers are listed in fee schedules.

**"National Correct Coding Initiative (NCCI)"** - A national standard for the accurate and consistent description of medical goods and services using procedural codes. The standard is based on coding conventions defined in the *American Medical Association's Current Procedural Terminology (CPT®)* manual, current standards of medical and surgical coding practice, input from specialty societies, and analysis of current coding practices. The Centers for Medicare and Medicaid Services (CMS) maintain NCCI policy. Information can be found at <http://www.cms.hhs.gov/NationalCorrectCodingInitEd/>.

**"National Drug Code (NDC)"** - The eleven-digit number the manufacturer or labeler assigns to a pharmaceutical product and attaches to the product container at the time of packaging. The eleven-digit NDC is composed of a five-four-two grouping. The first five digits comprise the labeler code assigned to the manufacturer by the FDA. The second grouping of four digits is assigned by the manufacturer to describe

the ingredients, dose form, and strength. The last grouping of two digits describes the package size.

**"National payment rate (NPR)"** - A rate for a given procedure code, published by CMS, that does not include a state- or location-specific adjustment.

**"National Provider Identifier (NPI)"** - A standard, unique identifier for health care providers assigned by CMS. The agency's ProviderOne system pays for inpatient and outpatient services using only one NPI per provider. The agency may make an exception for inpatient claims billed with Medicare-certified, distinct unit NPIs.

**"Nationwide rate"** - See **"national payment rate (NPR)."**

**"NCCI edit"** - A software step used to determine if a claim is billing for a service that is not in accordance with federal and state statutes, federal and state regulations, agency fee schedules, billing instructions, and other publications. The agency has the final decision whether the NCCI edits allow automated payment for services that were not billed in accordance with governing law, NCCI standards, or agency policy.

**"Newborn"** or **"neonate"** or **"neonatal"** - A person younger than twenty-nine days old.

**"Nonallowed service or charge"** - A service or charge billed by the provider as noncovered or denied by the agency. This service or charge cannot be billed to the client except under the conditions identified in WAC 182-502-0160.

**"Noncovered charges"** - Billed charges a provider submits to the agency on a claim and indicates them on the claim as noncovered.

**"Noncovered service or charge"** - A service or charge the agency does not consider or pay for as a "hospital covered service." This service or charge may not be billed to the client, except under the conditions identified in WAC 182-502-0160.

**"Nursing service personnel"** - A group of health care professionals that includes, but is not limited to: Registered nurse (RN), licensed practical nurse (LPN), certified nursing assistant/nursing assistant certified (CNA/NAC).

**"Observation services"** - A well-defined set of clinically appropriate services furnished while determining whether a client will require formal inpatient admission or be discharged from the hospital. Services include ongoing short-term treatment, monitoring, assessment, and reassessment. Rarely do reasonable and necessary observation services exceed forty-eight hours. The agency or its designee may determine through the retrospective utilization review process that an inpatient hospital service should have been billed as an observation service.

**"Operating costs"** - All expenses incurred providing accommodation and ancillary services, excluding capital and medical education costs.

**"Orthotic device"** or **"orthotic"** - A corrective or supportive device that:

- (1) Prevents or corrects physical deformity or malfunction; or
- (2) Supports a weak or deformed portion of the body.

**"Out-of-state hospital"** - Any hospital located outside the state of Washington and the bordering cities designated in WAC 182-501-0175. For Washington apple health clients

requiring psychiatric services, an "out-of-state hospital" is any hospital located outside the state of Washington.

**"Outliers"** - Cases with extraordinarily high costs when compared to other cases in the same DRG.

**"Outpatient"** - A client who is receiving health care services, other than inpatient services, in a hospital setting.

**"Outpatient care"** - See **"outpatient hospital services."**

**"Outpatient code editor (OCE)"** - A software program the agency uses for classifying and editing in ambulatory payment classification (APC)-based OPSS.

**"Outpatient hospital"** - A hospital authorized by DOH to provide outpatient services.

**"Outpatient hospital services"** - Those health care services that are within a hospital's licensure and provided to a client who is designated as an outpatient.

**"Outpatient observation"** - See **"observation services."**

**"Outpatient prospective payment system (OPSS)"** - The payment system used by the agency to calculate reimbursement to hospitals for the facility component of outpatient services.

**"Outpatient prospective payment system (OPSS) conversion factor"** - See **"outpatient prospective payment system (OPSS) rate."**

**"Outpatient prospective payment system (OPSS) rate"** - A hospital-specific multiplier assigned by the agency that is one of the components of the APC payment calculation.

**"Outpatient surgery"** - A surgical procedure that is not expected to require an inpatient hospital admission.

**"Pass-throughs"** - Certain drugs, devices, and biologicals, as identified by CMS, for which providers are entitled to additional separate payment until the drugs, devices, or biologicals are assigned their own APC.

**"Per diem"** - A method which uses a daily rate to calculate payment for services provided as a "hospital covered service."

**"PM&R"** - See **"Acute PM&R."**

**"Point of care testing (POCT)"** - A test designed to be used at or near the site where the patient is located, that does not require permanent dedicated space, and that is performed outside the physical facilities of the clinical laboratory.

**"Primary care case management (PCCM)"** - The coordination of health care services under the agency's Indian health center or tribal clinic managed care program. See WAC 182-538-068.

**"Principal diagnosis"** - The condition chiefly responsible for the admission of the patient to the hospital.

**"Prior authorization"** - See WAC 182-500-0085.

**"Private room rate"** - The rate customarily charged by a hospital for a one-bed room.

**"Prospective payment system (PPS)"** - A payment system in which what is needed to calculate payments (methods, types of variables, and other factors) is set in advance and is knowable by all parties before care is provided. In a retrospective payment system, what is needed (actual costs or charges) is not available until after care is provided.

**"Prosthetic device"** or **"prosthetic"** - A replacement, corrective, or supportive device prescribed by a physician or

other licensed practitioner, within the scope of his or her practice as defined by state law, to:

- (1) Artificially replace a missing portion of the body;
  - (2) Prevent or correct physical deformity or malfunction;
- or
- (3) Support a weak or deformed portion of the body.

**"Psychiatric hospital"** - A medicare-certified distinct psychiatric unit, a medicare-certified psychiatric hospital, or a state-designated pediatric distinct psychiatric unit in a medicare-certified acute care hospital. Eastern state hospital and western state hospital are excluded from this definition.

**"Public hospital district"** - A hospital district established under chapter 70.44 RCW.

**"Ratable"** - A factor used to calculate inpatient payments for state-administered programs.

**"Ratio of costs-to-charges (RCC)"** - A method used to pay hospitals for some services exempt from the DRG payment method. It also refers to the percentage applied to a hospital's allowed covered charges for medically necessary services to determine estimated costs, as determined by the agency, and payment to the hospital for some DRG-exempt services.

**"Rebasing"** - The process used by the agency to update hospital payment policies, related variables (rates, factors, thresholds, multipliers, and caps), and system processes (edits, adjudication, grouping, etc.).

**"Recalibration"** - The process of recalculating DRG relative weights using historical data.

~~(**"Regional support network (RSN)"** - See WAC 182-500-0095.)~~

**"Rehabilitation units"** - Specifically identified rehabilitation hospitals and designated rehabilitation units of hospitals that meet agency and medicare criteria for distinct rehabilitation units.

**"Relative weights"** - See **"DRG relative weights."**

**"Reserve days"** - The days beyond the ninetieth day of hospitalization of a medicare patient for a benefit period or incidence of illness. See also **"lifetime hospitalization reserve."**

**"Revenue code"** - A nationally assigned coding system for billing inpatient and outpatient hospital services, home health services, and hospice services.

**"Room and board"** - Routine supplies and services provided to a client during the client's hospital stay. This includes, but is not limited to, a regular or special care hospital room and related furnishings, room supplies, dietary and bedside nursing services, and the use of certain hospital equipment and facilities.

**"Rural health clinic"** - See WAC 182-549-1100.

**"Rural hospital"** - An acute care health care facility capable of providing or assuring availability of inpatient and outpatient hospital health services in a rural area.

**"Semi-private room rate"** - A rate customarily charged for a hospital room with two to four beds; this charge is generally lower than a private room rate and higher than a ward room. See also **"multiple occupancy rate."**

**"Significant procedure"** - A procedure, therapy, or service provided to a client that constitutes one of the primary reasons for the visit to the health care professional, and rep-

resents a substantial portion of the resources associated with the visit.

**"Specialty hospitals"** - Children's hospitals, psychiatric hospitals, cancer research centers or other hospitals which specialize in treating a particular group of patients or diseases.

**"Spendedown"** - See chapter 182-519 WAC.

**"State plan"** - The plan filed by the agency with CMS, Department of Health and Human Services (DHHS), outlining how the state will administer medicaid and CHIP services, including the hospital program.

**"Status indicator (SI)"** - A code assigned to each medical procedure or service by the agency that contributes to the selection of a payment method.

**"Subacute care"** - Care provided to a client which is less intensive than that given at an acute care hospital. Skilled nursing, nursing care facilities and other facilities provide subacute care services.

**"Survey"** - An inspection or review conducted by a federal, state, or private agency to evaluate and monitor a facility's compliance with program requirements.

**"Swing bed"** - An inpatient hospital bed certified by CMS for either acute inpatient hospital or skilled nursing services.

**"Swing-bed day"** - A day in which a client is receiving skilled nursing services in a hospital-designated swing bed at the hospital's census hour.

**"Total patient days"** - All patient days in a hospital for a given reporting period, excluding days for skilled nursing, nursing care, and observation days.

**"Transfer"** - To move a client from one acute care setting to a higher level acute care setting for emergency care or to a post-acute, lower level care setting for ongoing care.

**"Transferring hospital"** - The hospital or distinct unit that transfers a client to another acute care or subacute facility or distinct unit, or to a nonhospital setting.

**"UB-04"** - The uniform billing document required for use nationally by hospitals, nursing facilities, hospital-based skilled nursing facilities, home health agencies, and hospice agencies in billing for services provided to patients. This document includes the current national uniform billing data element specifications developed by the National Uniform Billing Committee and approved and modified by the Washington state payer group or the agency.

**"Vendor rate increase"** - An adjustment determined by the legislature, that may be used to periodically increase rates for payment to vendors, including health care providers, that do business with the state.

**"Washington apple health program"** - Any health care program administered through the medicaid agency.

**AMENDATORY SECTION** (Amending WSR 15-18-065, filed 8/27/15, effective 9/27/15)

**WAC 182-550-1100 Hospital care—General.** (1) The medicaid agency:

(a) Pays for ~~((the admission of))~~ an eligible Washington apple health (WAH) ~~((client))~~ client's admission to a hospital only when the client's attending physician orders admission and when the admission and treatment provided:

(i) Are covered ~~((according to))~~ under WAC 182-501-0050, 182-501-0060 and 182-501-0065;

(ii) Are medically necessary as defined in WAC 182-500-0070;

(iii) Are determined according to WAC 182-501-0165 when prior authorization is required;

(iv) Are authorized when required under this chapter; and

(v) Meet applicable state and federal requirements.

(b) For hospital admissions, defines "attending physician" as the client's primary care provider, or the primary provider of care to the client at the time of admission.

(2) Medical record documentation of hospital services must meet the requirements in WAC 182-502-0020.

(3) The agency:

(a) Pays for a hospital covered service provided to an eligible WAH client enrolled in an agency-contracted managed care organization (MCO) plan, under the fee-for-service program if the service is excluded from the MCO's capitation contract with the agency and meets prior authorization requirements. (See WAC 182-550-2600 for inpatient psychiatric services.)

(b) Does not pay for nonemergency services provided to a WAH client from a nonparticipating hospital in a selective contracting area (SCA) unless exclusions in WAC 182-550-4700 apply. The agency's selective contracting program and selective contracting payment limitations end for hospital claims with dates of admission before July 1, 2007.

(4) The agency pays up to twenty-six days of inpatient hospital care for hospital-based detoxification, medical stabilization, and drug treatment for chemical dependent pregnant clients eligible under the chemical-using pregnant (CUP) women program.

See WAC 182-533-0701 through 182-533-0730.

(5) The agency pays for inpatient hospital detoxification of acute alcohol or other drug intoxication when the services are provided to an eligible client:

(a) In a detoxification unit in a hospital that has a detoxification provider agreement with the agency to perform these services and the services are approved by the division of ~~((alcohol and substance abuse (DASA)))~~ behavioral health and recovery (DBHR) within the department of social and health services (DSHS); or

(b) In an acute hospital and all the following criteria are met:

(i) The hospital does not have a detoxification specific provider agreement with ~~((DASA))~~ DBHR;

(ii) The hospital provides the care in a medical unit;

(iii) Nonhospital based detoxification is not medically appropriate for the client;

(iv) The client does not require medically necessary inpatient psychiatric care and it is determined that an approval from a ~~((regional support network (RSN) or a mental health division (MHD)))~~ behavioral health organization (BHO) or a DBHR designee as an inpatient stay is not indicated;

(v) The client's stay qualifies as an inpatient stay;

(vi) The client is not participating in the agency's chemical-using pregnant (CUP) women program; and

(vii) The client's principal diagnosis meets the agency's medical inpatient detoxification criteria listed in the agency's published billing instructions.

(6) The agency covers medically necessary dental-related services provided to an eligible client in a hospital-based dental clinic when the services:

(a) Are provided under chapter 182-535 WAC; and

(b) Are billed on the American Dental Association (ADA) or health care financing administration (HCFA) claim form.

(7) The agency pays a hospital for covered dental-related services, including oral and maxillofacial surgeries, that are provided in the hospital's operating room, when:

(a) The covered dental-related services are medically necessary and provided under chapter 182-535 WAC;

(b) The covered dental-related services are billed on a UB claim form; and

(c) At least one of the following is true:

(i) The dental-related service(s) is provided to an eligible WAH client on an emergency basis;

(ii) The client is eligible under the division of developmental disability program;

(iii) The client is age eight or younger; or

(iv) The dental service is prior authorized by the agency.

(8) For inpatient voluntary or involuntary psychiatric admissions, see WAC 182-550-2600.

**AMENDATORY SECTION** (Amending WSR 14-16-019, filed 7/24/14, effective 8/24/14)

**WAC 182-550-2650 Base community psychiatric hospitalization payment method for medicaid and CHIP clients and nonmedicaid and non-CHIP clients.** (1) Effective for dates of admission from July 1, 2005 through June 30, 2007, and in accordance with legislative directive, the agency implemented two separate base community psychiatric hospitalization payment rates, one for medicaid and children's health insurance program (CHIP) clients and one for nonmedicaid and non-CHIP clients. Effective for dates of admission on and after July 1, 2007, the base community psychiatric hospitalization payment method for medicaid and CHIP clients and nonmedicaid and non-CHIP clients is no longer used. (For the purpose of this section, a "nonmedicaid or non-CHIP client" is defined as a client eligible under the medical care services (MCS) program, as determined by the agency.)

(a) The medicaid base community psychiatric hospital payment rate is a minimum per diem for claims for psychiatric services provided to medicaid and CHIP covered patients, paid to hospitals that accept commitments under the Involuntary Treatment Act (ITA).

(b) The nonmedicaid base community psychiatric hospital payment rate is a minimum allowable per diem for claims for psychiatric services provided to indigent patients paid to hospitals that accept commitments under the ITA.

(2) For the purposes of this section, "allowable" means the calculated allowed amount for payment based on the payment method before adjustments, deductions, or add-ons.

(3) To be eligible for payment under the base community psychiatric hospitalization payment method:

(a) A client's inpatient psychiatric voluntary hospitalization must:

(i) Be medically necessary as defined in WAC 182-500-0070. In addition, the agency considers medical necessity to be met when:

(A) Ambulatory care resources available in the community do not meet the treatment needs of the client;

(B) Proper treatment of the client's psychiatric condition requires services on an inpatient basis under the direction of a physician;

(C) The inpatient services can be reasonably expected to improve the client's condition or prevent further regression so that the services will no longer be needed; and

(D) The client, at the time of admission, is diagnosed as having an emotional/behavioral disturbance as a result of a mental disorder as defined in the current published Diagnostic and Statistical Manual of the American Psychiatric Association. The agency does not consider detoxification to be psychiatric in nature.

(ii) Be approved by the professional in charge of the hospital or hospital unit.

(iii) Be authorized by the appropriate division of behavioral health and recovery (DBHR) designee prior to admission for covered diagnoses.

(iv) Meet the criteria in WAC 182-550-2600.

(b) A client's inpatient psychiatric involuntary hospitalization must:

(i) Be in accordance with the admission criteria in chapters 71.05 and 71.34 RCW.

(ii) Be certified by a DBHR designee.

(iii) Be approved by the professional in charge of the hospital or hospital unit.

(iv) Be prior authorized by the ((~~regional support network (RSN)~~)) behavioral health organization (BHO) or its designee.

(v) Meet the criteria in WAC 182-550-2600.

(4) The provider requesting payment must complete the appropriate sections of the Involuntary Treatment Act patient claim information (form DSHS 13-628) in triplicate and route both the form and each claim form submitted for payment, to the county involuntary treatment office.

(5) Payment for all claims is based on covered days within a client's approved length of stay (LOS), subject to client eligibility and agency-covered services.

(6) The medicaid base community psychiatric hospitalization payment rate applies only to a medicaid or CHIP client admitted to a nonstate-owned free-standing psychiatric hospital located in Washington state.

(7) The nonmedicaid base community psychiatric hospitalization payment rate applies only to a nonmedicaid or CHIP client admitted to a hospital:

(a) Designated by the agency as an ITA-certified hospital; or

(b) That has an agency-certified ITA bed that was used to provide ITA services at the time of the nonmedicaid or non-CHIP admission.

(8) For inpatient hospital psychiatric services provided to eligible clients for dates of admission on and after July 1, 2005, through June 30, 2007, the agency pays:



(a) A hospital's department of health (DOH)-certified distinct psychiatric unit as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the agency-specific nondiagnosis related group (DRG) payment method.

(ii) For nonmedicaid and non-CHIP clients, the allowable for inpatient hospital psychiatric services is the greater of:

(A) The state-administered program DRG allowable (including the high cost outlier allowable, if applicable), or the agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system; or

(B) The nonmedicaid base community psychiatric hospitalization payment rate multiplied by the covered days.

(b) A hospital without a DOH-certified distinct psychiatric unit as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using:

(A) The DRG payment method; or

(B) The agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system.

(ii) For nonmedicaid and CHIP clients, the allowable for inpatient hospital psychiatric services is the greater of:

(A) The state-administered program DRG allowable (including the high cost outlier allowable, if applicable), or the agency-specified non-DRG payment method if no relative weight exists for the DRG in the agency's payment system; or

(B) The nonmedicaid base community psychiatric hospitalization payment rate multiplied by the covered days.

(c) A nonstate-owned free-standing psychiatric hospital as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using as the allowable, the greater of:

(A) The ratio of costs-to-charges (RCC) allowable; or

(B) The medicaid base community psychiatric hospitalization payment rate multiplied by covered days.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid the same as for medicaid and CHIP clients, except the base community inpatient psychiatric hospital payment rate is the nonmedicaid rate, and the RCC allowable is the state-administered program RCC allowable.

(d) A hospital, or a distinct psychiatric unit of a hospital, that is participating in the certified public expenditure (CPE) payment program, as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the methods identified in WAC 182-550-4650.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid using the methods identified in WAC 182-550-4650 in conjunction with the non-medicaid base community psychiatric hospitalization payment rate multiplied by covered days.

(e) A hospital, or a distinct psychiatric unit of a hospital, that is participating in the critical access hospital (CAH) program, as follows:

(i) For medicaid and CHIP clients, inpatient hospital psychiatric services are paid using the agency-specified non-DRG payment method.

(ii) For nonmedicaid and non-CHIP clients, inpatient hospital psychiatric services are paid using the agency-specified non-DRG payment method.

## WSR 16-03-046

### PROPOSED RULES

### DEPARTMENT OF FISH AND WILDLIFE

[Filed January 14, 2016, 2:26 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-22-096 on November 3, 2015.

Title of Rule and Other Identifying Information: The department proposes to amend WAC 220-49-005 to require commercial smelt harvesters to quick report their catch.

Hearing Location(s): Natural Resources Building, 1111 Washington Street S.E., Room 172, Olympia, WA 98504, on February 26-27, 2016, at 8:30 a.m.

Date of Intended Adoption: On or after March 4, 2016.

Submit Written Comments to: Joanna Eide, Washington Department of Fish and Wildlife (WDFW), Rules Coordinator, 600 Capitol Way North, Olympia, WA 98501-1091, e-mail Rules.Coordinator@dfw.wa.gov, fax (360) 902-2155, by February 19, 2016.

Assistance for Persons with Disabilities: Contact Tami Lininger by February 19, 2016, TTY (800) 833-6388 or (360) 902-2267.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In order to close this fishery when the quota has been reached, near real-time catch data are needed.

Reasons Supporting Proposal: A sixty thousand pound quota was imposed on the commercial smelt fishery by the fish and wildlife commission in July 2014. This "quick reporting" requirement is required for other species in WAC 220-69-240. Under temporary rule quick reporting occurred during the 2014 and 2015 seasons, and this rule action makes this requirement permanent.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.055, and 77.12.047.

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: There is a minimal fiscal impact to the department of approximately \$2,000 each fiscal year.

The public hearing will take place at the February 2016 fish and wildlife commission meeting. For more information on the agenda for this meeting, please see the commission's web page at <http://wdfw.wa.gov/commission/meetings/2016/index.html>.

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting: Joanna Eide, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2403; Implementation: Craig Burley, 1111 Washington Street S.E., Olympia, WA 98501, (360) 902-2784; and Enforcement: Steve Crown, 1111 Washington Street S.E., Olympia, WA 98501, (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:

(4) It is unlawful for vessel operators engaged in the commercial harvest of smelt from Puget Sound to fail to report their daily catch to the department by 2:00 p.m. the day following the harvest of smelt.

(a) Catch reports may be submitted to the department as follows:

(i) By e-mailing the catch report or a picture of the fish receiving ticket to [smeltreport@dfw.wa.gov](mailto:smeltreport@dfw.wa.gov); or

(ii) By phone at 1-844-611-3822.

(b) Catch reports must include the following information as it is recorded on the fish receiving ticket:

(i) Fisher name;

(ii) Wholesale fish dealer name;

(iii) Pounds of smelt landed;

(iv) Marine fish/shellfish catch area, as described in WAC 220-22-400;

(v) Date of harvest;

(vi) Date of sale;

(vii) Complete fish ticket serial number, including the first alphanumeric letter; and

(viii) If a picture of the fish receiving ticket is e-mailed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

**2. Kinds of Professional Services That a Small Business is Likely to Need in Order to Comply with Such Requirements:** There are no new anticipated professional services required to "quick report." Under temporary rule, fishers have been quick reporting for two seasons (2014 and 2015). Fishers need only a phone or internet access to comply with this requirement and the phone hotline is a toll-free number.

**3. Costs of Compliance for Businesses, Including Costs of Equipment, Supplies, Labor, and Increased Administrative Costs:** No additional costs are anticipated.

**4. Will Compliance with The Rule Cause Businesses to Lose Sales or Revenue?** No. This rule will only take a few minutes to comply with and all the information should already be documented on their fish receiving ticket.

**5. Cost of Compliance for Small Businesses Compared with the 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:**

1. Cost per employee;

2. Cost per hour of labor; or

3. Cost per one hundred dollars of sales.

None - the proposed rules do not require any additional equipment, supplies, labor, or administrative costs. Only

approximately six businesses are involved in this fishery and all bear the same burden for reporting.

**6. Steps Taken by the Agency to Reduce the Costs of the Rule on Small Businesses, or Reasonable Justification for Not Doing So:** We have created a toll-free number and an e-mail account for harvesters to submit their reports free of charge.

**7. A Description of How the Agency Will Involve Small Businesses in the Development of the Rule:** Affected businesses will also have an opportunity to provide public comment during the public hearing on the rule proposal.

**8. A List of Industries That Will Be Required to Comply with the Rule:** Commercial smelt harvesters (approximately six active licenses).

**9. An Estimate of the Number of Jobs That Will Be Created or Lost as a Result of Compliance with the Proposed Rule:** The rules will not have an impact on job creation or job loss.

A copy of the statement may be obtained by contacting Craig Burley, WDFW Fish Program, 600 Capitol Way North, Olympia, WA 98501, phone (360) 902-2453, fax (360) 902-2466, e-mail [craig.burley@dfw.wa.gov](mailto:craig.burley@dfw.wa.gov).

A cost-benefit analysis is not required under RCW 34.05.328. This proposal does not involve hydraulics rules.

January 14, 2016

Joanna M. Eide

Rules Coordinator

AMENDATORY SECTION (Amending WSR 14-15-006, filed 7/2/14, effective 8/2/14)

**WAC 220-49-005 Puget Sound forage fish commercial fisheries—General provisions.** (1) It is unlawful to fish for or possess Puget Sound forage fish taken for commercial purposes except at the times, during the seasons and using the gear provided for in this chapter.

(2) It is unlawful to fish for or possess candlefish taken for commercial purposes. A violation of this subsection is punishable under RCW 77.15.550, Violation of commercial fishing area or time—Penalty.

(3) The total annual quota for the Puget Sound smelt commercial fishery may not exceed sixty thousand pounds.

(4) It is unlawful for vessel operators engaged in the commercial harvest of smelt from Puget Sound to fail to report their daily catch to the department by 2:00 p.m. the day following the harvest of smelt.

(a) Catch reports may be submitted to the department as follows:

(i) By e-mailing the catch report or a picture of the fish receiving ticket to [smeltreport@dfw.wa.gov](mailto:smeltreport@dfw.wa.gov); or

(ii) By phone at 1-844-611-3822.

(b) Catch reports must include the following information as it is recorded on the fish receiving ticket:

(i) Fisher name;

(ii) Wholesale fish dealer name;

(iii) Pounds of smelt landed;

(iv) Marine fish/shellfish catch area, as described in WAC 220-22-400;

(v) Date of harvest;

(vi) Date of sale:

(vii) Complete fish ticket serial number, including the first alphanumeric letter; and

(viii) If a picture of the fish receiving ticket is e-mailed as the daily harvest report, the date of harvest must be recorded on the bottom half of the ticket.

**WSR 16-03-048**

**PROPOSED RULES**

**EVERETT COMMUNITY COLLEGE**

[Filed January 15, 2016, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-024 [15-24-026].

Title of Rule and Other Identifying Information: WAC 132E-133-020 Organization—Operation—Information, Everett Community College seeks to change the name of the Student Fitness Center to the Walt Price Student Fitness Center.

Hearing Location(s): Everett Community College (EvCC), Jackson Center, Senate Room, 2000 Tower Street, Everett, WA 98201, on March 15, 2016, at 5:00 p.m.

Date of Intended Adoption: March 15, 2016.

Submit Written Comments to: Jennifer Howard, EvCC, 2000 Tower Street, Everett, WA 98201, e-mail [jhoward@everettcc.edu](mailto:jhoward@everettcc.edu), fax (425) 388-9228, by March 15, 2016.

Assistance for Persons with Disabilities: Contact Karen Ehnat, Director, Disability Services, 2000 Tower Street, Everett, WA 98201, e-mail [kehnat@everettcc.edu](mailto:kehnat@everettcc.edu), TTY (425) 388-9438 or voice (425) 388-9272, by March 15, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To honor the life and service of Walt Price to EvCC, the college chooses to rename the student fitness center the Walt Price Student Fitness Center.

Reasons Supporting Proposal: The college has followed its internal process to select this name for a college building.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Name of Proponent: EvCC, public.

Name of Agency Personnel Responsible for Drafting: Jennifer Howard, Olympus Hall 111, (425) 388-9232; Implementation and Enforcement: Patrick Sisneros, Shuksan 218, (425) 388-9026.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact is created by the proposed change.

A cost-benefit analysis is not required under RCW 34.05.328. No costs are implicated by this change.

January 12, 2016  
Jennifer L. Howard  
Vice-President  
Administrative Services

AMENDATORY SECTION (Amending WSR 11-16-073, filed 8/1/11, effective 9/1/11)

**WAC 132E-133-020 Organization—Operation—Information.** (1) Organization. Everett Community College is established in Title 28B RCW as a public institution of higher education. The institution is governed by a five-member board of trustees, appointed by the governor. The board employs a president, who acts as the chief executive officer of the institution. The president establishes the structure of the administration.

(2) Operation. The administrative office is located at the following address:

President's Office  
Everett Community College  
2000 Tower Street  
Everett, WA 98201-1352

The office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Educational operations are also located at the following addresses:

Everett Community College  
Aviation Maintenance Technician School  
9711 - 31st Place W.  
Building C-80  
Paine Field  
Everett, WA 98204

Everett Community College  
Corporate & Continuing Education Center  
2333 Seaway Blvd.  
Everett, WA 98204

Everett Community College  
School of Cosmetology  
9315 G State Avenue  
Marysville, WA 98270

Everett Community College  
Early Learning Center  
820 Waverly Avenue  
Everett, WA 98201

Everett Community College  
Walt Price Student Fitness Center  
2206 Tower Street  
Everett, WA 98201

(3) Information. Additional and detailed information concerning the educational offerings may be obtained from the catalog, copies of which are available at the following address:

Everett Community College  
2000 Tower Street  
Everett, WA 98201-1352

## WSR 16-03-049

## PROPOSED RULES

## EVERETT COMMUNITY COLLEGE

[Filed January 15, 2016, 9:25 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-024.

Title of Rule and Other Identifying Information: WAC 132E-120-400 Drug-free campus policy, drug and alcohol use policy at Everett Community College (EvCC).

Hearing Location(s): Everett Community College (EvCC), Jackson Center, Senate Room, 2000 Tower Street, Everett, WA 98201, on March 15, 2016, at 5:00 p.m.

Date of Intended Adoption: March 15, 2016.

Submit Written Comments to: Jennifer Howard, EvCC, 2000 Tower Street, Everett, WA 98201, e-mail jhoward@everettcc.edu, fax (425) 388-9228, by March 15, 2016.

Assistance for Persons with Disabilities: Contact Karen Ehnat, Director, Disability Services, 2000 Tower Street, Everett, WA 98201, e-mail kehnat@everettcc.edu, TTY (425) 388-9438 or voice (425) 388-9272, by March 15, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this proposal is to update the drug and alcohol use provisions of EvCC Washington Administrative Code.

The updates include references to new student housing. The updates clarify the rules for employees as well as students with respect to acceptable use. Additionally, the expectations for approved use of prescription medications are clarified.

Reasons Supporting Proposal: The employees and students of EvCC need to know the expectations for them with respect to using drugs and alcohol.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Name of Proponent: EvCC, public.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Jennifer Howard, Olympus Hall 111, (425) 388-9232.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact is created by the proposed change.

A cost-benefit analysis is not required under RCW 34.05.328. No costs are implicated by this change.

January 12, 2016

Jennifer L. Howard

Vice-President

Administrative Services

AMENDATORY SECTION (Amending WSR 14-04-048, filed 1/27/14, effective 2/27/14)

**WAC 132E-120-400 Drug-free campus policy.**

~~((Everett Community College's board of trustees have adopted a policy for the maintenance of a drug-free campus. The provisions of this policy as it relates to students are as follows:~~

~~(1) Students who report to class or work must do so unimpaired due to the use of alcohol or other drugs.~~

~~(2) Unlawful use, possession, delivery, dispensation, distribution, manufacture or sale of drugs on college property, in college housing, in state vehicles or on official business is strictly prohibited. Documented evidence of illegal drug involvement will be given to law enforcement agencies.~~

~~(3) Possession or consuming any form of liquor or alcoholic beverage on college property or at off-campus college events is prohibited except as a participant of legal age at a program which has the special written permission of the college president.~~

~~(4) Students found in violation of this policy will be subject to formal disciplinary action, which could include completion of an appropriate rehabilitation program up to and/or including dismissal/expulsion.~~

~~(5) Students needing assistance with problems related to alcohol or drug abuse are encouraged to seek referral from a counselor in the counseling center and/or appropriate off-campus substance abuse agencies.~~

~~(6) Students must report any criminal drug statute conviction to the chief student affairs officer within five school days after such conviction.~~

~~(7) The college will report the conviction to the appropriate federal or state agency within ten working days after having received notice that a student employed under a federally funded grant or contract or receiving grant funds has any drug statute conviction occurring on campus.~~

~~(8) All students, regardless of status, shall comply with this policy regarding a drug-free campus:)) It is the responsibility of the college to provide a safe and healthy educational and work environment. A motivated and healthy work force and student body are the college's greatest assets.~~

Fit for participation.

~~It is essential that all employees and students report to work and class both mentally and physically able to perform their duties and learn in a satisfactory manner.~~

~~All employees and students who report to work or class must be in a condition fit to perform their duties, fit to learn, unimpaired due to the use of alcohol or other drugs.~~

Possession/use guidelines.

~~Possession or consuming any form of liquor or alcoholic beverage on college property, in college housing or at off-campus college events is prohibited.~~

~~Illegal possession, consumption, selling, or distributing, or being demonstrably under the influence of marijuana or any substance as defined by RCW 69.50.101 on property owned or controlled by the college, in college housing or at functions sponsored or supervised by the college is prohibited.~~

~~For the purpose of this rule, "sale" shall include the statutory meaning defined in RCW 69.50.410.~~

~~Disorderly or abusive conduct resulting from being under the influence of drugs or alcohol on college owned or controlled property, in college housing or at functions sponsored or supervised by the college is prohibited. Disorderly or abusive conduct includes, but is not limited to, interfering with the right of others or obstructing or disrupting teaching, research, or administrative functions including failure to~~

abide by the directive(s) of a college employee who is acting in their capacity as an agent of the college.

Allowable use.

**Medication**

Prescription and over-the-counter drugs are not prohibited when taken in standard dosage and/or according to a physician's prescription. Any employee or student taking prescribed or over-the-counter medications will be responsible for consulting the prescribing physician and/or pharmacist to learn about the effects of a medication. If the use of a medication could compromise the safety of the employee or student, other employees and/or other students or the public, it is the individual's responsibility to use appropriate procedures (e.g., call in sick, use leave, request change of duty, notify supervisor, notify instructor) to avoid unsafe practices.

The illegal or unauthorized use of prescription drugs is prohibited. It is a violation of this policy to intentionally misuse and/or abuse prescription medications.

**Events**

Alcohol use is prohibited as described above except for participants of legal age at programs which have the special written permission of the college president.

Employees representing the college at official functions in the scope of their employment including, but not limited to, attendance at conferences and events, should exercise prudence in consuming alcohol and should refrain from driving after consuming alcohol.

Violations.

Any employee or student found in violation of this policy will be subject to formal disciplinary action, which may include completion of an appropriate rehabilitation program up to and/or including dismissal/expulsion, as per the applicable collective bargaining agreement/student handbook.

Other legal penalties may be enforced by state and local law enforcement officials.

Abuse assistance.

Everett Community College recognizes that alcohol and drug abuse and addiction are treatable illnesses. We also realize that early intervention and support improve the success of rehabilitation and may prevent those whose problems have yet to reach the level of addiction from progressing.

Employees needing assistance with problems related to alcohol or drug abuse are encouraged to seek assistance utilizing employee medical insurance programs or the employee assistance program (EAP).

Students are encouraged to seek referral assistance from the college's counseling center and/or appropriate off-campus substance abuse agencies.

Federal law.

The college will continue to comply with the federal Drug-Free Work Place Act of 1988 and the Drug-Free Schools and Communities Act Amendments of 1989.

(1) All employees must, as a condition of continued employment, notify the chief human resources officer of any criminal drug statute conviction for a violation occurring during the course of the employee's work duties no later than five days after such conviction.

(2) Students must report any such conviction to the dean of students within five days after such conviction. Students

may lose federal funding as well as be subject to the student disciplinary process.

(3) Everett Community College will report any conviction to the appropriate federal or state agency within ten days after having received notice that a person employed under a federally funded grant or contract or receiving grant funds has any drug statute conviction occurring on the campus.

All employees and students, regardless of status, shall comply with this policy regarding a drug-free campus.

**WSR 16-03-050**

**PROPOSED RULES**

**EVERETT COMMUNITY COLLEGE**

[Filed January 15, 2016, 9:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-024 [15-24-025].

Title of Rule and Other Identifying Information: WAC 132E-137-010 Facilities use, relates to the public use of Everett Community College (EvCC) facilities.

Hearing Location(s): EvCC, Jackson Center, Senate Room, 2000 Tower Street, Everett, WA 98201, on March 15, 2016, at 5:00 p.m.

Date of Intended Adoption: March 15, 2016.

Submit Written Comments to: Jennifer Howard, EvCC, 2000 Tower Street, Everett, WA 98201, e-mail [jhoward@everettcc.edu](mailto:jhoward@everettcc.edu), fax (425) 388-9228, by March 15, 2016.

Assistance for Persons with Disabilities: Contact Karen Ehnat, Director, Disability Services, 2000 Tower Street, Everett, WA 98201, e-mail [kehnat@everettcc.edu](mailto:kehnat@everettcc.edu), TTY (425) 388-9438 or voice (425) 388-9272, by March 15, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The revised rules for facility use clarify the use of college facilities relating to the first amendment rights of individuals.

Reasons Supporting Proposal: Clarifying the policies for facility use will contribute to ethical and fair access to the college by all groups.

Statutory Authority for Adoption: RCW 28B.50.140.

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

Name of Proponent: EvCC, public.

Name of Agency Personnel Responsible for Drafting: Jennifer Howard, Olympus Hall 111, (425) 388-9232; Implementation and Enforcement: Patrick Sisneros, Shuksan 218, (425) 388-9026.

No small business economic impact statement has been prepared under chapter 19.85 RCW. No small business impact is created by the proposed change.

A cost-benefit analysis is not required under RCW 34.05.328. No costs are changed in this proposal.

January 12, 2016

Jennifer L. Howard

Vice-President

Administrative Services

AMENDATORY SECTION (Amending WSR 01-02-043, filed 12/28/00, effective 1/28/01)

**WAC 132E-137-010** (~~General policy covering the use of the facilities.~~) **Facilities use.** ((1) The parties to this agreement are the Washington State Community College District 5, acting under specific authority granted to its board of trustees by the laws of the state of Washington, to contract for the use of the facility at Everett Community College, hereinafter referred to as the college and the organization contracting to use the college facilities, hereinafter referred to as the licensee.

~~(2) Before a college facility may be used, this college facility use agreement must be completed and signed by the college president or his designee. Forms may be obtained from the college facilities maintenance office or college student activities office. All information received on agreements not completed at least fourteen school days prior to the date of intended use may be denied. A single use agreement should be made for a series of similar meetings. A separate agreement must be made for each meeting which varies from the series.~~

~~(3) The building and grounds of the college are primarily for educational purposes. No other use shall be permitted to interfere with the primary purpose for which these facilities are intended. Facilities shall not be made available for any use which might result in any undue damage or wear. The college reserves the right to reject any application for use of college facilities.~~

~~(4) Every possible opportunity will be provided for the use of college facilities by citizens of the district community college service area, provided that the purpose of the meeting is in harmony with public interest and welfare, subject to the laws of the state of Washington and rules and regulations prescribed by the District 5 board of trustees for the operation of the college.~~

~~(5) It is the present policy of the college to permit organizations considered closely affiliated with college-related educational purposes to use facilities of the college at the lowest possible charge.~~

~~(6) College facilities may be used by other public or private educational institutions only insofar as they meet a community educational need not being fulfilled by the community college district.~~

~~(7) The college does not wish to compete with private enterprise. Therefore, the use of buildings for commercial-type entertainment, banquets, luncheons, and money raising events is discouraged.~~

~~(8) The college reserves the right to prohibit the use of college facilities by groups, or activities, which are secret, which are of a private nature, or which restrict membership or attendance, in a manner inconsistent with the public and non-discriminatory character of the college set forth in its written policies and commitments. Subversive organizations as defined and listed by the Attorney General of the United States shall not be eligible to use college facilities.~~

~~(9) Use agreements shall not be entered into for any use which, in the judgment of the college may be in any way prejudicial to the best interest of the college or the educational program, or for which satisfactory sponsorship or adequate adult supervision is not provided. Proper police and fire pro-~~

~~tection shall be provided by the organization when required by the college.)~~ The building and grounds of Everett Community College are designed for educational purposes. The college does not wish to compete with private enterprise. As a partner in our community, Everett Community College allows the citizens of the district community college service area to use college facilities, provided that the use is in harmony with public interest and welfare, subject to the laws of the state of Washington and rules and regulations prescribed by the District 5 board of trustees for the operation of the college.

The college reserves the right to reject any application for use of college facilities.

The college reserves the right to prohibit the use of college facilities by groups or activities, which are secret, of a private nature, or which restrict membership or attendance, in a manner inconsistent with the public and nondiscriminatory organizations as defined and listed by the Attorney General of the United States. Facilities shall not be made available for any use which might result in any undue damage or wear.

No use shall be permitted which interferes with the primary educational purpose of the college or for which satisfactory sponsorship or adequate adult supervision is not provided. Proper police and fire protection shall be provided by the organization when required by the college.

Before a college facility may be used, a college facility use agreement must be completed submitted to the conference services office. Forms may be obtained from the conference services office. Agreements not completed at least fourteen business days prior to the date of intended use may be denied.

#### **Use of Facilities for First Amendment Activities**

The purpose of the time, place and manner regulations set forth in this policy is to establish procedures and reasonable controls for the use of college facilities for both college and noncollege groups. It is intended to balance both the college's responsibility to fulfill its mission as state educational institution of Washington along with the interests of college groups and noncollege groups who are interested in using the campus for purposes of constitutionally protected speech, assembly or expression.

The activity must be conducted such that usual ingress or egress to the college, college buildings or facilities, or college activities continues unimpeded.

The activity must not create safety hazards or pose safety risks to others.

The activity must not substantially infringe on the rights and privileges of college students, employees, or invitees to the college.

Users must follow the facility use policy with respect to paying for any damages and/or extra staff required for facility cleanup or repair.

#### **Facility Damage**

The user of the facility shall accept responsibility for any damage done to the college's property. In the event of property damage, the user shall accept and pay the college's estimate of the amount of damage.

Custodial services will be provided by the college. The college reserves the right to charge an additional custodial fee if extra cleaning is required.

If the facility is used differently than the original request, the college may charge an additional fee.

**Supervision**

When the use of special facilities or equipment makes it necessary that supervision or technical assistance be provided, a college-employed supervisor or technician shall be assigned as required by the college.

The college reserves the right to require a campus security officer to be present at a scheduled event.

When the college requires its employees to attend a scheduled event, the user shall be charged the amount covering the employees' compensation.

When minors are part of an event at EvCC, adult leaders shall actively supervise minors at all times.

**Restrictions**

No decorations or the application of materials to walls, ceilings, or floors shall be permitted which will mar, deface, or injure these surfaces. The user is required to arrange for the disposal of decorations, materials, equipment, furnishings, or rubbish left after the use of college facilities.

Profane or other improper language, or the use of drugs or other controlled substances, or any other conduct which is objectionable in the judgment of the college shall not be allowed.

Games of chance and lotteries shall not be permitted except as prescribed by law and with prior approval of the college.

Standard approved gym shoes shall be required for all indoor activity and games such as basketball, volleyball, badminton, etc.

Keys to buildings or facilities may not be issued or loaned on any occasion to the user. Doors will be opened and locked by authorized college personnel.

College-owned equipment shall not be removed from buildings. Users wishing to use college media/IT equipment may be required to attend training on the use of that equipment prior to the date of the event.

**Nonassignment and Cancellation**

Use of the facilities or premises shall be in full compliance with federal and state law, as well as county and city rules or ordinances; any use to the contrary shall be grounds for immediate cancellation of this agreement.

The college reserves the right to cancel this agreement at any time. The college may refund any advance payment made to the college for the use of the college facilities and equipment. The user may be required to reimburse the college for any preparation expenses.

This use agreement shall be nonassignable. Only the user as named in the use agreement shall use the facilities.

Events scheduled more than one academic quarter (three months) in advance, may be canceled by the college when college events take priority.

**Release of Claims/Holds Harmless**

In consideration of the permission granted to user and the fee charged by the college for the use of its facilities, user hereby and forever releases the college and its agents, employees or officers from all debts, claims, demands, actions and causes of action whatsoever, which user may now have or may hereafter have, as a result of the uses of college facilities.

The user further agrees to protect, indemnify, and hold harmless the district, college and its agents, employees, and officers from any claims, demands, actions, damages, or causes of action directly or indirectly arising out of the use of the facilities or premises contemplated by this application.

**Use Fees**

The use fee is determined by the college based on the purpose of the activity and the nature of the group using the facility.

If fees are waived, no charge will be made for use of the facilities. Discounts and waivers apply to rental fees only. However, charges may be made for specific services or equipment, which may include charges for excessive use/damages as described above as well as charges for events resulting in staff overtime and setup services.

Specialized areas such as laboratories, shops, or other specialized facilities require special arrangements. The rates and conditions will be based upon careful analysis by the college of the needs, experience, and capabilities of the user.

The college's rental fee schedule shows the fee rates for category I and category II. The current fee schedule is available on the college's web site: [www.everettcc.edu](http://www.everettcc.edu)

	<u>Nonprofit Activities</u>	<u>Fund-raising Activities</u>
<u>College Related or College Sponsored Groups</u>	<u>Fee Waived*</u>	<u>Fee Waived*</u>
<u>Public, Nonprofit Organizations</u>	<u>Category I</u>	<u>Category I Plus 10%</u>
<u>Private, Profit Organizations</u>	<u>Category II</u>	<u>Category II Plus 30%</u>

\*As a consideration for the waiving of rental fees, for all college related or college sponsored groups, the college will require an opportunity for marketing the college to the group.

**Payment**

All payments shall be made at least two weeks prior to the event. The college may make other arrangements for payment at its discretion.

Payments shall be made, either in person or via phone, to the college cashier's office.

Additional charges for damages shall be billed directly to the user, and shall be paid within thirty days of the date of the invoice.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 132E-137-020 Licensee's responsibility.

WAC 132E-137-030 Attendants needed.  
 WAC 132E-137-040 Restrictions.  
 WAC 132E-137-050 Nonassignment and cancellation.  
 WAC 132E-137-060 Release of claims/holds harmless.  
 WAC 132E-137-070 Use fees.

**WSR 16-03-057****PROPOSED RULES****DEPARTMENT OF HEALTH**

[Filed January 19, 2016, 10:18 a.m.]

## Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-026.

Title of Rule and Other Identifying Information: Chapter 246-296 WAC, Drinking water state revolving fund loan program (DWSRF), requirements for emergency funding.

Hearing Location(s): Department of Health, Town Center 2, Room 158, 111 Israel Road S.E., Tumwater, WA 98501, on February 23, 2015 [2016], at 9:30 a.m.

Date of Intended Adoption: February 26, 2016.

Submit Written Comments to: Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, e-mail <https://fortress.wa.gov/doh/policyreview/>, fax (360) 236-2250, by February 23, 2016.

Assistance for Persons with Disabilities: Contact Theresa Phillips by February 16, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal sets specific requirements for awarding infrastructure loans to eligible water systems due to an emergency event. The proposed requirements allow the department to reduce the standard time frame to review and approve emergency loans so water systems can quickly recover from an emergency event and restore safe and reliable drinking water service to its customers.

Reasons Supporting Proposal: The existing requirements establish eligibility, priority, and selection criteria but do not identify specific criteria or waiver requirements for awarding emergency loans. Establishing specific criteria and waiver requirements will expedite loan approvals and result in better public health protection.

Statutory Authority for Adoption: RCW 70.119A.170.

Statute Being Implemented: RCW 70.119A.080.

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

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

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3147; Implementation and Enforcement: Clark Halvorson, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3100.

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 Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone (360) 236-3147, fax (360) 236-2250, e-mail [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov).

January 19, 2016

John Wiesman, DrPH, MPH  
 Secretary

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-010 Purpose and scope.** The purpose of this chapter is to:

(1) Establish a funding program for public water system infrastructure improvements that increase a public water system's ability to provide safe and reliable drinking water and improve public health protection;

(2) Establish eligibility criteria for public water systems to receive funding including, but not limited to, proper operation, management, and maintenance consistent with federal DWSRF capacity requirements;

(3) Provide additional financial assistance to eligible disadvantaged communities;

(4) Provide DWSRF loans in response to an emergency;

(5) Use a portion of the EPA capitalization grant for set-aside activities according to federal law;

~~((5))~~ (6) Establish that sound financial practices and ongoing oversight are in place to manage the DWSRF in perpetuity;

~~((6))~~ (7) Establish requirements for public water systems to receive a DWSRF loan including, but not limited to, planning requirements; being resource efficient, sustainable, and environmentally sound; ~~(and~~

~~(7))~~ (8) Establish requirements for public water systems to receive a DWSRF loan in response to an emergency; and

(9) Establish the responsibilities of the department, the board, and commerce, for administering the DWSRF loan program.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-020 Definitions, abbreviations, and acronyms.** The definitions, abbreviations, and acronyms in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "**Affordability**" means a community's ability, on a per household basis, to pay for rate increases that result from a DWSRF loan project.

(2) "**Application**" means the DWSRF loan request form provided by the department.

(3) "**Application package**" means the DWSRF loan application form(s), requirements, terms of assistance, and related information created by the department, the board, and commerce.

(4) "**Board**" means the Washington state public works board.



(5) **"Borrower"** means the person that has legal and financial responsibility for the DWSRF loan.

(6) **"Capitalization grant"** means an award by EPA of funds to a state for the DWSRF and other purposes as authorized in Section 1452 of the SDWA.

(7) **"Commerce"** means the Washington state department of commerce.

(8) **"Construction completion report"** means a form provided by the department and completed for each specific construction project to document:

(a) Project construction in accordance with chapter 246-290 WAC and general standards of engineering practice;

(b) Physical capacity changes;

(c) Satisfactory test results; and

(d) The completed form is stamped with an engineer's seal, and signed and dated by a professional engineer.

(9) **"Default"** means failure to meet a financial obligation such as a DWSRF loan payment.

(10) **"Department"** means the Washington state department of health.

(11) **"Disadvantaged community"** means the service area of a proposed project within a public water system where the project will result in:

(a) Water rates that are more than one and one-half percent of the MHI of the service area; or

(b) Restructuring, when one or more public water systems are having financial difficulties.

(12) **"DWSRF (drinking water state revolving fund)"** means the program that meets the requirements of RCW 70.119A.170 to administer federal funds and other funds deposited in a dedicated account used to finance public water system infrastructure improvements and drinking water program activities.

(13) **"DWSRF loan"** means an agreement between the board and the borrower in which the DWSRF provides funds for eligible assistance and the borrower agrees to repay the principal sum, applicable interest, and DWSRF loan fee to the DWSRF.

(14) **"DWSRF loan fee"** means a nonrefundable fee that is charged on all DWSRF loans, including DWSRF loans for which all or part of the principal is forgiven.

(15) **"Ecology"** means the Washington state department of ecology.

(16) **"Eligible public water system"** means a Group A community public water system, either privately or publicly owned, or a nonprofit Group A noncommunity public water system.

(17) **"Emergency"** means an event such as a natural disaster or other unforeseen or unavoidable circumstances that causes damage or disrupts normal public water system operations and requires immediate action to protect public health and safety. A failure to maintain, replace, reconstruct, upgrade, or make necessary infrastructure improvements does not constitute an emergency.

(18) **"EPA"** means the United States Environmental Protection Agency.

~~((18))~~ (19) **"Green project"** means a public water system infrastructure improvement project that includes water efficiency, energy efficiency, or environmental innovations as follows:

(a) Water efficiency projects use improved technologies and practices to deliver equal or better service with less water, including preventing water loss and reducing customer demand to protect water resources;

(b) Energy efficiency projects use improved technologies and practices to reduce energy consumption or produce cleaner energy for use in water treatment;

(c) Environmentally innovative projects use new or innovative approaches to manage water resources in a more environmentally sustainable way. Projects that are considered environmentally innovative include those that:

(i) Prevent or remove pollution;

(ii) Help a community adapt to climate change through water resource protection programs; or

(iii) Result in other proven, sustainable environmental benefits.

~~((19))~~ (20) **"Group A public water system"** means a public water system providing service such that it meets the definition of a public water system provided in the 1996 amendments to the federal Safe Drinking Water Act, P.L. 104-182, Section 101(b).

A Group A public water system is further defined as a community or noncommunity public water system.

(a) "Community public water system" means any Group A public water system providing service to fifteen or more service connections used by year-round residents for one hundred eighty or more days within a calendar year, regardless of the number of people, or regularly serving at least twenty-five people year-round more than one hundred eighty days per year, as defined in chapter 246-290 WAC.

(b) "Noncommunity public water system" means a Group A public water system that is not a community public water system. Noncommunity public water systems are further defined as:

(i) "Nontransient noncommunity public water system" means a public water system that serves twenty-five or more of the same nonresidential people for one hundred eighty or more days within a calendar year.

(ii) "Transient noncommunity public water system" means a public water system that serves:

(A) Twenty-five or more different people each day for sixty or more days within a calendar year;

(B) Twenty-five or more of the same people each day for sixty or more days, but less than one hundred eighty days within a calendar year; or

(C) One thousand or more people for two or more consecutive days within a calendar year.

~~((20))~~ (21) **"Group B public water system"** means a public water system that is not a Group A public water system. A public water system is classified as a Group B public water system if it serves fewer than fifteen service connections, and:

(a) Fewer than twenty-five people; or

(b) Twenty-five or more people per day for less than sixty days per year provided the public water system does not serve one thousand or more people for two or more consecutive days.

~~((21))~~ (22) **"Individual water supply system"** means any water system that is not subject to chapter 246-290 or 246-291 WAC; and provides water to either one single-fam-

ily residence, or to a system with four or fewer connections, all of which serve residences on the same farm.

~~((22))~~ **(23) "IUP (intended use plan)"** means the federally required document prepared each year by the department identifying the intended uses of the DWSRF funds and describing how those uses support the DWSRF goals.

~~((23))~~ **(24) "Loan closeout"** means a loan agreement is complete when the loan is repaid in full.

~~((24))~~ **(25) "MHI (median household income)"** means the midpoint or the average of two midpoints in the range of household incomes in the project's service area. The median divides the list of households in a service area into two parts; half of the households exceed the median, and half of the households are below the median.

~~((25))~~ **(26) "Multiple benefit"** means projects that address more than one type of health risk.

~~((26))~~ **(27) "Municipality"** means a city, town, special purpose district, or municipal corporation established according to the applicable laws of this state.

~~((27))~~ **(28) "NEPA"** means the National Environmental Policy Act of 1969, 42 United States Code 4321 et seq., PL-91-190.

~~((28))~~ **(29) "Nonprofit organization"** means an entity that has a federal tax exempt status identification number.

~~((29))~~ **(30) "Owner"** means any agency, subdivision of the state, municipal corporation, firm, company, mutual or cooperative association, institution, partnership, person, or any other entity that holds as property a public water system.

~~((30))~~ **(31) "Person"** means any individual, corporation, company, association, society, firm, partnership, joint stock company, or any governmental agency, or the authorized agents of these entities.

~~((31))~~ **(32) "Principal forgiveness"** means that a reduction of up to fifty percent of the total loan amount is not required to be paid back by the borrower. For a DWSRF emergency loan, principal forgiveness is a reduction of up to seventy-five percent of the total loan amount. Principal forgiveness is applied when the project is complete.

~~((32))~~ **(33) "Project report"** means a department-approved document the borrower or borrower's agency develops under WAC 246-290-110.

~~((33))~~ **(34) "Public water system"** means any public water system providing water for human consumption through pipes or other constructed conveyances, excluding water systems serving only one single-family residence and water systems with four or fewer connections, all of which serve residences on the same farm. This includes:

(a) Collection, treatment, storage, and distribution facilities under control of the owner, or owner's authorized agent, primarily used in connection with the public water system; and

(b) Collection or pretreatment storage facilities not under the control of the owner, or owner's authorized agent, but primarily used in connection with the public water system.

~~((34))~~ **(35) "Receivership"** means the voluntary or involuntary transfer of ownership and operation of a public water system according to chapter 7.60 RCW and RCW 43.70.195.

~~((35))~~ **(36) "Regional benefit"** means project improvements that affect more than one public water system.

~~((36))~~ **(37) "Restructuring"** means changing public water system ownership, including, but not limited to:

(a) Consolidation of two or more existing public water systems into a single public water system;

(b) Transfer of ownership; or

(c) Receivership.

~~((37))~~ **(38) "SDWA (Safe Drinking Water Act)"** means Public Law 93-523, including all amendments.

~~((38))~~ **(39) "SEPA"** means the State Environmental Policy Act under chapter 43.21C RCW.

~~((39))~~ **(40) "Set-aside"** means the use of a portion of DWSRF funds allotted to the state for a range of specific SDWA-related activities under Section 1452 of the SDWA, to fund new programs, and for other drinking water program activities.

~~((40))~~ **(41) "SERP (state environmental review process)"** means the NEPA-like environmental review process adopted by Washington state to comply with the requirements of 40 C.F.R. 35.3140. SERP combines the SEPA review with additional elements to comply with federal requirements.

~~((41))~~ **(42) "Surface water"** means a body of water open to the atmosphere and subject to surface runoff.

~~((42))~~ **(43) "Sustainable"** means able to continue a benefit into the future as a result of appropriate public water system design, processes, operations, governance, and maintenance.

~~((43))~~ **(44) "SWSMP (small water system management program)"** means a document for a small nonexpanding Group A public water system developed and approved under WAC 246-290-105.

~~((44))~~ **(45) "System capacity"** means a public water system's operational, technical, managerial, and financial capability to achieve and maintain ongoing compliance with all relevant local, state, and federal plans and regulations.

~~((45))~~ **(46) "Transfer of ownership"** means to change legal ownership of a public water system from one person to another.

~~((46))~~ **(47) "Water right"** means a legal authorization, such as a permit, claim, or other authorization, on record with or accepted by the department of ecology, authorizing the beneficial use of water in accordance with all applicable state laws.

~~((47))~~ **(48) "WFI (water facilities inventory)"** means a department form summarizing a public water system's characteristics.

~~((48))~~ **(49) "WSP (water system plan)"** means a document that a Group A community public water system submits to the department as required under WAC 246-290-100. The plan addresses a public water system's capacity to comply with relevant local, state, and federal plans and regulations, describes the public water system's present and future needs, and establishes eligibility for funding under this chapter.

**AMENDATORY SECTION** (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-050 DWSRF loan terms.** (1) The board may approve a DWSRF loan for a project that will not serve

a disadvantaged community at or below market interest rates for a maximum of twenty years from project completion.

(2) The board may approve a DWSRF loan for projects that will serve disadvantaged communities:

(a) At an interest rate set at or below market interest rates for up to thirty years, as long as the DWSRF loan does not exceed the useful life of the project; ~~((e))~~

(b) That qualifies for principal forgiveness for up to fifty percent of the principal DWSRF loan amount; or

(c) That qualifies for principal forgiveness for up to seventy-five percent of the principal DWSRF loan amount for an emergency loan.

(3) A project is considered complete when the department approves the construction completion report.

(4) The borrower shall begin repaying the principal and interest no later than one year after the project is complete.

(5) The department and the board shall:

(a) Set terms that secure repayment of the debt and maintain a financially sound DWSRF program in perpetuity; and

(b) Publish specific rates and contract terms in the annual application package.

AMENDATORY SECTION (Amending WSR 12-01-077, filed 12/19/11, effective 2/1/12)

**WAC 246-296-070 Eligible projects and project-related costs.** (1) Projects eligible for a DWSRF loan include those that:

(a) Address or prevent violations of applicable federal, state, and local drinking water requirements;

(b) Replace aging infrastructure to help a public water system comply with applicable federal, state, and local drinking water requirements to improve public health protection;

(c) Improve system capacity of a public water system to help assure sustainable drinking water; ~~((e))~~

(d) Promote increased water or energy efficiency, green projects, or innovation that will improve environmental sustainability and protect public health; or

(e) Respond to an emergency.

(2) Specific project-related costs eligible for a DWSRF loan include, but are not limited to, those that:

(a) Improve a public water system's treatment, transmission, distribution, source, or storage;

(b) Restructure water supplies or public water systems that have system capacity difficulties;

(c) Retroactively finance municipal projects that:

(i) Are for surface water treatment;

(ii) Address groundwater under the direct influence of surface water;

(iii) Address volatile organic or inorganic chemicals; or

(iv) Are required by department or EPA order;

(d) Acquire real property if needed to meet or maintain compliance with regulations or increase public health protection;

(e) Pay for planning or design that is directly related to a DWSRF eligible project;

(f) Finance the costs of restructuring for a publicly owned public water system;

(g) Acquire, build, or repair reservoirs, including clear wells, that are part of the treatment process and located on the same property as the treatment facility;

(h) Acquire, build, or repair distribution reservoirs; or

(i) Are associated with a department-approved green project.

#### NEW SECTION

#### **WAC 246-296-105 DWSRF emergency loans.** (1)

When the department determines an emergency exists and emergency funding is available, the department may award a DWSRF emergency loan to an eligible public water system that meets the requirements of this chapter, except that the department may waive one or more of the DWSRF loan requirements under WAC 246-296-100, 246-296-120, 246-296-130, 246-296-140, and 246-296-150.

(2) An applicant must submit a completed emergency application package to the department to be considered for a DWSRF emergency loan.

#### **WSR 16-03-059**

#### **PROPOSED RULES**

#### **DEPARTMENT OF**

#### **LABOR AND INDUSTRIES**

[Filed January 19, 2016, 10:27 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-10-066.

Title of Rule and Other Identifying Information: Chapter 296-62 WAC, General occupational health standards.

Hearing Location(s): Department of Labor and Industries, 12806 Gateway Drive South, Conference Room 1, Tukwila, WA 98268, on February 25, 2016, at 9:00 a.m.

Date of Intended Adoption: May 3, 2016.

Submit Written Comments to: Tari Enos, P.O. Box 44620, Olympia, WA 98504, e-mail tari.enos@lni.wa.gov, fax (360) 902-5619, by March 3, 2016.

Assistance for Persons with Disabilities: Contact Tari Enos by February 11, 2016, (360) 902-5541.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to amend sections of chapter 296-62 WAC, General occupational health standards, Part R, hazardous drugs, for increased clarification, streamlining and conforming to the federal global harmonization rule requirements. Also, references, formatting and minor housekeeping changes may be made throughout the chapter listed above.

#### **Amended Sections:**

#### **WAC 296-62-50010 Definitions.**

- Updated definition of material safety data sheet (MSDS) to safety data sheet (SDS).

#### **WAC 296-62-50025 Engineering controls.**

- Updated language in subsection (2)(a) to read:

(a) Prepare (e.g., mix, compound, crush) hazardous drugs inside an appropriate ventilated cabinet or barrier isolators designed to prevent worker exposure ~~((release into the work environment. When asepsis is not required, a Class I biosafety cabinet or isolator intended for containment applications may be sufficient))~~.

- Updated the language in subsection (2)(b) to read:

(b) Hazardous drugs that volatilize must be handled only in a ventilated cabinet that captures the volatilized material to prevent employee exposure, or in a ventilated cabinet that does not recirculate air inside the cabinet or exhausts air back into the room environment ((Equip ventilated cabinets with a continuous monitoring device to confirm adequate airflow before each use)).

- Added new language to subsection (2)(c) which reads:

(c) Install and maintain the ventilation equipment determined by your hazard assessment in accordance with:

(i) The ventilation equipment manufacturer's design, instructions, and precautions;

(ii) Appropriate and most current national safety and industry standards;

Note: The following are examples of industry standards related to installing and maintaining ventilation equipment. There may be other industry standards in addition to those listed below:

1. Center for Disease Control/National Institute for Health: Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets (CDC/NIH).

2. National Sanitation Foundation/American National Standards Institute Standard 49, (NSF/ANSI) Class II (laminar flow) Biosafety Cabinetry.

3. U.S. Pharmacopeial Convention (USP).

4. American Glove Box Standards.

(iii) National Institute of Occupational Safety and Health (NIOSH) "Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings"; and

(iv) Applicable state, federal, and local regulations.

~~((Use filtering media that is approved by the cabinet manufacturer and is appropriate for the agent being captured, such as a high efficiency particulate air filter (HEPA filter) for exhaust, and where feasible, exhaust one hundred percent of the filtered air to the outside unless the employer can provide an evidence-based justification to do otherwise.))~~

- Deleted language in subsections (2)(d), (e) and (f) and relettered (g) to become (d).

#### **WAC 296-62-50030 Personal protective equipment (PPE).**

- Updated language in subsection (3)(d) to read:

(d) Change gloves per glove manufacturer's instruction, type of occupational exposure, ((every thirty to sixty minutes)) or when torn, punctured, or contaminated.

- Updated language in subsection (6)(a) to read:

(a) Use appropriate respiratory protection ((N95)) or equivalent respiratory protection during spill clean up and whenever there is a significant risk of inhalation exposure to hazardous drug particulates.

#### **WAC 296-62-50035 Safe handling practices.**

- Updated language in subsection (4) which reads:

(b) Handwashing ((Wash hand with soap and water before donning gloves, immediately after removal, and whenever hands become contaminated)).

(i) Prior to donning gloves, if hands are contaminated, wash with soap and water; and

(ii) Wash hands with soap and water immediately after removal, and whenever hands become contaminated.

#### **WAC 296-62-50045 Spill control.**

- Updated language in this section which now reads:

~~((1))~~ Develop written spill response procedures in accordance with chapter 296-824 WAC, Emergency response and WAC 296-800-150, first-aid summary for emergency washing requirements. ((based on the hazardous drugs present and potential spill or release conditions:

(2) Spill procedures must include, at a minimum:

(a) Description of who is authorized to respond and under what circumstances;

(b) PPE for various hazardous drugs and spill sizes;

(c) Location and use of spill kits or clean-up materials;

(d) Possible spreading of contamination, and area containment and signage;

(e) Reporting and evaluating the circumstances surrounding spills and releases;

(f) Restricted access to hazardous drug spills;

(g) Waste disposal;

(3) Locate spill kits or clean-up materials near all potential spill sources.))

#### **WAC 296-62-50050 Training.**

- Updated language in subsection (1) and it now reads:

(1) Provide effective hazardous drugs training to all employees with occupational exposure at the time of their initial job assignment and whenever a new hazardous drug or a new process related to handling a hazardous drug that the employees have not previously been trained about is introduced into their work area ((on a regularly scheduled basis thereafter)).

- Updated language in subsection (2) and it now reads:

(2) Include the training elements listed in WAC 296-~~((800))~~ 901-~~((17030))~~ 14016, Inform and train your employees about hazardous chemicals in your workplace.

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

Statute Being Implemented: Chapter 49.17 RCW.

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

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

Name of Agency Personnel Responsible for Drafting: Chris Miller, Tumwater, Washington, (360) 902-5516; Implementation and Enforcement: Anne Soiza, Tumwater, Washington, (360) 902-5090.

No small business economic impact statement has been prepared under chapter 19.85 RCW. A small business economic impact statement will also not be completed because the changes do not impose more than minor costs on business in an industry.

A cost-benefit analysis is not required under RCW 34.05.328. No cost benefit analysis will be completed because this rule making is only updating requirements for increased clarification, streamlining and conforming to the federal global harmonization rule requirements.

January 19, 2016  
Joel Sacks  
Director

AMENDATORY SECTION (Amending WSR 12-02-053, filed 1/3/12, effective 1/1/14)

**WAC 296-62-50010 Definitions. Biological safety cabinet** means a ventilated cabinet for compounding pharmaceutical ingredients, personnel, product, and environmental protection having an open front with inward airflow for personnel protection, downward high-efficiency air (HEPA)-filtered laminar airflow for product protection, and HEPA-filtered exhausted air for environmental protection. For a complete description of the different types of biologic safety cabinets see the Centers for Disease Control and Prevention (CDC)/National Institutes of Health (NIH) document *Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets*.

**Chemotherapy glove** means a medical glove that has been approved by the Food and Drug Administration (FDA) and that meets the permeability standards of the American Society for Testing Materials (ASTM) Standard D6978 - 05.

**Closed system drug-transfer device** means a drug-transfer device that mechanically prohibits the transfer of environmental contaminants into the system and the escape of hazardous drug or vapor concentrations outside of the system.

**Decontamination** means inactivation, neutralization, or removal of toxic agents, usually by chemical means.

**Engineering controls** means devices designed to eliminate or reduce worker exposure to hazards. Examples include biological safety cabinets, laboratory fume hoods, containment isolators, safer sharps devices, and safety interlocks.

**Hazardous drugs** means any drug identified as hazardous by the National Institute for Occupational Safety and Health (NIOSH) at the Centers for Disease Control (CDC) or any drug that meets at least one of the following six criteria:

- Carcinogenicity.
- Teratogenicity or developmental toxicity.
- Reproductive toxicity in humans.
- Organ toxicity at low doses in humans or animals.
- Genotoxicity.
- New drugs that mimic existing hazardous drugs in structure and toxicity.

**Health care facilities** means all hospitals, clinics, nursing homes, laboratories, offices or similar places where a health care provider provides health care to patients. For purposes of this chapter this includes veterinary medicine, retail pharmacies, home health care agencies and also those research laboratories in settings where a health care provider provides health care to patients. It does not include the drug manufacturing sector or research laboratories where health care providers do not provide health care to patients.

**HEPA filter** means a high-efficiency particulate air filter rated 99.97% efficient in capturing 0.3-micron-diameter particles.

• **Isolator** means a device that is sealed or is supplied with air through a microbially retentive filtration system (HEPA minimum) and may be reproducibly decontaminated. When closed, an isolator uses only decontaminated interfaces (when necessary) or rapid transfer ports (RTPs) for materials transfer. When open, it allows for the ingress and/or egress of materials through defined openings that have been designed and validated to preclude the transfer of contaminants or unfiltered air to adjacent environments. An isolator can be used for aseptic processing, for containment of potent compounds, or for simultaneous asepsis and containment. Some isolator designs allow operations within the isolator to be conducted through attached rubber gloves without compromising asepsis and/or containment.

• **Aseptic isolator:** A ventilated isolator designed to exclude external contamination from entering the critical zone inside the isolator.

• **Aseptic containment isolator:** A ventilated isolator designed to meet the requirements of both an aseptic isolator and a containment isolator.

• **Containment isolator:** A ventilated isolator designed to prevent the toxic materials processed inside it from escaping to the surrounding environment.

~~((Material safety data sheet (MSDS) means a summary provided by the manufacturer to describe the chemical properties and hazards of specific chemicals and ways in which workers can protect themselves from exposure to these chemicals.))~~

**Occupational exposure** means reasonably anticipated inhalation, skin, ingestion, or injection contact with hazardous drugs as a result of the performance of an employee's duties. Some drugs defined as hazardous may not pose a significant risk of occupational exposure because of their dosage formulation (for example, coated tablets or capsules that are administered to patients without modifying the formulation). However, they may pose a risk if altered (for example, if tablets are crushed or dissolved, or if capsules are pierced or opened).

**Safety data sheet (SDS)** means a summary provided by the manufacturer to describe the chemical properties and hazards of specific chemicals and ways in which workers can protect themselves from exposure to these chemicals.

**Ventilated cabinet** means a type of engineering control designed for purposes of worker protection. These devices are designed to minimize worker exposures by controlling emissions of airborne contaminants through the following:

- The full or partial enclosure of a potential contaminant source.

- The use of airflow capture velocities to capture and remove airborne contaminants near their point of generation.
- The use of air pressure relationships that define the direction of airflow into the cabinet.

Examples of ventilated cabinets include biological safety cabinets and containment isolators.

AMENDATORY SECTION (Amending WSR 12-02-053, filed 1/3/12, effective 1/1/14 and (2) effective 1/1/15)

**WAC 296-62-50025 Engineering controls.** (1) Evaluate and implement appropriate engineering controls to eliminate or minimize employee exposure. Examples of engineering controls include, but are not limited to:

- Closed system transfer devices.
- Safer sharps devices.
- Safety interlocks.
- Ventilated cabinets.

(2) Ventilated cabinets.

(a) Prepare (e.g., mix, compound, crush) hazardous drugs inside an appropriate ventilated cabinet or barrier isolators designed to prevent ~~((release into the work environment. When asepsis is not required, a Class I biosafety cabinet or isolator intended for containment applications may be sufficient))~~ worker exposure.

(i) Alternate precautions may be used where the hazard assessment determines a low occupational exposure risk while preparing hazardous drugs other than chemotherapy agents (e.g., crushing and splitting tablets, drawing medication into a syringe). These may include, but are not limited to, temporarily designating a preparation area, use of appropriate personal protective equipment, and instituting cleaning procedures.

(ii) Chemotherapy drugs must be prepared in an appropriate ventilated cabinet with the exception of circumstances where the employer can document evidence of a clinical need (e.g., there is a nonroutine need to provide chemotherapy treatment, compounding services are not readily available, and it is in the best interest of the patient to provide local care). In such circumstances alternate precautions must be instituted as described above.

~~(b) ((Equip ventilated cabinets with a continuous monitoring device to confirm adequate airflow before each use.~~

~~(e) Use filtering media that is approved by the cabinet manufacturer and is appropriate for the agent being captured, such as a high efficiency particulate air filter (HEPA filter) for exhaust, and where feasible, exhaust one hundred percent of the filtered air to the outside unless the employer can provide an evidence-based justification to do otherwise.~~

~~(d) Install the outside exhaust so that the exhausted air is not pulled back into the building by the heating, ventilating, and air conditioning systems or by the windows, doors, or other points of entry.~~

~~(e) Place fans downstream of the filter so that contaminated ducts are maintained under negative pressure.~~

~~(f) Do not use a ventilated cabinet that recirculates air inside the cabinet or exhausts air back into the room environment unless the hazardous drug(s) in use will not volatilize while they are being handled or after they are captured by the filter.~~

~~(g)) Hazardous drugs that volatilize must be handled only in a ventilated cabinet that captures the volatilized material to prevent employee exposure, or in a ventilated cabinet that does not recirculate air inside the cabinet or exhausts air back into the room environment.~~

~~(c) Install and maintain the ventilation equipment determined by your hazard assessment in accordance with:~~

~~(i) The ventilation equipment manufacturer's design, instructions, and precautions;~~

~~(ii) Appropriate and most current national safety and industry standards.~~

~~Note: The following are examples of industry standards related to installing and maintaining ventilation equipment. There may be other industry standards in addition to those listed below:~~

~~(A) Center for Disease Control/National Institute for Health: Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets (CDC/NIH).~~

~~(B) National Sanitation Foundation/American National Standards Institute Standard 49, (NSF/ANSI) Class II (laminar flow) Biosafety Cabinetry.~~

~~(C) U.S. Pharmacopeial Convention (USP).~~

~~(D) American Glove Box Standards.~~

~~(ii) National Institute of Occupational Safety and Health (NIOSH) "Preventing Occupational Exposure to Antineoplastic and Other Hazardous Drugs in Health Care Settings"; and~~

~~(iv) Applicable state, federal, and local regulations.~~

~~(d) Develop and implement maintenance and cleaning procedures that ensure the effectiveness and safety of the ventilated cabinet.~~

~~(i) Field-certify biosafety cabinet performance, in accordance with National Sanitation Foundation/American National Standards Institute Standard 49, after installation, relocation, maintenance, repairs to internal components, HEPA filter replacement, and every six months thereafter or as recommended by the manufacturer.~~

~~(ii) Select appropriate performance and test methods for isolators, depending on the type (containment only or aseptic containment), the operating pressure (positive or negative and designed magnitude), and toxicity of the hazardous drug. At a minimum, conduct leak and containment integrity tests in accordance with current American Glovebox Society guidelines. In addition perform a HEPA filter leak test for those isolators that utilize HEPA filtration.~~

~~(iii) Prominently display a current field-certification label on the ventilated cabinet.~~

~~(iv) Make sure that workers performing maintenance are familiar with applicable safety procedures, warned about hazards (e.g., through the provision of material safety data sheet or other equivalent information resources), and trained in appropriate work techniques and PPE needed to minimize exposure.~~

~~(v) Remove all hazardous drugs and chemicals, and decontaminate the ventilated cabinet before beginning maintenance activities.~~

~~(vi) Notify occupants in the affected areas immediately before the maintenance activity begins, and place warning signs on all affected equipment.~~

(vii) Deenergize the ventilated cabinet in accordance with chapter 296-803 WAC, Lockout/Tagout (control of hazardous energy).

(viii) Decontaminate and bag equipment parts removed for replacement or repair before they are taken outside the facility.

(ix) Seal used filtration media in plastic immediately upon removal, and dispose as contaminated waste.

**Note:** Consult the following documents for performance test methods and selection criteria for ventilated cabinets:

(1) *Primary Containment for Biohazards: Selection, Installation and Use of Biological Safety Cabinets* (CDC/NIH).

(2) *NSF/ANSI 49, Class II (laminar flow) Biosafety Cabinetry*.

**AMENDATORY SECTION** (Amending WSR 12-02-053, filed 1/3/12, effective 1/1/14)

**WAC 296-62-50030 Personal protective equipment (PPE).** (1) When there is reasonably anticipated exposure to hazardous drugs each health care facility must conduct a PPE assessment and provide and ensure use of appropriate PPE in accordance with WAC 296-800-160, personal protective equipment (PPE), and chapter 296-842 WAC, Respirators.

(2) Use appropriate PPE whenever handling body fluids and contaminated laundry.

(3) Gloves.

(a) Use powder-free chemotherapy gloves when handling chemotherapy drugs or when there is potential contact with chemotherapy contaminated items or surfaces.

(b) Provide latex-free gloves to employees with latex sensitivities.

(c) Wear two pairs of gloves when there is a significant risk of breakage or contamination or permeation, e.g., during compounding, extended handling periods, and cleaning up large hazardous drug spills.

(d) Change gloves (~~every thirty to sixty minutes~~) per glove manufacturer's instruction, type of occupational exposure, or when torn, punctured, or contaminated.

(4) Protective clothing.

(a) Wear gowns whenever there is a reasonable possibility of a hazardous drug splash or spill such as in compounding, preparing and administering hazardous drugs.

(b) Wear gowns made of polyethylene-coated polypropylene or other nonabsorbent, nonlinting protective material as determined by the PPE hazard assessment. Make sure the gown has a closed front, long sleeves, and elastic or knit cuffs.

(c) Remove and dispose of gowns at the end of hazardous drug handling activities, when leaving the hazardous drug handling area and as soon as possible when damaged or contaminated.

(d) If no permeation information is available, change gowns every two to three hours or when contaminated after a splash or spill.

(5) Face protection. Wear a full-face shield or a mask and eye protection as appropriate when splashes to the eyes, nose, or mouth may occur; examples include cleaning a spill, or performing a procedure such as bladder instillation.

(6) Respiratory protection.

(a) Use (~~(N95)~~) appropriate respiratory protection or equivalent respiratory protection during spill clean up and whenever there is a significant risk of inhalation exposure to hazardous drug particulates.

(b) Use an appropriate chemical cartridge-type respirator for events such as large spills of volatile hazardous drugs, e.g., when an intravenous (IV) bag breaks or a line disconnects.

(7) Disposable PPE must be discarded into appropriate containers immediately after use or as soon as feasible after contamination. Reusable PPE must be properly cleaned and decontaminated after use or contamination.

**AMENDATORY SECTION** (Amending WSR 14-07-086, filed 3/18/14, effective 5/1/14)

**WAC 296-62-50035 Safe handling practices.** (1) Receiving and storage.

(a) Label hazardous drug containers in accordance with WAC 296-901-140(~~(c)~~) Hazard communication.

(b) Store and transport hazardous drugs in a manner that minimizes the risk of breakage.

(2) Preparation and administration.

(a) Provide designated work areas for the preparation of hazardous drugs and limit access during preparation.

(b) Coordinate tasks associated with preparing and administering hazardous drugs for the most effective control of worker exposure.

(c) Spike and prime the IV tubing and prepare syringes in a manner that most effectively limits occupational exposure.

(d) Do not remove tubing from an IV bag containing a hazardous drug.

(e) When drug preparation is completed in a ventilated cabinet:

(i) Seal the final product in a plastic bag or other sealed container for transport before taking it out of the cabinet.

(ii) Seal and wipe all waste containers inside the ventilated cabinet before removing them from the cabinet.

(iii) Remove all outer gloves and sleeve covers and bag them for disposal while inside the cabinet.

(3) Waste handling.

(a) Dispose of pharmaceutical waste in accordance with applicable state and federal regulations.

(b) Place disposable items in designated containers.

(4) Personal hygiene.

(a) Prohibit eating or drinking in areas where hazardous drugs are handled.

(b) (~~Wash hands with soap and water before donning gloves, immediately after removal, and whenever hands become contaminated.~~) Handwashing.

(i) Prior to donning gloves, if hands are contaminated, wash with soap and water; and

(ii) Wash hands with soap and water immediately after removal, and whenever hands become contaminated.

AMENDATORY SECTION (Amending WSR 12-02-053, filed 1/3/12, effective 1/1/14)

**WAC 296-62-50045 Spill control.** ~~((+))~~ Develop written spill response procedures ~~((based on the hazardous drugs present and potential spill or release conditions.~~

~~(2) Spill procedures must include, at a minimum:~~

~~(a) Description of who is authorized to respond and under what circumstances.~~

~~(b) PPE for various hazardous drugs and spill sizes.~~

~~(c) Location and use of spill kits or clean-up materials.~~

~~(d) Possible spreading of contamination, and area containment and signage.~~

~~(e) Reporting and evaluating the circumstances surrounding spills and releases.~~

~~(f) Restricted access to hazardous drug spills.~~

~~(g) Waste disposal.~~

~~(3) Locate spill kits or clean-up materials near all potential spill sources)) in accordance with chapter 296-824 WAC Emergency response and WAC 296-800-150, first-aid summary for emergency washing requirements.~~

**Note:** See chapter 296-824 WAC, Emergency response for requirements regarding response to spills that create significant safety and health risks, and WAC 296-800-150, first-aid summary for emergency washing requirements.

AMENDATORY SECTION (Amending WSR 12-02-053, filed 1/3/12, effective 7/1/14)

**WAC 296-62-50050 Training.** (1) Provide effective hazardous drugs training to all employees with occupational exposure at the time of their initial job assignment and ~~((on a regularly scheduled basis thereafter))~~ whenever a new hazardous drug or a new process related to handling a hazardous drug that the employees have not previously been trained about is introduced into their work area.

(2) Include the training elements listed in WAC ~~((296-800-17030))~~ 296-901-14016, Inform and train your employees about hazardous chemicals in your workplace.

**WSR 16-03-074**  
**PROPOSED RULES**  
**DEPARTMENT OF**  
**RETIREMENT SYSTEMS**  
[Filed January 19, 2016, 4:40 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-09-133.

Title of Rule and Other Identifying Information: WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance?

Hearing Location(s): Department of Retirement Systems, Conference Room 115, 6835 Capitol Boulevard S.E., Tumwater, WA 98502, on Thursday, February 25, 2016, at 9:30 a.m.

Date of Intended Adoption: February 25, 2016.

Submit Written Comments to: Jilene Siegel, Department of Retirement Systems, P.O. Box 48380, Olympia, WA

98504-8380, e-mail [jilenes@drs.wa.gov](mailto:jilenes@drs.wa.gov), fax (360) 753-3166, by February 24, 2016, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Jilene Siegel by February 22, 2016, TTY (866) 377-8895 or (360) 586-5450.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This revision clarifies how the agency administers adjustments to a catastrophic disability allowance for the law enforcement officers' and firefighters' (LEOFF) retirement system Plan 2. Other changes are to ensure consistency with the LEOFF Plan 2 duty disability rule and document existing practices.

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: Alex Kasuske, P.O. Box 48380, Olympia, WA 98504-8380, (360) 664-7285; 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.

January 19, 2016

Jilene Siegel  
Rules Coordinator

AMENDATORY SECTION (Amending WSR 09-17-035, filed 8/10/09, effective 9/10/09)

**WAC 415-104-482 What is the LEOFF Plan 2 catastrophic disability allowance?** Under RCW 41.26.470, two types of disability retirement are available to members of LEOFF Plan 2 who become disabled in the line of duty: Duty disability retirement benefits as described in WAC 415-104-480 and catastrophic disability retirement benefits as described in this section. If you are not eligible for a catastrophic disability allowance under this section, you may still be eligible for duty disability benefits.

(1) **Am I eligible for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance if the department determines all of the following are true:

(a) You incurred a physical or mental disability in the line of duty, as defined in ~~((subsection (13) of this section))~~ WAC 415-104-480;

(b) You separated from LEOFF-eligible employment due to your disability;

(c) Your disability is so severe that you are unable to do your previous LEOFF eligible work, and considering your education, transferable skills, and work experience, you cannot engage in any other kind of substantial gainful activity in the labor market;

(d) Your condition has lasted or is expected to last at least twelve months, or your condition is expected to result in death; and



(e) Your disability is not the result of your criminal conduct committed after April 21, 1997. See RCW 41.26.061.

**(2) If I am receiving a retirement allowance for service, can I qualify for a catastrophic disability allowance?** You are eligible for a catastrophic disability allowance in lieu of your service retirement allowance if the department determines you (~~(separated from LEOFF-eligible service due to a duty disability and you otherwise)~~) meet the eligibility requirements in subsection (1) of this section.

**(3) How do I request a catastrophic disability allowance?** To request a catastrophic disability allowance, please contact the (~~(LEOFF unit at the)~~) department of retirement systems. You, your physician, and your employer will be required to provide information regarding your catastrophic disability.

**(4) What information will the department use to determine whether I am entitled to an allowance under this section?** The department will consider information submitted by you, your physician, and your employer, and information otherwise available to the department, including:

- (a) Medical and vocational information;
- (b) Information from and determinations made by the department of labor and industries, the Social Security Administration, or (~~(a self-insurer)~~) an employer;
- (c) Your job description at the time you separated from LEOFF Plan 2 service;
- (d) Financial records;
- (e) Your membership records, maintained by the department; and
- (f) Any other relevant information.

**(5) Who determines my eligibility?** The LEOFF plan administrator determines your eligibility for a catastrophic disability benefit. The plan administrator will rely substantially on determinations that have been made by the Social Security Administration unless there is information available that would produce a different determination.

**(6) What are my options if my request is denied?** If your request is denied, you have the following options:

- (a) You may apply for duty disability benefits under WAC 415-104-480; and/or
- (b) You may petition for review under chapter 415-04 WAC.

**(7) If my request is approved, when will my monthly allowance begin to be paid?** If your request is approved, you will begin to receive a catastrophic disability allowance in the month following the approval. Your first payment will include a retroactive payment of benefits that have accrued, but not yet been paid. The date your allowance for catastrophic disability accrues is determined as follows:

(a) If you separated from LEOFF Plan 2 employment due to a catastrophic disability, your allowance will accrue from the first of the month following your separation date.

(b) If you are receiving a duty disability allowance or a service retirement allowance, and you are subsequently approved for a catastrophic disability, your allowance will accrue from:

(i) The first of the month following the month in which a specific, one-time event, verified by medical records, occurred that clearly caused your duty disability to become a catastrophic disability; or

(ii) If the department determines there is not a one-time event that caused your disability to become catastrophic, the first of the month following the month in which the department receives your request for a catastrophic disability allowance.

**Example:** John has been receiving a duty-disability allowance under WAC 415-104-480 since June 1, 2005, when he separated service as a firefighter due to a back injury he incurred in the line of duty.

**Example of (b)(i) of this subsection: A one-time event.** On January 15, 2007, John accidentally twisted his back causing a catastrophic disability. Because John's catastrophic disability was clearly the result of a specific one-time event, his catastrophic disability allowance will accrue from February 1, 2007, the first of the month following the month in which the event occurred.

**Example of (b)(ii) of this subsection: No specific event.** John's back gradually worsened until his disability qualified as a catastrophic disability. On May 15, 2007, John applied for a catastrophic disability allowance. His allowance will accrue from June 1, 2007, the first of the month following the month the department received his application.

**(8) How much is a catastrophic disability allowance?** The base catastrophic disability allowance is equal to seventy percent of your final average salary (FAS).

(a) Your allowance combined with other disability benefits, such as Title 51 RCW benefits or Social Security disability benefits, may not exceed one hundred percent of your FAS. If necessary, your catastrophic disability allowance will be reduced so that your combined allowance does not exceed one hundred percent of your FAS. Any such adjustment will be applied prospectively. Your catastrophic disability allowance will not be reduced below your accrued retirement allowance as defined in subsection (13) of this section.

(b) If you choose a benefit option with a survivor feature as described in WAC 415-104-215, the allowance calculated in (a) of this subsection will be actuarially reduced to cover the cost of providing benefits over two lifetimes.

(c) If you have been retired for at least one year by July 1st of each year, you will receive a cost-of-living adjustment each July (+) based on the percentage change, if any, in the consumer price index.

**Example:** Michael separates from service on June 1, 2005, and is approved for a catastrophic disability allowance. Since his FAS is \$5,800, Michael's catastrophic disability allowance from the department is \$4,060 per month ( $\$5,800 \times 70\% = \$4,060$ ). Michael is also approved for a Social Security benefit in the amount of \$1,800 per month. Michael's combined benefit equals \$5,860 ( $\$4,060 + \$1,800$ ). This is \$60 over 100% of his FAS ( $\$5,860 - \$5,800$ ), so Michael's catastrophic disability benefit will be reduced by that amount; his new monthly benefit from the

department is \$4,000 (\$4,060 - \$60). In January 2006, Michael received a 4.1% COLA for his Social Security benefit. The department will recalculate his benefit as follows:

January 2006 Social Security benefit, with COLA	$\$1,800 \times 4.1\% = \$73.80 + \$1,800$	<b>= \$1,873.80</b>
Total combined benefit	$\$4,060 + \$1,873.80$	<b>= \$5,933.80</b>
Amount over 100% of FAS	$\$5,933.80 - \$5,800$	<b>= \$133.80</b>

Since Michael's combined benefit is \$133.80 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$3,926.20 (\$4,060 - \$133.80). Michael's benefit cannot be reduced more than the amount of his accrued retirement allowance. To determine his accrued retirement allowance, the department multiplies Michael's FAS, \$5,800, by his years of service credit, 30, by 2% ( $\$5,800 \times 30 \times 2\%$ ). Michael's accrued retirement allowance is \$3,480. Since his benefit does not fall below his retirement allowance, Michael will receive \$3,926.20 from the department per month.

In July 2006, Michael received a 3% COLA for his catastrophic disability benefit. The department will recalculate his benefit as follows:

July 2006 catastrophic disability benefit, with COLA	$\$5,800 \times 3\% = \$174 + \$5,800 = \$5,974 \times 70\%$	<b>= \$4,181.80</b>
Total combined benefits	$\$4,181.80 + \$1,873.80$	<b>= \$6,055.60</b>
Amount over 100% of FAS	$\$6,055.60 - \$5,974$	<b>= \$81.60</b>

Since Michael's combined benefit is \$81.60 over 100% of his FAS, his catastrophic disability benefit will be reduced by that amount. His new monthly benefit from the department is \$4,100.20 (\$4,181.80 - \$81.60). This is compared to his accrued retirement allowance, \$3,584.40 ( $\$5,974 \times 30 \times 2\%$ ); since his benefit does not fall below his retirement allowance, Michael will receive \$4,100.20 from the department per month.

**(9) Is my catastrophic disability allowance taxable?** You should consult with your tax advisor regarding all payments you receive from the department. The department does not:

- (a) Guarantee that payments are exempt from federal income tax;
- (b) Guarantee that it was correct in withholding or not withholding taxes from disability payments;
- (c) Represent or guarantee that any particular federal or state income, payroll, personal property or other tax consequence will occur because of its determination; or
- (d) Assume any liability for your compliance with the Internal Revenue Code.

**(10) If I withdrew my contributions prior to December 2, 2004, and am approved for a catastrophic disability allowance, what will I receive?** You may apply for a catastrophic disability allowance even if you withdrew your accumulated contributions prior to December 2, 2004. If you are approved for a catastrophic disability allowance, your monthly allowance will be calculated as follows:

(a) If you repay the entire amount you withdrew plus interest, in a lump sum payment, you will receive a monthly allowance calculated according to subsection (8) of this section.

(b) If you do not repay the entire amount you withdrew, your monthly allowance will be actuarially reduced to offset the amount of your previous withdrawal.

**(11) Can my catastrophic disability allowance be discontinued?** Your catastrophic disability allowance will be discontinued if:

(a) Medical/vocational examination, or other information commonly available or provided to the department by an employer, reveals that your disability no longer prevents you from performing substantial gainful activity; or

(b) Your earnings exceed the threshold for substantial gainful activity.

The department may require or offer to provide comprehensive medical/vocational examinations and/or submission of earnings information to evaluate your eligibility for continued benefits (~~according to the provisions of RCW 41.26.470~~). You are required to contact the department if your medical/vocational or financial situation changes.

**(12) If my catastrophic disability allowance terminates, may I qualify for duty disability benefits?** If you are no longer eligible for a catastrophic disability allowance, but have a disability that prevents you from returning to a LEOFF-eligible position, the department will determine if you qualify for duty disability benefits under WAC 415-104-480.

(a) The department may request additional information from you, your physician, or others upon which to base the determination.

(b) If the department determines you are eligible, you will begin receiving a duty disability allowance under WAC 415-104-480 in lieu of your catastrophic disability allowance.

**(13) Definitions.** As used in this section:

(a) **Accrued retirement allowance** means a duty disability monthly allowance under WAC 415-104-480.

(b) **Earnings** are any income or wages received, which are reportable as wages or self-employment income on IRS form 1040.

(c) **Labor market** is the geographic area within reasonable commuting distance of where you were last gainfully employed or where you currently live, whichever provides the greatest opportunity for gainful employment.

(d) ~~((Line of duty means any action or activity performed in the service of your employer that is required or authorized by law, rule, regulations, or condition of employment or service.~~

(e)) **Substantial gainful activity** means any activity that produces average earnings, as defined in (b) of this subsection, in excess of eight hundred sixty dollars a month in 2006, adjusted annually as determined by the department based on federal Social Security disability standards. Wages count toward earnings when they are earned, not when you receive them. Self-employment income counts when you receive it, not when you earn it.

((f)) (e) **Transferable skills** are any combination of learned or demonstrated behavior, education, training, work traits, and skills that you can readily apply. They are skills that are interchangeable among different jobs and workplaces.

### WSR 16-03-075

#### PROPOSED RULES

### WASHINGTON STATE UNIVERSITY

[Filed January 20, 2016, 8:34 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-24-128.

Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students

Hearing Location(s): Lighty 401, WSU Pullman, Pullman, Washington, on February 25, 2016, at 4:00 p.m.

Date of Intended Adoption: March 25, 2016.

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 February 25, 2016.

Assistance for Persons with Disabilities: Contact Joy Faerber, (509) 335-2005, by February 23, 2016.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed amendments are intended to permit the service of students on the academic integrity hearing board, further clarify the jurisdiction of the standards of conduct for students, and update administrative office names to reflect current university organization.

Statutory Authority for Adoption: RCW 28B.30.150.

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

Name of Proponent: Washington State University, public.

Name of Agency Personnel Responsible for Drafting: Adam Jussel, Director, Student Conduct, Lighty Services 260, Pullman, Washington 99164-1064, (509) 335-4532;

Implementation and Enforcement: Melynda Huskey, Interim Vice-President and Dean of Students, Office of the Dean of Students, French Administration 134, Pullman, Washington 99164-1013, (509) 335-2193.

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.

January 20, 2016

D. Bartlett, Director

Procedures, Records, and Forms

University Rules Coordinator

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

**WAC 504-26-010 Definitions.** (1) The term "accused student" means any student accused of violating the standards of conduct for students (this chapter).

(2) The term "appeals board" means any person or persons authorized by the vice-president for student affairs to consider an appeal from a university conduct board's or conduct officer's determination as to whether a student has violated the standards of conduct for students and any sanctions imposed.

(3) The term "cheating" includes, but is not limited to:

(a) Use of unauthorized materials in taking quizzes, tests, or examinations, or giving or receiving unauthorized assistance by any means, including talking, copying information from another student, using electronic devices, or taking an examination for another student.

(b) Use of sources beyond those authorized by the instructor in writing papers, preparing reports, solving problems, or carrying out other assignments.

(c) Acquisition or possession of tests or other academic material belonging to a member of the university faculty or staff when acquired without the permission of the university faculty or staff member.

(d) Fabrication, which is the intentional invention or counterfeiting of information in the course of an academic activity. Fabrication includes, but is not limited to:

(i) Counterfeiting data, research results, information, or procedures with inadequate foundation in fact;

(ii) Counterfeiting a record of internship or practicum experiences;

(iii) Submitting a false excuse for absence or tardiness or a false explanation for failing to complete a class requirement or scheduled examination at the appointed date and time.

(e) Engaging in any behavior for the purpose of gaining an unfair advantage specifically prohibited by a faculty member in the course syllabus or class discussion.

(f) Scientific misconduct. Falsification, fabrication, plagiarism, or other forms of dishonesty in scientific and scholarly research are prohibited. Complaints and inquiries involving cases of scientific misconduct are managed according to the university's policy for responding to allegations of scientific misconduct. A finding of scientific misconduct is subject to sanctions by the office of student ~~((standards and account-~~

ability)) conduct. The policy for responding to allegations of scientific misconduct may be reviewed by contacting the ~~((vice president for))~~ office of research.

(g) Unauthorized collaboration on assignments.

(h) Intentionally obtaining unauthorized knowledge of examination materials.

(i) Plagiarism. Presenting the information, ideas, or phrasing of another person as the student's own work without proper acknowledgment of the source. This includes submitting a commercially prepared paper or research project or submitting for academic credit any work done by someone else. The term "plagiarism" includes, but is not limited to, the use, by paraphrase or direct quotation, of the published or unpublished work of another person without full and clear acknowledgment. It also includes the unacknowledged use of materials prepared by another person or agency engaged in the selling of term papers or other academic materials.

(j) Unauthorized multiple submission of the same work.

(k) Sabotage of others' work.

(l) Tampering with or falsifying records.

(4) The term "complainant" means any party, including the university, who submits a charge alleging that a student violated the standards of conduct for students.

(5) The term "faculty member" for purposes of this chapter, means any person hired by the university to conduct classroom or teaching activities or who is otherwise considered by the university to be a member of its faculty.

(6) The term "gender identity" means having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to the person at birth.

(7) The term "may" is used in the permissive sense.

(8) The term "member of the university community" includes any person who is a student, faculty member, university official, any person employed by the university, or any person with a relationship with the university. A person's status in a particular situation is determined by the vice-president for student affairs or designee.

(9) The term "policy" means the written regulations of the university as found in, but not limited to, the standards of conduct for students, residence life handbook, the university web page and computer use policy, and graduate/undergraduate catalogs.

(10) The term "recognized student organization" means any number of persons who have complied with the formal requirements for university recognition.

(11) The term "shall" is used in the imperative sense.

(12) The term "student" includes all persons taking courses at the university, either full-time or part-time, pursuing undergraduate, graduate, or professional studies. Persons who withdraw after allegedly violating the standards of conduct for students, who are not officially enrolled for a particular term but who have a continuing relationship with the university (including suspended students) or who have been notified of their acceptance for admission are considered "students" as are persons who are living in university residence halls, although not enrolled in this institution.

(13) The term "student conduct officer" means a university official authorized by the vice-president for student affairs to manage conduct complaints including the imposition of sanctions upon any student(s) found to have violated the standards of conduct for students.

(14) The term "university" means all locations of Washington State University.

(15) The term "university conduct board" means those persons who, collectively, have been authorized by the vice-president for student affairs to determine whether a student has violated the standards of conduct for students and to impose sanctions when a student is found responsible by the board to have violated these standards of conduct.

(16) The term "academic integrity hearing board" means ~~((those))~~ teaching faculty and student representatives who, collectively, have been authorized by the university or college to review an instructor's determination that a student violated university academic integrity policies and whether or not the outcome proposed by the instructor is in keeping with the instructor's published policies.

(17) The term "university official" includes any person employed by the university, performing assigned administrative or professional responsibilities.

(18) The term "university premises" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the university (including adjacent streets and sidewalks).

(19) The vice-president for student affairs is that person designated by the university president to be responsible for the administration of the standards of conduct for students.

**AMENDATORY SECTION** (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

**WAC 504-26-200 Jurisdiction of the standards of conduct for students.** (1) The standards of conduct for students shall apply to conduct that occurs on university premises ~~((at))~~ or in connection with university sponsored activities, ~~((and))~~ including transit to or from the activity.

(2) The standards of conduct may also apply to off-campus conduct that adversely affects the health and/or safety of the university community ~~((and/or))~~ or the pursuit of ~~((its objectives))~~ the university's vision, mission, or values.

(3) The university has sole discretion to determine what conduct occurring off-campus adversely impacts the university's interests described in subsection (2) of this section. In determining whether university interests are adversely affected and whether to exercise jurisdiction, the conduct officer considers whether the alleged conduct:

(a) Required exercise of jurisdiction under law or as required by federal or state agencies;

(b) Negatively impacted the reputation of the university or its students;

(c) Occurred on the property of recognized living groups;

(d) Caused physical, mental, or emotional harm to another;

(e) Was recognized by onlookers, complainants, or witnesses as being carried out by a student or recognized student organization.

(4) These standards of conduct may be applied to behavior conducted online, via electronic mail or other electronic means.

(5) Each student is responsible and accountable for his/her conduct from the time of application for admission through the actual awarding of a degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment. These standards shall apply to a student's conduct even if the student withdraws from school, takes a leave of absence, or graduates while a disciplinary matter or investigation is pending. Definitions from these standards are incorporated into Washington State University's executive policy 15, which prohibits discrimination, sexual harassment, and sexual misconduct. ~~((The university has sole discretion to determine what conduct occurring off campus adversely impacts the university community and/or the pursuit of university objectives.))~~

**AMENDATORY SECTION** (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

**WAC 504-26-402 Conduct officer actions.** (1) Any student charged by a conduct officer with a violation of any provision of standards of conduct for students is notified of the basis for the charge or charges and of the time, date, and place of a conference between the student and the conduct officer through one of the procedures in WAC 504-26-401(5).

Any request to extend the time and/or date of the conduct officer conference/hearing should be addressed to the conduct officer.

(2) In order that any informality in disciplinary proceedings not mislead a student as to the seriousness of the matter under consideration, the student is informed of the potential sanctions involved at the initial conference or hearing.

(3) After a review of the evidence and interviewing the student(s) involved in the case, the conduct officer may take any of the following actions:

(a) Terminate the proceeding and enter a finding that the accused student or recognized student organization is not responsible for the alleged conduct violation;

(b) Dismiss the investigation, which may be reopened at a later date if relevant information that was unknown to the conduct officer arises;

(c) Impose appropriate sanctions as provided in WAC 504-26-405. Such sanctions are subject to the student's right of appeal as provided in these standards of conduct; or

(d) Refer the matter to the university conduct board pursuant to WAC 504-26-401(3).

(4) The conduct officer may consider the student's past contacts with the office of student ~~((standards and accountability))~~ **conduct** in determining an appropriate sanction and/or deciding whether to refer the case for a university conduct board hearing.

(5) The student is notified in writing of the determination made by the conduct officer within ten business days of the proceeding. The notice includes information regarding the student's right to appeal pursuant to WAC 504-26-407.

**AMENDATORY SECTION** (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

**WAC 504-26-403 Conduct board proceedings.** (1) Any student charged by a conduct officer with a violation of any provision of the standards of conduct for students that is to be heard by a conduct board is provided notice as described in WAC 504-26-401(5).

(2) The written notice shall be completed by the conduct officer and shall include:

(a) The specific complaint, including the university policy or regulations allegedly violated;

(b) The approximate time and place of the alleged act that forms the factual basis for the charge of violation;

(c) The time, date, and place of the hearing;

(d) A list of the witnesses who may be called to testify, to the extent known;

(e) A description of all documentary and real evidence to be used at the hearing, to the extent known, including a statement that the student shall have the right to inspect his or her student conduct file.

(3) Time for hearings.

(a) The conduct board hearing is scheduled not less than seven days after the student has been sent notice of the hearing, except in the case of interim suspensions as set forth in WAC 504-26-406.

(b) Requests to extend the time and/or date for hearing must be addressed to the chair of the university conduct board, and must be copied to the office of student ~~((standards and accountability))~~ **conduct**. A request for extension of time is granted only upon a showing of good cause.

(4) University conduct board hearings are conducted by a university conduct board. A goal of the hearing is to have an educational tone and to avoid creation of an unduly adversarial environment. The hearings are conducted according to the following guidelines, except as provided by subsection (6) of this section:

(a) Procedures:

(i) University conduct board hearings are conducted in private.

(ii) The complainant, accused student, and his or her advisor, if any, are allowed to attend the entire portion of the university conduct board hearing at which information is received (excluding deliberations). Admission of any other person to the university conduct board hearing is at the discretion of the university conduct board chair and/or the student conduct officer.

(iii) In university conduct board hearings involving more than one accused student, the student conduct officer, at his or her discretion, may permit joint or separate hearings.

(iv) In university conduct board hearings involving graduate students, board memberships are comprised to include graduate students and graduate teaching faculty to the extent possible.

(v) The complainant, the accused student, and the student conduct officer may arrange for witnesses to present pertinent information to the university conduct board. The conduct officer tries to arrange the attendance of possible witnesses who are identified by the complainant. Complainant witnesses must provide written statements to the conduct officer at least two weekdays prior to the hearing. Witnesses

identified by the accused student must provide written statements to the conduct officer at least two weekdays prior to the conduct hearing. The accused student is responsible for informing his or her witnesses of the time and place of the hearing. Witnesses provide information to and answer questions from the university conduct board, the complainant, and the accused student, as appropriate. Questions may be suggested by the accused student and/or complainant to be answered by each other or by other witnesses. Written questions are directed to the conduct board chair, rather than to the witness directly. This method is used to preserve the educational tone of the hearing and to avoid creation of an unduly adversarial environment, and to allow the board chair to determine the relevancy of questions. Questions concerning whether potential information may be received are resolved at the discretion of the chair of the university conduct board. The chair of the university conduct board shall have the discretion to determine admissibility of information.

(vi) Pertinent records, exhibits, and written statements (including student impact statements) may be accepted as information for consideration by a university conduct board at the discretion of the chair and/or conduct officer.

(vii) Questions related to the order of the proceedings are subject to the final decision of the chair of the university conduct board.

(viii) After the portion of the university conduct board hearing concludes in which all pertinent information is received, the university conduct board shall determine (by majority vote) whether the accused student has violated each section of the standards of conduct for students as charged and what sanctions, if any, are appropriate.

(b) If the accused student is found responsible for any of the charges, the board may, at that time, consider the student's past contacts with the office of student ~~((standards and accountability))~~ conduct in determining an appropriate sanction.

(c) The accused student or recognized student organization is notified of the conduct board's decision within ten calendar days from the date the matter is heard. The accused student or recognized student organization shall receive written notice of the decision, the reasons for the decision (both the factual basis therefore and the conclusions as to how those facts apply to the standards of conduct for students), the sanction, notice that the order will become final unless internal appeal is filed within twenty-one days of the date the letter was personally delivered, deposited in the U.S. mail, or electronically mailed, and a statement of how to file an appeal.

(i) The written decision is the university's initial order.

(ii) If the student or recognized student organization does not appeal the conduct board's decision before twenty-one calendar days from the date of the decision letter, it becomes the university's final order.

(5) There is a single verbatim record, such as an audio record, of all university conduct board hearings (not including deliberations). Deliberations are not recorded. The record is the property of the university.

(6) If an accused student to whom notice of the hearing has been sent (in the manner provided above) does not appear before a university conduct board hearing, the information in support of the complaint is presented and considered in his or

her absence, and the board may issue a decision based upon that information.

(7) The university conduct board may for convenience or to accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the complainant, accused student, and/or other witnesses during the hearing provide separate facilities, and/or permit participation by telephone, audio tape, written statement, or other means, as determined in the sole judgment of the vice-president for student affairs or designee to be appropriate.

AMENDATORY SECTION (Amending WSR 11-11-031, filed 5/11/11, effective 6/11/11)

**WAC 504-26-404 Procedure for academic integrity violations.** (1) Initial hearing.

(a) When a responsible instructor finds that a violation of academic integrity has occurred, the instructor shall assemble the evidence and, upon reasonable notice to the student of the date, time, and nature of the allegations, meet with the student suspected of violating academic integrity policies. If the student admits violating academic integrity policies, the instructor assigns an outcome in keeping with published course policies and notifies the office of student ~~((standards and accountability))~~ conduct in writing, including the allegations, the student's admission, and the sanctions imposed.

(b) If the instructor is unable to meet with the student or if the accused student disputes the allegation(s) and/or the outcome proposed by the instructor, the instructor shall make a determination as to whether the student did or did not violate the academic integrity policy. If the instructor finds that the student was in violation, the instructor shall provide the student and the office of student ~~((standards and accountability))~~ conduct with a written determination, the evidence relied upon, and the sanctions imposed.

(c) The student has twenty-one days from the date of the decision letter to request review of the instructor's determination and/or sanction(s) imposed to the academic integrity hearing board.

(2) Review.

(a) Upon timely request for review by a student who has been found by his or her instructor to have violated the academic integrity policy, the academic integrity hearing board shall make a separate and independent determination of whether or not the student is responsible for violating the academic integrity policy and/or whether the outcome proposed by the instructor is in keeping with the instructor's published course policies.

(b) The academic integrity hearing board is empowered to provide an appropriate remedy for a student including arranging a withdrawal from the course, having the student's work evaluated, or changing a grade where it finds that:

(i) The student is not responsible for violating academic integrity policies; or

(ii) The outcome imposed by the instructor violates the instructor's published policies.

(c) Students who appear before the academic integrity board shall have the same rights to notice and to conduct a defense as enumerated in WAC 504-26-403 except:

(i) Notice of hearing and written orders shall be sent to the address provided by the student in the student's request for review (unless an address is not provided therein); and

(ii) The written decision of the academic integrity hearing board is the university's final order. There is no appeal from findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

(3) If the reported violation is the student's first offense, the office of student ~~((standards and accountability))~~ **conduct** ordinarily requires the student to attend a workshop separate from, and in addition to, any academic outcomes imposed by the instructor. A hold is placed on the student's record preventing registration or graduation until completion of the workshop.

(4) If the reported violation is the student's second offense, the student is ordinarily required to appear before a university conduct board with a recommendation that the student be dismissed from the university.

(5) If the instructor or academic integrity hearing board determines that the act of academic dishonesty for which the student is found responsible is particularly egregious in light of all attendant circumstances, the instructor or academic integrity hearing board may direct that the student's case be heard by the university conduct board with a recommendation for dismissal from the university even if it is the student's first offense.

(6) Because instructors and departments have a legitimate educational interest in the outcomes, reports of academic integrity hearing board and/or conduct board hearings shall be reported to the responsible instructor and the chair or dean.

**AMENDATORY SECTION** (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

**WAC 504-26-405 Sanctions.** (1) The following sanctions may be imposed upon any student found to have violated the standards of conduct for students:

(a) Warning. A notice in writing to the student that the student is violating or has violated institutional regulations.

(b) Probation. Formal action placing conditions upon the student's continued attendance at the university. Probation is for a designated period of time and warns the student or recognized student organization that suspension, expulsion, loss of recognition, or any other sanction outlined in this section may be imposed if the student is found to violate any institutional regulation(s) or fails to complete his or her conditions of probation during the probationary period. A student on probation is not eligible to run for or hold an office in any recognized student group or organization; she or he is not eligible for certain jobs on campus, including but not limited to resident advisor or orientation counselor; and she or he is not eligible to serve on the university conduct or appeals board.

(c) Loss of privileges. Denial of specified privileges for a designated period of time.

(d) Restitution. Compensation for loss, damage, or injury. This may take the form of appropriate service and/or monetary or material replacement.

(e) Education. The university may require the student to successfully complete an educational project designed to create an awareness of the student's misconduct.

(f) Community service. Imposition of service hours (not to exceed eighty hours per student or per member of a recognized student organization).

(g) Residence hall suspension. Separation of the student from a residence hall or halls for a definite period of time, after which the student may be eligible to return. Conditions for readmission may be specified.

(h) Residence hall expulsion. Permanent separation of the student from a residence hall or halls.

(i) University suspension. Separation of the student from the university for a definite period of time, after which the student is eligible to request readmission. Conditions for readmission may be specified.

(j) University expulsion. Permanent separation of the student from the university. Also referred to as university dismissal. The terms are used interchangeably throughout this chapter.

(k) Revocation of admission and/or degree. Admission to or a degree awarded from the university may be revoked for fraud, misrepresentation, or other violation of law or university standards in obtaining the degree, or for other serious violations committed by a student before awarding of the degree.

(l) Withholding degree. The university may withhold awarding a degree otherwise earned until the completion of the process set forth in this standards of conduct for students, including the completion of all sanctions imposed, if any.

(m) Trespass. A student may be restricted from any or all university premises based on his or her misconduct.

(n) Loss of recognition. A recognized student organization's recognition may be withheld permanently or for a specific period of time. A fraternity or sorority may be prohibited from housing freshmen. Loss of recognition is defined as withholding university services, privileges, or administrative approval from a student organization. Services, privileges, and approval to be withdrawn include, but are not limited to, intramural sports (although individual members may participate), information technology services, university facility use and rental, campus involvement office organizational activities, and office of Greek life advising.

(o) Hold on transcript and/or registration. A hold restricts release of a student's transcript or access to registration until satisfactory completion of conditions or sanctions imposed by a conduct officer or university conduct board. Upon proof of satisfactory completion of the conditions or sanctions, the hold is released.

(p) No contact order. A prohibition of direct or indirect physical, verbal, and/or written contact with another individual or group.

(q) Fines. Previously established and published fines may be imposed. Fines are established each year prior to the beginning of the academic year and are approved by the vice-president for student affairs.

(2) More than one of the sanctions listed above may be imposed for any single violation.

(3)(a) In determining an appropriate sanction, the conduct officer or relevant board may consider any record of past

contacts with the office of student ~~((standards and accountability))~~ conduct, and the nature and severity of such past contact(s).

(b) The conduct board and/or appeals board may consider suspending or expelling any student found responsible for violating the university's sexual misconduct code (WAC 504-26-221).

(4) Other than university expulsion or revocation or withholding of a degree, disciplinary sanctions are not made part of the student's permanent academic record, but shall become part of the student's disciplinary record.

(5) In cases heard by university conduct boards, sanctions are determined by that board. The student conduct officer has the authority to assign sanctions in any conduct officer hearing.

(6) Academic integrity violations.

No credit need be given for work that is not a student's own. Thus, in academic integrity violations, the responsible instructor has the authority to assign a grade and/or educational sanction in accordance with the expectations set forth in the relevant course syllabus. The instructor's choices may include, but are not limited to, assigning a grade of "F" for the assignment and/or assigning an educational sanction such as extra or replacement assignments, quizzes, or tests, or assigning a grade of "F" for the course.

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

**WAC 504-26-406 Interim suspension.** In certain circumstances, the vice-president for student affairs, or a designee, may impose an interim suspension prior to the university conduct board hearing or at any time prior to the university's final order.

(1) Interim suspension may be imposed only in situations involving an immediate danger to the health, safety or welfare of:

(a) Any part of the university community or public at large; or

(b) The student's own physical safety and well-being.

(2) Conduct that creates an ongoing disruption of, or interference with, the operations of the university and that prevents other students, employees, or invitees from members of the university community from completing their duties as employees or students, is conduct harmful to the welfare of members of the university community.

(3) During the interim suspension, a student may be denied access to the residence halls, and/or to the campus (including classes), and/or all other university activities or privileges for which the student might otherwise be eligible, as the vice-president for student affairs or designee may determine to be appropriate.

(4) The vice-president for student affairs or designee ordering an interim suspension prepares a brief written decision containing the reasons for the decision (both the factual basis and the conclusions as to why those facts constitute a violation of the standards of conduct for students), and the policy reasons for the interim suspension. The vice-president of student affairs or designee sends copies of the decision by personal delivery, by regular U.S. mail, or by electronic mail

to all persons or offices bound by it (including, at a minimum, the suspended student and the office of student ~~((standards and accountability))~~ conduct).

(5) The interim suspension does not replace the regular hearing process, which shall proceed to hearing as quickly as feasible, ordinarily within five working days of the notice of the interim suspension where the accused student has not consented to a longer time frame.

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

**WAC 504-26-407 Review of decision.** (1) The findings and sanctions rendered by the university conduct board or a conduct officer may be appealed by the complainant and accused student(s) in the manner prescribed in the decision letter containing the findings and sanctions. Such appeal must be made before twenty-one days of the date of the decision letter. The director of student ~~((standards and accountability))~~ conduct provides a copy of the appeal request by one party to the other party (parties) as appropriate.

(a) The university president or designee, of his or her own initiative, may direct that an appeals board be convened to review a conduct board or conduct officer decision without notice to the parties. However, the appeals board may not take any action less favorable to the accused student(s), unless notice and an opportunity to explain the matter is first given to the accused student(s).

(b) If the complainant or accused student and/or the student conduct officer or designee wish to explain their views of the matter to the appeals board they shall be given an opportunity to do so in writing.

(c) The appeals board shall make any inquiries necessary to ascertain whether the proceeding must be converted to a formal adjudicative hearing under the Administrative Procedure Act (chapter 34.05 RCW).

(2) Except as required to explain the basis of new information, an appeal is limited to a review of the verbatim record of the university conduct board hearing and the conduct file for conduct board decisions or the conduct file for conduct officer decisions for one or more of the following purposes:

(a) To determine whether the university conduct board hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures giving the complaining party a reasonable opportunity to prepare and to present information that the standards of conduct for students were violated, and giving the accused student a reasonable opportunity to prepare and to present a response to those allegations. Deviations from designated procedures are not a basis for sustaining an appeal unless significant prejudice results.

(b) To determine whether the decision reached regarding the accused student was based on substantial information, that is, whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct for students occurred.

(c) To determine whether the sanction(s) imposed were appropriate for the violation of the standards of conduct for students which the student was found to have committed.



(d) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original hearing, because such information and/or facts were not known to the person appealing at the time of the original university conduct board hearing.

(3) The university appeals board shall review the record and all information provided by the parties and take one of the following actions:

(a) Affirm, reverse, or modify the conduct board's or conduct officer's decision;

(b) Affirm, reverse, or modify the sanctions imposed by the conduct board or conduct officer;

(c) Set aside the findings and sanctions or remand the matter back to the conduct board or conduct officer with instructions for further proceedings.

(4) The appeals board's decision shall be personally delivered, sent via regular U.S. mail, or electronically mailed to the student. Such decision shall be delivered or mailed to the last known address of the accused student(s) or electronically mailed to the student's official university electronic mail account. It is the student's responsibility to maintain a correct and updated address with the registrar. The university appeals board's decision letter is the final order and shall advise the student or recognized student organization that judicial review may be available. If the appeals board does not provide the student with a response within twenty days after the request for appeal is received, the request for appeal is deemed denied.

(5) The appeals board decision is effective as soon as the order is signed, except in cases involving expulsion or loss of recognition. In cases involving expulsion or loss of recognition, the appeals board decision is effective ten calendar days from the date the order is signed, unless the university president or designee provides written notice of additional review as provided in subsection (6) of this section.

(6) For cases involving expulsion or loss of recognition, the university president or designee may review a decision of the appeals board by providing written notice to the student or recognized student organization no later than ten calendar days from the date the appeals board decision is signed.

(a) This review is limited to the record and purposes stated in subsection (2) of this section.

(b) Prior to issuing a decision, the president or designee shall make any inquiries necessary to determine whether the proceeding should be converted into a formal adjudicative hearing under the Administrative Procedure Act (chapter 34.05 RCW).

(c) If the complainant or accused student and/or the student conduct officer or designee wish to explain their views of the matter to the president or designee, they shall do so in writing.

(d) The president or designee's decision is in writing, includes a brief statement of the reasons for the decision, and is issued within twenty calendar days after the date of the appeals board order. The decision becomes effective as soon as it is signed and includes a notice that judicial review may be available.

(7) Students may petition to delay the date that the final order of the university becomes effective by directing a petition to the chair of the appeals board, or the president or des-

ignee, as applicable, within ten calendar days of the date the order was personally delivered to the student or placed in the regular U.S. mail, or electronically mailed. The chair, or the president or designee, as applicable, shall have authority to decide whether to grant or deny the request.

(8) There is no further review beyond that of the findings of responsibility or outcomes assigned by university or college academic integrity hearing boards.

AMENDATORY SECTION (Amending WSR 15-11-041, filed 5/14/15, effective 6/14/15)

**WAC 504-26-501 Records.** (1) Standards of conduct for students records are maintained in accordance with the university's records retention schedule.

(2) The disciplinary record is confidential, and is released only as authorized under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) and the university policy on student educational records (chapter 504-21 WAC).

(3) A student may request a copy of his or her own disciplinary record at his or her own reasonable expense by making a written request to the office of student ~~((standards and accountability))~~ conduct.

(4) Personally identifiable student information is redacted to protect other students privacy.

(5) A student may authorize release of his or her own disciplinary record to a third party in compliance with FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99) by making a written request to the office of student ~~((standards and accountability))~~ conduct.

(6) The university may inform the complainant of the outcome of any disciplinary proceeding involving a crime of violence as defined by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(7) The university informs the complainant of the outcome of any disciplinary proceeding alleging sexual misconduct. (34 C.F.R. 668.46 (b)(11)(vi)(B).)

(8) The university may not communicate a student's disciplinary record to any person or agency outside the university without the prior written consent of the student, except as required or permitted by law. Exceptions include but are not limited to:

(a) The student's parents or legal guardians may review these records if the student is a minor or a dependent for tax purposes as defined by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(b) Release to another educational institution, upon request, where the student seeks or intends to enroll, as allowed by FERPA (20 U.S.C. Sec. 1232g; 34 C.F.R. Part 99).

(9) A student may request removal from her or his record of a single disciplinary violation relating to the possession or use of alcohol and/or marijuana, and/or other violation of the university's policies relating to alcohol and drugs. Granting such a request is discretionary, and the student must make such a request in accordance with university policies and procedures.

AMENDATORY SECTION (Amending WSR 15-01-080, filed 12/15/14, effective 1/15/15)

**WAC 504-26-602 Periodic review.** The standards of conduct for students are reviewed every three years under the direction of the director of student ~~((standards and accountability))~~ conduct.

**WSR 16-03-077**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
[Filed January 20, 2016, 9:24 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-23-112.

Title of Rule and Other Identifying Information: Amending WAC 392-140-915 High poverty funding—Process and definition of eligible schools, 392-140-923 K-3 Class size—Enrollment and 392-140-932 K-3 Class size—Teachers; new sections WAC 392-140-916 K-3 class size funding, 392-140-934 K-3 class size—Supplemental FTE teachers, 392-140-937 K-3 demonstrated class size—High poverty schools, 392-140-939 K-3 demonstrated class size—Nonhigh poverty schools, 392-140-942 Weighted average class size—High poverty schools, and 392-140-945 Weighted average class size—Nonhigh poverty schools.

Hearing Location(s): Office of Superintendent of Public Instruction (OSPI), Brouillet Conference Room, 600 South Washington, Olympia, WA 98504-7200, on March 2, 2016, at 10:00 a.m.

Date of Intended Adoption: March 4, 2016.

Submit Written Comments to: T. J. Kelly, Director, OSPI, School Apportionment and Financial Services, P.O. Box 47200, Olympia, WA 98504-7200, e-mail Thomas.kelly@k12.wa.us, fax (360) 664-3683, by March 2, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by February 24, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The 2015-2017 Biennial Appropriations Act made the allocation to school districts intended to provide K-3 teachers in both poverty and nonhigh poverty schools contingent on class size compliance. These rules define how the class size compliance calculations will work.

Reasons Supporting Proposal: The proposed amendments are required to ensure that districts receive an allocation for K-3 teachers in accordance with state law as prescribed in RCW.

Statutory Authority for Adoption: RCW 28A.150.290.

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

Name of Agency Personnel Responsible for Drafting and Implementation: T. J. Kelly, Olympia, Washington, (360) 725-6301; and Enforcement: JoLynn Berge, Olympia, Washington, (360) 725-6292.

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

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

January 19, 2016  
Randy Dorn  
State Superintendent

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-140-915 High poverty funding—Process and definition of eligible schools.** For the purposes of this section, an eligible school is a school administered by a public school district board or a public charter school board in which the free and reduced priced lunch percentage for students in grades K-6 exceeds fifty percent within the school building. Schools administered by school districts that are part of a district that receives any type of K-6 small school funding or the school does not receive remote and necessary funding are not eligible schools under this section. If a school is determined to be eligible, the K-3 full-time equivalent enrollment as reported to the office of superintendent of public instruction on the P-223 will be used to generate funding at an enhanced class size as determined by the legislature, subject to funding provided in the Omnibus Appropriations Act.

CEDARS data as of October of the previous school year will be used to determine school eligibility. A CEDARS extract of October 1st data will be pulled on March 31st to be used as the basis for K-3 high poverty funding eligibility for the subsequent school year. The list of eligible schools will be published by mid April. No changes to CEDARS data made after March 31st will be considered, and appeals will not be allowed.

Funding of K-3 high poverty schools will be based upon budgeted K-3 enrollment in eligible high poverty schools as stated in a district's or charter school's F-203 from September through December. Funding based on average annual full-time equivalent enrollment reported in final approved eligible schools will begin in January and continue through August. Districts and charter schools must meet the legislative compliance requirements of the K-1 high poverty funding in order to retain the full allotment.

NEW SECTION

**WAC 392-140-916 K-3 class size funding.** Elementary teacher allocations based on the prototypical schools formula provided in RCW 28A.150.260 and the Omnibus Appropriations Act for grades K-3 at nonhigh poverty and high poverty schools will be based upon budgeted K-3 enrollment at both nonhigh poverty and high poverty schools as stated in the district's F-203 revenue estimate from September through December for the year budgeted. Districts will also input their estimated K-3 and K-3 high poverty weighted average class size for purposes of funding from September through December. K-3 enrollment will not include student full-time

equivalent (FTE) enrolled in alternative learning experience programs. Funding based on actual average annual FTE enrollment reported in the P-223 will begin in January and will continue through August. Districts must meet the legislative compliance requirements of both K-3 and K-3 high poverty class size funding in order to generate the full allotment.

AMENDATORY SECTION (Amending WSR 14-12-004, filed 5/21/14, effective 6/21/14)

**WAC 392-140-923 ((K-1 high poverty)) K-3 class size—Enrollment.** ~~((School level enrollment by grade at each of the high poverty eligible schools will be considered from the current school year October 1 CEDARS data inclusive of changes through the enrollment count day in January, March, and June.))~~ Grade level K-3 high poverty and non-high poverty enrollment from a district's P-223 reporting will be considered in the compliance calculations for the months of January, March, and June. All students in ALE programs will be excluded from the compliance calculation. ~~((First grade and full day kindergarten students will be considered a 1.0 FTE, while half day kindergartners will be considered a 0.5 FTE.))~~

AMENDATORY SECTION (Amending WSR 15-18-078, filed 8/28/15, effective 9/28/15)

**WAC 392-140-932 ((K-1 high poverty)) K-3 class size—Teachers.** The superintendent of public instruction shall include in the calculation of high poverty class size compliance those teachers reported on the S-275 at the eligible schools that are coded in programs 01 and 79 to grade group K ~~((or~~), 1, 2, or 3, and are reported in one of the following duty roots:

- Duty Root 31 - Elementary homeroom teacher;
- Duty Root 33 - Other teacher;
- Duty Root 34 - Elementary specialist teacher;
- Duty Root 52 - Substitute teacher;
- Duty Root 63 - Contractor teacher.

S-275 data as of the published apportionment cutoff dates in January, March, and June will be considered in the calculation.

Program 21 special education teachers coded to grade K ~~((or 1 at the eligible schools)), 1, 2, or 3~~ multiplied by the annual percentage of students in special education instruction used in determination of a district's or charter school's 3121 revenue will be included.

Teachers coded to program 02 alternative learning experience shall be excluded.

#### NEW SECTION

**WAC 392-140-934 K-3 class size—Supplemental FTE teachers.** As used in this chapter, "supplemental full-time equivalent teachers" means the net change in full-time equivalent teachers after October 1st of the school year not reflected in report S-275. Teachers, for the purpose of this section, are defined in WAC 392-140-932. Supplemental full-time equivalent teachers are determined as follows:

(1) Determine the teacher FTE that would be reported for each employee for the school year on report S-275 if the current data were submitted for the October 1st snapshot as required in the S-275 instructions and subtract the teacher FTE as of October 1st actually reported for the employee on the school district's most current report S-275.

(2) Include decreases as well as increases in staff after October 1st and not reflected in report S-275. Decreases include terminations, retirements, unpaid leave, and reassignment of staff.

Supplemental teacher FTE must be reported to the office of superintendent of public instruction prior to the published S-275 apportionment cutoff dates in January, March, and June to be considered. Supplemental teacher FTE must be reported by individual grade level K, 1, 2, and 3, as well as separately for nonhigh poverty and high poverty schools.

#### NEW SECTION

**WAC 392-140-937 K-3 demonstrated class size—High poverty schools.** Demonstrated class size across all high poverty eligible schools will be calculated by dividing the total teachers and supplemental teacher FTE for the individual grade levels of K, 1, 2, or 3, as described in WAC 392-140-932 into the calculated combined total enrollment across all high poverty schools in the individual grade levels of K, 1, 2, or 3.

#### NEW SECTION

**WAC 392-140-939 K-3 demonstrated class size—Nonhigh poverty schools.** Demonstrated class size across all nonhigh poverty eligible schools will be calculated by dividing the total teachers and supplemental teacher FTE for the individual grade levels of K, 1, 2, or 3, as described in WAC 392-140-932 into the calculated combined total enrollment across all nonhigh poverty schools in the individual grade levels of K, 1, 2, or 3.

#### NEW SECTION

**WAC 392-140-942 Weighted average class size—High poverty schools.** A K-3 high poverty weighted average class size will be calculated by first multiplying the high poverty enrollment in each of the grades K, 1, 2, or 3 by the demonstrated class size for each respective grade as defined in WAC 392-140-937. The result of those four separate calculations by grade will be summed, and the total will be divided by total K-3 high poverty enrollment as described in WAC 392-140-923, which will result in K-3 high poverty weighted average class size.

A K-3 high poverty max funded class size enhancement will be calculated first by taking the high poverty enrollment in each of grades K, 1, 2, or 3 by the class sizes provided in the Omnibus Appropriations Act. The result of those four separate calculations by grade will be summed, and that total will be divided by the total K-3 high poverty enrollment as described in WAC 392-140-923, which will result in the K-3 high poverty max funded class size enhancement for a specific district.

Districts will generate apportionment funding based on the greater of the K-3 high poverty weighted average class size or the K-3 high poverty max funded class size enhancement. For the months of September through December, districts will generate K-3 high poverty apportionment funding based on the class size input into their F-203 revenue estimate. Beginning in January the results of the most recent compliance calculation will be utilized for apportionment purposes through the end of the school year.

NEW SECTION

**WAC 392-140-945 Weighted average class size—Nonhigh poverty schools.** A K-3 nonhigh poverty weighted average class size will be calculated by first multiplying the nonhigh poverty enrollment in each of the grades K, 1, 2, or 3 by the demonstrated class size for each respective grade as defined in WAC 392-140-937. The result of those four separate calculations by grade will be summed, and the total will be divided by total K-3 nonhigh poverty enrollment as described in WAC 392-140-923, which will result in K-3 nonhigh poverty weighted average class size.

A K-3 nonhigh poverty max funded class size enhancement will be calculated first by taking the nonhigh poverty enrollment in each of grades K, 1, 2, or 3 by the class sizes provided in the Omnibus Appropriations Act. The result of those four separate calculations by grade will be summed, and that total will be divided by the total K-3 nonhigh poverty enrollment as described in WAC 392-140-923, which will result in the K-3 nonhigh poverty max funded class size enhancement for a specific district.

Districts will generate apportionment funding based on the greater of the K-3 nonhigh poverty weighted average class size or the K-3 nonhigh poverty max funded class size enhancement. For the months of September through December, districts will generate K-3 nonhigh poverty apportionment funding based on the class size input into their F-203 revenue estimate. Beginning in January the results of the most recent compliance calculation will be utilized for apportionment purposes through the end of the school year.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- WAC 392-140-921 K-1 high poverty class size compliance.
- WAC 392-140-933 K-1 demonstrated class size.

**WSR 16-03-081**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Veterinary Board of Governors)  
[Filed January 20, 2016, 10:13 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 14-05-025.

Title of Rule and Other Identifying Information: WAC 246-933-200 Veterinary-client-patient relationship, required the proposed new rule define the elements of a veterinarian-client-patient relationship (VCPR), which is the basis for interaction between veterinarians and their clients and animal patients.

Hearing Location(s): Washington State Department of Health, Town Center 3, Conference Room 265, 243 Israel Road S.E., Tumwater, WA 98501, on March 7, 2016, at 10:00 a.m.

Date of Intended Adoption: March 7, 2016.

Submit Written Comments to: Lorelei Walker, Program Manager, 111 Israel Road S.E., Tumwater, WA 98501, e-mail <https://fortress.wa.gov/doh/policyreview/>, fax (360) 236-2901, by February 29, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker by February 29, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: VCPR is a nationally recognized standard providing the basis for interaction between veterinarians and their clients and animal patients. VCPR assumes that the veterinarian is responsible for the health of the patient, has current knowledge of the patient's condition, and is available for follow-up evaluation or has arranged for emergency coverage.

Reasons Supporting Proposal: Requiring a VCPR and defining its elements will ensure that the veterinarian and their clients are aware of the requirements for care of the animal patient related to examination, ongoing care, the use or prescription of veterinary drugs and maintenance of medical records. The proposed rule requires that veterinary prescription drugs be used only within the context of a VCPR. Veterinarians must have seen the animal(s) within the last year or sooner if medically appropriate to provide care or in treating a chronic condition.

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.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, 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).

January 19, 2016  
Kathy J. Schmitt  
Deputy Director  
Office of Health  
Professions and Facilities

NEW SECTION

**WAC 246-933-200 Veterinary-client-patient relationship.** A veterinary-client-patient relationship is the basis for interaction between veterinarians and their clients and patients.

(1) A veterinary-client-patient relationship exists when all of the following conditions have been met:

(a) The veterinarian has assumed responsibility for making clinical judgments regarding the health of the animal(s) and need for medical treatment, and the client or key party as defined in WAC 246-934-020 has agreed to follow the instructions of the veterinarian.

(b) The veterinarian has sufficient knowledge of the animal(s) to initiate, at a minimum, a general or preliminary diagnosis of the medical conditions of the animal(s). This means the veterinarian:

(i) Has examined the animal(s) within the last year, or sooner if medically appropriate; or

(ii) In cases involving operations with several animals, such as encountered at farms, laboratories, or in shelters, is personally acquainted with the keeping and care of the animal(s) by virtue of an examination of the animal(s) or by medically appropriate and timely visits to the premises where the animal(s) are kept.

(c) The veterinarian is readily available for follow-up evaluation or has arranged for emergency coverage and continuing care and treatment.

(2) The veterinarian shall not establish a veterinary-client-patient relationship solely by telephonic or other electronic means. However, once established, a veterinary-client-patient relationship may be maintained between medically necessary examinations via telephone or other types of consultations.

(3) The veterinary-client-patient relationship may be terminated under these conditions:

(a) Veterinarians may terminate a veterinary-client-patient relationship as long as the termination does not constitute patient abandonment as described in WAC 246-933-060.

(b) If there is an ongoing medical or surgical condition, the patient should be referred to another veterinarian for diagnosis, care, and treatment.

(c) Clients may terminate the veterinary-client-patient relationship at any time.

(4) For animals or animal products for food consumption:

(a) There must be a written agreement with the client that identifies the farm veterinarian of record (VOR) who is accountable for drug use and treatments administered to the animals on the farm operation;

(b) The VOR is the responsible party for providing appropriate oversight of drug use on the farm operation. Oversight includes establishment of diagnostic and treatment protocols, training of personnel, review of treatment records, monitoring drug inventories, assuring appropriate labeling of drugs, and monitoring compliance and outcomes. Veterinary oversight of drug use must include all drugs used on the farm regardless of the distribution of the drugs to the farm;

(c) Provision of drugs or drug prescriptions must be for specific time frames appropriate to the scope and type of

operation involved and only for the management groups within the operation that the VOR has direct involvement and oversight;

(d) A veterinarian issuing a veterinary feed directive (VFD) must comply with applicable federal law (21 C.F.R. 558.6).

(5) Medical records must be maintained pursuant to WAC 246-933-320(7).

(6)(a) A veterinarian shall use or prescribe drugs only within the context of a veterinary-client-patient relationship. Veterinary prescription drugs are restricted by federal law to be used by or on the order of a licensed veterinarian. 21 U.S.C. Sec. 353(f).

(b) Extra label use is legal only when ordered by a veterinarian and within the context of a veterinary-client-patient relationship.

**WSR 16-03-084****PROPOSED RULES****STATE BOARD OF HEALTH**

[Filed January 20, 2016, 10:33 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-16-053.

Title of Rule and Other Identifying Information: WAC 246-290-460 Fluoridation of drinking water, the proposed rule adopts a single optimal fluoridation concentration level, reduces the operating range tolerance, requires water systems that fluoridate to notify the department of health (department) before they stop fluoridating, and makes clarifying changes.

Hearing Location(s): Department of Health, Point Plaza East, Room 152/153, 310 Israel Road S.E., Tumwater, WA 98501, on March 9, 2016, at 1:00 p.m.

Date of Intended Adoption: March 9, 2016.

Submit Written Comments to: Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, e-mail <http://www3.doh.wa.gov/policyreview/>, fax (360) 236-2250, by February 23, 2016.

Assistance for Persons with Disabilities: Contact Melanie Hisaw by February 24, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: This proposal: (1) Adds the new United States Department of Health and Human Services (HHS) recommendation for an optimal fluoride level of 0.7 milligrams per liter (mg/L) for Group A public water systems that choose to fluoridate; (2) reduces the operating range for water systems that fluoridate from 0.8 to 1.3 mg/L down to 0.5 to 0.9 mg/L; (3) adds a requirement for water systems that fluoridate to notify the department before permanently stopping fluoridation; and (4) makes clarifications to existing requirements concerning monitoring and reporting results to the department.

Reasons Supporting Proposal: HHS set the new recommended single concentration of 0.7 mg/L based on recent studies that indicate water intake no longer varies by climate fluctuations across the nation. In addition, the increased use of fluoridated products such as toothpaste, mouthwash, drops

or tablets, and professionally applied varnish or gel. These changes mean that the higher fluoride concentration in drinking water is no longer necessary. The new optimal fluoride level is intended to continue to improve dental health and reduce the potential for dental fluorosis.

Statutory Authority for Adoption: RCW 43.20.050(2).

Statute Being Implemented: RCW 70.119A.080 and 43.20.050(2).

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

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

Name of Agency Personnel Responsible for Drafting: Theresa Phillips, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3147; Implementation and Enforcement: Clark Halvorson, 243 Israel Road S.E., Tumwater, WA 98501, (360) 236-3100.

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 Theresa Phillips, Department of Health, P.O. Box 47820, Olympia, WA 98504-7820, phone (360) 236-3147, fax (360) 236-2250, e-mail [theresa.phillips@doh.wa.gov](mailto:theresa.phillips@doh.wa.gov).

January 20, 2016  
Michelle A. Davis  
Executive Director

AMENDATORY SECTION (Amending WSR 99-07-021, filed 3/9/99, effective 4/9/99)

**WAC 246-290-460 Fluoridation of drinking water.**

(1) Purveyors shall obtain written department approval of fluoridation treatment facilities before placing them in service and shall notify the department before discontinuing fluoridation.

(2) Where fluoridation is practiced, ~~((purveyors shall maintain fluoride concentrations in the range 0.8 through 1.3 mg/L throughout the distribution system))~~ the optimal fluoride concentration is 0.7 mg/L.

(3) ~~((Where fluoridation is practiced))~~ To ensure concentrations remain as close as possible to the optimal fluoride concentration throughout the entire distribution system and fluoridation facilities and monitoring equipment are operating properly, purveyors shall take the following actions ~~((to ensure that concentrations remain at optimal levels and that fluoridation facilities and monitoring equipment are operating properly))~~:

(a) ~~((Daily))~~ Monitoring.

(i) ~~((Take daily))~~ Each business day, collect routine monitoring samples ((for each point of fluoride addition and analyze the fluoride concentration. Samples must be taken downstream from each fluoride injection point at the first sample tap where adequate mixing has occurred.

(ii) ~~Record the results of daily analyses in a monthly report format acceptable to the department. A report must be made for each point of fluoride addition.~~

~~((iii))~~ downstream from each fluoride injection point at the first sample tap where adequate mixing has occurred.

(ii) Analyze samples in accordance with procedures identified in the 22nd edition of *Standard Methods for the Examination of Water and Wastewater*, January 2012, or other department-approved procedures.

(iii) Once per month, collect a split sample at the same location routine monitoring samples are collected and process as follows:

(A) Analyze half the sample and record the results on the chain of custody document; and

(B) Submit the other half of the sample for analysis to a drinking water certified laboratory with the chain of custody document.

~~(b) Reporting.~~

~~(i) Record routine analysis results on a monthly report form provided by the department.~~

~~(ii) If more than one routine monitoring sample is collected on any given day, average sample results and record the average.~~

~~(iii) Submit monthly monitoring reports to the department within the first ten days of the month following the month in which the samples were collected.~~

~~((b) Monthly split sampling.~~

~~(i) Take a monthly split sample at the same location where routine daily monitoring samples are taken. A monthly split sample must be taken for each point of fluoride addition.~~

~~(ii) Analyze a portion of the sample and record the results on the lab sample submittal form and on the monthly report form.~~

~~(iii) Forward the remainder of the sample, along with the completed sample form to the state public health laboratory, or other state certified laboratory, for fluoride analysis.~~

~~(iv) If a split sample is found by the certified lab to be:~~

~~(A) Not within the range of 0.8 to 1.3 mg/l, the purveyor's fluoridation process shall be considered out of compliance.~~

~~(B) Differing by more than 0.30 mg/l from the purveyor's analytical result, the purveyor's fluoride testing shall be considered out of control.~~

~~(4) Purveyors shall conduct analyses prescribed in subsection (3) of this section in accordance with procedures listed in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*.~~

~~(5) The purveyor may be required by the department))~~

(4) If any sample or measurement in subsection (3) of this section is found to be out of operating tolerance or off measure, the purveyor shall take appropriate action to meet the requirements of this section.

(a) Operating tolerance means within the range of 0.5 to 0.9 mg/L.

(b) Off measure means the drinking water certified laboratory result differs by more than 0.2 mg/L from the purveyor's analytical result.

(5) The department may require the purveyor to increase the frequency, ((and/or) or change the location of sampling prescribed in subsection (3) of this section to ensure ((the)) adequacy and consistency of fluoridation.

**WSR 16-03-085**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
(Veterinary Board of Governors)  
[Filed January 20, 2016, 10:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-12-094.

Title of Rule and Other Identifying Information: WAC 246-933-460 Organizations, institutions or individuals approved by the veterinary board to provide continuing education courses, the veterinary board of governors (board) is proposing to include the Registry of Alternative and Integrative Veterinary Medical Education (RAIVE) in the list of approved continuing education courses.

Hearing Location(s): Washington State Department of Health, Town Center 3, Conference Room 265, 243 Israel Road S.E., Tumwater, WA 98501, on March 7, 2016, at 10:00 a.m.

Date of Intended Adoption: March 7, 2016.

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 February 29, 2016.

Assistance for Persons with Disabilities: Contact Lorelei Walker by February 29, 2016, TTY (800) 833-6388 or 711.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The board is proposing to amend existing rules to add RAIVE to the list of organizations that are approved to provide continuing education. RAIVE is an organization of board certified veterinarians with expertise in complementary and alternative veterinary medicine (CAVM). RAIVE reviews and approves CAVM coursework based on the course's material and scientific validity. Adding RAIVE will give practitioners easier access to a variety of CAVM courses for their continuing education credits.

Reasons Supporting Proposal: Demand for and availability of CAVM coursework has increased over recent years. Adding RAIVE to the list of approved continuing education courses will give veterinarians a greater variety of options for high-quality CAVM education. The proposed rule does not change the underlying continuing education requirement, but expands options of approved providers.

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: Brett Lorentson, Department of Health, 111 Israel Road S.E., Tumwater, WA 98501, (360) 236-4611; Implementation and Enforcement: Lorelei Walker, Department of Health, 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. The board did not complete a cost-benefit analysis under RCW 34.05.328. The proposed rule does not qualify as a significant legislative rule as defined under RCW 34.05.328 (5)(c)(iii).

January 20, 2016

Kathy J. Schmitt

Deputy Director

Office of Health

Professions and Facilities

AMENDATORY SECTION (Amending WSR 14-04-020, filed 1/27/14, effective 2/27/14)

**WAC 246-933-460 Organizations, institutions or individuals approved by the veterinary board to provide continuing education courses.** (1) The veterinary board designates the following organizations, institutions or individuals as providing approved continuing veterinary medical education courses:

(a) The American Association of Veterinary State Boards (AAVSB).

(b) The American Veterinary Medical Association (AVMA).

(c) The Washington State Veterinary Medical Association.

(d) Any board approved college or school of veterinary medicine.

(e) Any state or regional veterinary association which is recognized by the licensing authority of its state as a qualified professional association or educational organization.

(f) The American Animal Hospital Association.

(g) Veterinary specialty boards recognized by the American Veterinary Medical Association.

(h) Conferences offered by regional or allied organizations recognized by AAVSB.

(i) The Registry of Approved Continuing Education (RACE).

(j) The Registry of Alternative and Integrative Veterinary Medical Education (RAIVE).

~~((k))~~ (k) The United States Animal Health Association.

~~((l))~~ (l) The American Association of Veterinary Laboratory Diagnosticians.

~~((m))~~ (m) The Washington state department of agriculture.

~~((n))~~ (n) A board certified veterinarian who is certified by a veterinary specialty board recognized by the American Veterinary Medical Association when teaching a course within his or her area of certification.

~~((o))~~ (o) A veterinarian who is a faculty member of an accredited college or school of veterinary medicine when teaching a course within his or her area of expertise.

(2) Continuing veterinary medical education courses offered by the organizations, institutions, or individuals listed in subsection (1) of this section are presumed to qualify as continuing veterinary medical education courses for purposes of fulfillment of the requirements of WAC 246-933-420 without specific prior approval by the board.

(3) Other organizations, institutions, or individuals may submit course information to the board for determination

whether the course qualifies as continuing veterinary medical education under WAC 246-933-401 through 246-933-480 for purposes of fulfillment of the requirements of WAC 246-933-420.

**WSR 16-03-091**  
**PROPOSED RULES**  
**SUPERINTENDENT OF**  
**PUBLIC INSTRUCTION**  
 [Filed January 20, 2016, 11:37 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 15-15-105.

Title of Rule and Other Identifying Information: WAC 392-121-124 Full-time equivalent enrollment for work based learning.

Hearing Location(s): Office of Superintendent of Public Instruction, Old Capitol Building, 600 South Washington, Olympia, WA, on February 25, 2016, at 9:30 a.m.

Date of Intended Adoption: February 29, 2016.

Submit Written Comments to: Becky McLean, Old Capitol Building, P.O. Box 47200, Olympia, WA 98504-7200, e-mail [becky.mclean@k12.wa.us](mailto:becky.mclean@k12.wa.us), fax (360) 664-3683, by February 25, 2016.

Assistance for Persons with Disabilities: Contact Kristin Murphy by February 18, 2016, TTY (360) 664-3631 or (360) 725-6133.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Proposed revision to the WAC would allow work based learning provided by a state approved skill center program to be claimed for enhanced skill center vocational funding.

Reasons Supporting Proposal: Skill centers providing work based learning currently cannot claim students who are enrolled in a work based learning for state funding skill center vocational funding. This revision would allow work based learning enrollment to be claimed for this enhanced funding. Additionally, this change would allow the host district of the skill center to claim nonresident students who reside in a district that is part of the skill center cooperative without having to complete an interdistrict agreement for each nonresident student.

Statutory Authority for Adoption: RCW 28A.150.305.

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

Name of Agency Personnel Responsible for Drafting: Becky McLean, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6306; Implementation: T. J. Kelly, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6301; and Enforcement: JoLynn Berge, Old Capitol Building, 600 South Washington, Olympia, WA, (360) 725-6292.

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

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

January 20, 2016  
 Randy Dorn  
 State Superintendent  
 of Public Instruction

AMENDATORY SECTION (Amending WSR 13-02-004 [15-18-078], filed 12/19/12 [8/28/15], effective 1/19/13 [9/28/15])

**WAC 392-121-124 Full-time equivalent enrollment for work based learning.** For work based learning provided pursuant to WAC 392-410-315, a student's full-time equivalent shall be determined as follows:

(1) For cooperative work based learning experience, in accordance with WAC 392-410-315 (1)(g), divide the student's hours of work experience for the month by two hundred; for example: Forty hours of cooperative work experience equals two tenths of a full-time equivalent ( $40 \div 200 = 0.20$ ). For instructional work based learning experience, in accordance with WAC 392-410-315 (1)(f) and 296-125-043(4), divide the student's enrolled hours of work experience for the month by one hundred; for example: Twenty hours of instructional work experience equals two tenths of a full-time equivalent ( $20 \div 100 = 0.20$ ). Enrollment exclusions in WAC 392-121-108 apply to instructional work based learning enrolled hours.

(2) Estimated or scheduled hours of cooperative work based learning experience may be used in determining a student's full-time equivalent on an enrollment count date: Provided, That the combined monthly hours reported for the school year shall not exceed the student's actual hours of cooperative work based learning experience documented on the student's work records and maintained by the school district for audit purposes.

(3) Work based learning provided as part of a state-approved vocational education program qualifies for enhanced vocational funding and may be included in determining a student's vocational full-time equivalent enrollment.

(4) Work based learning provided as part of a state-approved skill center program qualifies for enhanced skill center vocational funding and may be included in determining a student's skill center vocational full-time equivalent enrollment.

(5) No more than three hundred sixty hours of cooperative work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript. No more than one hundred eighty hours of instructional work based learning may be claimed for funding for each credit a student pursues as reported on the student's transcript.

~~((5))~~ (6) Funding may be claimed only for work based learning hours that occur after the work based learning plan, work based agreement, program orientation and new employee orientation, as defined in WAC 392-410-315, are completed.



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

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.